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HEARINGS

BEFORE THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST SESSION

ON

S. 35 and S. 835

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

FEBRUARY 18 AND MARCH 16, 1971

Printed for the use of the
Committee on Interior and Insular Affairs

AUTHENTICATED
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ALASKA NATIVE LAND CLAIMS

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U.S. GOVERNMENT PRINTING OFFICE
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ALASKA NATIVE LAND CLAIMS

THURSDAY, FEBRUARY 18, 1971

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The committee met, pursuant to call, at 10:13 a.m., in room 3110, New Senate Office Building, Senator Henry M. Jackson (chairman) presiding.

Present: Senators Henry M. Jackson (Washington), Clinton P. Anderson (New Mexico), Quentin N. Burdick (North Dakota), George S. McGovern (South Dakota), Mike Gravel (Alaska), Len B. Jordan (Idaho), Clifford P. Hansen (Wyoming), Mark O. Hatfield (Oregon), Ted Stevens (Alaska), and Henry Bellmon (Oklahoma).

Also present: Jerry T. Verkler, staff director; William J. Van Ness, special counsel; Charles F. Cook, minority counsel; and Tom Nelson, assistant minority counsel.

The CHAIRMAN. The committee will come to order.

This is an open public hearing on S. 35, the "Alaska Native Claims Settlement Act of 1971," and other pending measures on this subject.

Witnesses appearing before the committee this morning at the committee's invitation, are: the Secretary of the Interior, Rogers C. B. Morton; Gov. William Egan of Alaska; and representatives of the Alaska Federation of Natives.

During the last Congress, this committee devoted almost a full 6 months of intensive consideration to the settlement of this complex problem. During the 92d Congress the land claims settlement legislation will, once again, be the priority matter before this committee.

There have been a number of developments since the committee acted on S. 1830 in the last session of Congress. Today's hearing will provide an opportunity to review new developments and any new policy positions which have been adopted since the Senate's passage of S. 1830 on July 15 of last year.

One matter which I want to explore further during today's hearing involves the relationship of this bill to the proposed trans-Alaska pipeline. I will want the Secretary and the Governor to comment on their plans on the management and administration of the proposed transportation corridor and the adjoining public lands. I am considering an amendment to S. 35 which would establish some permanent procedures for the regulation of activities in the corridor. The provisions of the amendment may include withdrawing and reserving for Federal ownership a transportation corridor 10 to 25 miles wide—the corridor would be managed for two purposes: transportation and recreation—there would be specific standards on access and on the types of activities which may be conducted in this area—management of the corridor and planning for the use of the public and State lands

adjoining the corridor would be the responsibility of a new State-Federal commission chaired by the Secretary of the Interior and the Governor of Alaska. The commission would perform advisory and cordinating functions.

It is my view that an arrangement of this nature could protect both the State's interest and the public's interest in the proper development and conservation of the resources of Alaska—provide for long-range land use planning which considers environmental and social values; and enable the Federal Government to be a participant in all important decisions which could have major impacts on the public lands in Alaska and on the well-being of the Native people.

It is my hope that following today's hearing, and after carefully reviewing the statements which will be submitted for the record, the committee can act as soon as possible on this measure. The extension of the Public Land Order withdrawing the public lands of Alaska from entry and State selection will expire on June 30 of this year. I believe that a bill can be enacted by the Congress before that time.

I will direct that at this point in the record, a copy of the bill and the departmental reports be printed.

92D CONGRESS
1ST SESSION

S. 35

IN THE SENATE OF THE UNITED STATES

JANUARY 25, 1971

Mr. JACKSON (for himself, Mr. GRAVEL, and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To provide for the settlement of certain land claims of Alaska natives, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alaska Native Claims Settlement Act of 1971".

DECLARATION OF POLICY

SEC. 2. (a) Congress hereby finds and declares that there is an immediate need for a fair, just, and final settlement of all land claims of Alaska Natives, Native Villages and groups; that the claims of Alaska Natives to the lands of Alaska, because they have not been judicially or legislatively determined, constitute a cloud on the title to lands

in Alaska; that the best interests of the Alaska Native people, the State of Alaska, and the Federal government are served by a prompt and final legislative settlement; and that the purpose of this Act is to effect such a settlement by providing—

(1) a grant to each Native Village which qualifies under the requirements and procedures set forth in this Act of title to the village site and additional lands adjacent thereto for community use and expansion;

(2) for the organization of Native corporations and, in order to promote economic self-sufficiency as well as enhance the Natives' present and future welfare, for a transfer of lands, rights, and revenues to such corporations;

(3) a payment of $500,000,000 over a period of twelve years as compensation for lands taken in the past for Federal purposes or conveyed by patent or otherwise to the State of Alaska or to other third parties and for the extinguishment by this Act of all remaining aboriginal rights;

(4) a right to receive a portion of the revenues from the leasing and sale of minerals on certain lands in Alaska, subject to the limitations of this Act, as compensation for lands taken in the past and for the extinguishment by this Act of all remaining aboriginal rights;

(5) authority for individual Natives to acquire ownership of the lands which they use and occupy for homes, businesses, fishing, hunting and trapping camps, and for reindeer husbandry;

(6) a grant to the Alaska Native Services and Development Corporation of the right to select certain lands for their economic potential and to avoid cases of undue hardship; and,

(7) protection of Native subsistence hunting, fishing, trapping and gathering rights and, where it is within the power of the Federal Government, measures for the conservation of subsistence biotic resources.

(b) The Congress further finds and declares that the legal settlement provided in this Act constitutes compensation for the extinguishment of claims to land and does not and will not constitute a precedent for reopening, renegotiating or legislating upon any past settlement involving land claims or other matters with any Native organization or any tribe, band, or identifiable group of American Indians.

(c) It is the intent of Congress to carry out the terms of this settlement promptly, with certainty, and in conformity to the real economic and social needs of Alaska Natives by avoiding litigation, by maximizing the participation by Natives in decisions affecting their rights and property and by vesting in them as rapidly as prudent and feasible con-

trol over the land set aside and the corporations organized pursuant to this Act, without (1) establishing any permanent racially defined institutions, rights, privileges, or obligations; (2) creating a reservation system or lengthy trusteeship; or (3) ultimately adding to the categories of property and organizations enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska.

(d) No provision of this Act shall be construed to replace, diminish or otherwise modify any right, privilege, or obligation of Alaska Natives as citizens of the United States and the State of Alaska, nor to relieve, replace, or diminish any obligation of the United States or the State to protect and promote the rights and welfare of Alaska Natives as citizens of the United States and the State of Alaska. The payments and grants authorized under this Act constitute compensation for the extinguishment of claims to land, and shall not be deemed a substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska, nor to effect a change or changes in the petroleum reserve policy reflected in sections 7421 through 7438 of title 10 of the United States Code except as specifically provided in this Act.

(e) No provision of this Act shall be construed to constitute a jurisdictional Act, to confer jurisdiction to sue, nor to grant implied consent to Natives to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(a) "Commission" means the Alaska Native Commission established by this Act;

(b) "Fund" means the Alaska Native Compensation Fund in the Treasury of the United States established under the terms of this Act;

(c) "Investment Corporation" means the Alaska Native Investment Corporation authorized to be established pursuant to this Act under the laws of the United States;

(d) "Municipal Corporation" means any Native Village incorporated as a general unit of municipal government under the laws of the State of Alaska;

(e) "National Corporation" means the Alaska Native National Corporation established pursuant to this Act;

(f) "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 or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by such village or group: *Provided, however,* That "Native" as defined in this Act does not include any Tsimshian Indian blood, or the blood of any other Native tribe, band, clan, or group which came to reside upon or occupy lands in Alaska after June 30, 1867;

(g) "Native group" means any tribe, band, clan, village, community, or village association of Natives in Alaska;

(h) "Native Village" means any Native group which is composed of at least twenty-five or more Natives and which meets the requirements set forth in section 13 or 22 of this Act;

(i) "public lands" means all Federal lands and interests therein situated in Alaska as of the effective date of this Act, except: (1) 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, and (2) land selections of the State of Alaska which have been patented or tentatively approved under section 6(g) of the Alaska Statehood Act as amended (72 Stat. 341, 77 Stat. 223);

(j) "Secretary" means the Secretary of the Interior;

(k) "Services Corporation" means the Alaska Native Services and Development Corporation established pursuant to this Act under the laws of the United States;

(l) "State" means the State of Alaska;

(m) "Village Corporation" means an Alaska Native Village Corporation organized under the laws of the State of Alaska to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of a Native Village in accordance with the terms of this Act; and

(n) "Urban Corporation" means the Alaska Native Urban Corporation established pursuant to this Act.

DECLARATION OF SETTLEMENT

SEC. 4. (a) 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 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, and including any aboriginal hunting or fishing rights that may exist) by any Native, Native Village, or Native group 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.

(b) (1) The Secretary is authorized and directed, together with other appropriate agencies of the United States Government, promptly to initiate a study and to develop programs for the orderly transition of educational, health, welfare, and other responsibilities for the Alaska Native people from the United States to the State of Alaska. Within five years from the date of enactment of this Act, the United States shall cease to provide services to any citizen of Alaska solely on the basis of his racial or ethnic background: *Provided,* That nothing in this subsection shall affect services furnished the Natives through the Department of Health, Education, and Welfare or diminish the applicability of the Act of April 16, 1934, as amended (48 Stat. 596), or the Acts of September 23, 1950, as amended (64 Stat.

967), and September 30, 1950, as amended (64 Stat. 1100).

(2) The Secretary shall report annually to the Congress on the implementation of this subsection, on the need for any additional legislative authority, and on the availability of State and general Federal assistance programs to provide any necessary and needed services to Alaska Natives as citizens of the State of Alaska and the United States. Within four years of the date of enactment of this Act the Secretary shall present a plan to the Congress for the transition of programs referred to in subsection (b) (1) hereof. The plan presented by the Secretary shall take effect within five years from the effective date of this Act: *Provided*, That the plan presented by the Secretary shall be subject to the provisions and the procedures set out in section 906, title 5 of the United States Code.

(3) None of the provisions of this subsection 4 (b) shall apply to the services and programs furnished the Tsimshian Indians on the Annette Islands Reserve.

ALASKA NATIVE COMPENSATION FUND

SEC. 5. (a) There is hereby authorized to be appropriated $500,000,000 as compensation to the Natives for lands and interests in lands taken in the past or to which their rights and claims are extinguished by this Act, such

compensation to be paid into the Alaska Native Compensation Fund in accordance with the following twelve-year payout schedule:

(1) $20,000,000 during the fiscal year in which this Act becomes effective, of which $1,500,000 shall be set aside in the Fund for the purpose of paying attorneys' fees pursuant to section 26 of this Act, and $350,000 shall be set aside in the Fund for the purposes set out in subsection 5 (g) hereof;

(2) $50,000,000 during the second fiscal year;

(3) $70,000,000 during the third, fourth, and fifth fiscal years;

(4) $40,000,000 during the sixth fiscal year; and

(5) $30,000,000 during each of the next six fiscal years.

(b) As additional compensation to the Natives for lands and interests in lands taken in the past or to which their rights and claims are extinguished by this Act, there shall be paid into the Fund all revenues derived from revenue sharing pursuant to section 18 of this Act and the limitations therein.

(c) No interest shall be paid on the unappropriated or unaccrude balance of the compensation under subsections 5 (a) and (b) of this section: *Provided*, That annual pay-

ments or portions of annual payments which are due under the schedule set out in subsection 5(a), but which have not been appropriated within six months after the end of the fiscal year in which payable, shall draw interest at the then current rate on short term treasury obligations.

(d) All moneys paid into the Fund shall bear interest from the date of deposit at the rate of 4 per centum per annum until paid to the Services Corporation or its successor and the Investment Corporation or its successor. Until incorporation and formal organization of the corporations pursuant to sections 8 and 10 of this Act, the Secretary may temporarily withdraw moneys from the Fund for investment in short-term obligations of the United States or for deposit with financial institutions qualified to receive and hold public funds of the United States: *Provided*, That any such investment or deposit made by the Secretary shall be at the highest current rate obtainable.

(e) (1) Moneys paid or deposited into the Fund shall be paid or distributed for the benefit of the Natives in accordance with the provisions of this Act. The Secretary of the Treasury shall make such payments and distributions pursuant to the following payment schedule to the Services Corporation and to the Investment Corporation:

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Fiscal year (commencing in the fiscal year of enactment)	Alaska Native Investment Corp. (percent)	Alaska Native Services and Development Corp. (percent)
First	20	80
Second	25	75
Third	30	70
Fourth	35	65
Fifth	40	60
Sixth	45	55
Seventh	50	50
Eighth	50	50
Ninth	55	45
Tenth	55	45
Eleventh	60	40
Twelfth	60	40

(2) For the first five fiscal years from the date of enactment of this Act, prior to making the payments and distributions required by subsection (e) (1) hereof, the Secretary of the Treasury shall pay from the Fund to the Investment Corporation the difference between the Investment Corporation's current earnings on its investments and $4,000,000. Moneys paid to the Investment Corporation pursuant to this subsection shall be used to pay shareholders a minimum quarterly dividend pursuant to the provisions of subsection (h) (1).

(f) All moneys paid or deposited into the Fund after the twelfth fiscal year from the date of enactment of this Act shall be distributed to the Services Corporation and the Investment Corporation or their successors on the same basis as in the twelfth year in the payment schedule set out in subsection (e) (1) hereof.

(g) Up to $350,000 of the moneys paid or deposited into the Fund in the first fiscal year shall be paid by the Secretary of the Treasury upon certification by the Commission to recognized Associations of Alaska Natives to reimburse them for actual costs incurred in filing protests, preserving land claims, advancing land claim settlement legislation, and presenting testimony to the Congress on the Alaska Native land claims. Moneys paid pursuant to this subsection shall be paid first to the recognized Statewide association, and then, to the extent funds are available, to regional Native Associations as determined by the Commission. The determination of the Commission shall be final without regard to subsection 6(j) of this Act. Such moneys shall not be used to pay any attorney's fees or expenses.

(h) None of the funds paid or distributed pursuant to this section to any of the Corporations established pursuant to this Act shall be expended, donated, or otherwise used for the purpose of carrying on propaganda, or intervening in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office. Any person who willfully violates the foregoing provision shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned not more than twelve months, or both.

ALASKA NATIVE COMMISSION

SEC. 6. (a) The Alaska Native Commission is hereby established. The Commission shall be in existence for seven years from the date of its first meeting, or for less than seven years if its duties under this Act are completed. The Commission shall be composed of five members to be appointed by the President with the advice and consent of the Senate. Not more than three members of the Commission shall be members of the same political party, and at least two of the members appointed by the President shall be Natives who are residents of the State. Upon assuming office, each member of the Commission shall become a full-time Federal employee. The Federal laws and regulations on conflicts of interest applicable to other Federal employees shall be applicable to the members of the Commission, but this provision shall not be deemed to preclude a Native from serving as a member: *Provided*, That such Native Commissioner shall not participate in any proceeding before the Commission in which his participation would be in conflict with section 208 of title 18, United States Code.

(b) The term of office of members of the Commission shall be for four years for the first three members appointed, and three years for the remaining two members. Thereafter the terms shall be until the Commission expires: *Provided*, That any member appointed to fill a vacancy on the Com-

mission occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of his term of office, a member of the Commission shall continue to serve until his successor has been appointed and has qualified to take office. The President shall choose a Chairman from the Commission's membership, and the Commission may elect by a majority vote of its membership other officers, such as a Vice Chairman, as it may find necessary to perform its functions. A member of the Commission may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

(c) The Chairman shall initially receive compensation at the rate of $32,500 per year. The other four Commissioners shall receive compensation at the rate of $30,000 per year. The salaries of the Commission members and the Chairman may increase at the same rate as general salary increases for classified Federal employees. No member of the Commission's staff shall be compensated at a rate in excess of that paid to members of the Commission.

(d) The principal office of the Commission shall be in Alaska. Whenever the Commission deems that the convenience of the public or the parties may be promoted, or delay or expense may be minimized, or at the request of any party, it may establish other offices, hold hearings or conduct other

proceedings at any other place, including other states, for the convenience of the parties involved, that a majority of the Commission shall direct. The Commission shall have an official seal which shall be judicially noticed, and which shall be preserved in the custody of the Secretary of the Commission.

(e) The Commission shall, without regard to the civil service laws, appoint and prescribe the duties of a secretary of the Commission and such legal counsel as it deems necessary. Subject to the civil service laws, the Commission shall appoint such other employees as it deems necessary in exercising its power and duties. The compensation of all employees appointed by the Commission shall be fixed in accordance with chapter 53 of title 5, United States Code, subject to the provisions of subsection 6(c) hereof.

(f) (1) For the purpose of carrying out its functions under this Act, three members of the Commission shall constitute a quorum and official action may be taken only on the affirmative vote of at least three members, but a special panel composed of one or more members upon order of the Commission may conduct any hearing or other proceeding provided for in this Act and submit the record of such hearing or proceeding to the entire Commission for its action thereon. Such record shall be made available to the parties, and they shall be afforded an opportunity to comment thereon, before any final action of the Commission.

(2) The Commission shall give reasonable notice to the interested parties and an opportunity for them to appear and be heard, and shall afford the parties an opportunity to present evidence before making a final determination upon any protest, claim, or other contested matter.

(3) A party to any proceeding before the Commission may appear on his own behalf or be represented by counsel of his own choice.

(g) The Commission shall have power to establish its own rules of procedure to carry out its duties under this Act. Except where inconsistent with this Act the Federal Administrative Procedure Act (5 U.S.C. 500 et seq.) will apply. Each official action of the Commission shall be entered in writing, and its hearings and records thereof shall be open to the public.

(h) (1) Any member of the Commission may sign and issue subpoenas for the attendance and testimony of witnesses and production of relevant papers, books, and documents, and may administer oaths. Witnesses, other than direct parties in interest, summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Any person who fails to comply with a Commission subpoena shall be subject to punishment in accordance with section 104 of title 43, United States Code. The Commission may order testimony

to be taken by deposition in any proceeding before it and in any stage of such proceeding after reasonable notice is first given in writing by the party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition.

(2) The Commission shall have the power to call upon any of the departments or agencies of the United States for any information it may deem necessary for carrying out its functions under this Act.

(3) In any hearing or other proceeding before the Commission, letters, papers, documents, maps, transcripts, or records of any executive agency or court of the United States (or a certified copy thereof) may be used in evidence insofar as relevant and material. Every executive agency of the United States having possession thereof shall make available for copying and inspection such letters, papers, documents, maps, transcripts, and records bearing upon matters before the Commission to any interested Natives, Native group, Native Villages, or Native corporations, or their representatives as provided by section 552 of title 5, United States Code.

(i) Each decision made by the Commission shall show the date on which it was made, and shall bear the signatures of the members of the Commission who concur therein and, upon issuance of a decision under this Act, the Commission

shall cause a true copy thereof to be sent by certified mail to all parties and their attorneys of record. When appropriate, each decision also shall include the findings of fact upon which the Commission's conclusions are based, and a statement of its reasons for such findings and conclusions. The Commission shall cause each decision to be entered on its official record together with any written opinion prepared by any members in support of, or dissenting from, any decision.

(j) Except where otherwise provided, decisions issued by the Commission shall be subject to judicial review by the United States District Courts upon the filing in such court within sixty days from the date of such decision of a petition by any person aggrieved by the decision praying that the action of the Commission be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to any other party to the proceeding and to the Commission, and thereupon the Commission shall certify and file in such court the record upon which the decision complained of was based. The court shall hear such appeal on the record made before the Commission. The findings of the Commission, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any decision or may remand the proceeding to the Commission for such further action as it directs. The judgment of the court shall be subject

to review by the United States Court of Appeals for the Ninth Circuit, and by the Supreme Court of the United States upon certiorari or certification as provided in section 1254, title 28, United States Code.

(k) The duties and responsibilities of the Commission shall include during the period of its existence—

(1) the issuance of rules and regulations for preparing a final membership roll of Natives and a roster of Native Villages qualified for benefits under this Act;

(2) the determination of eligibility for inclusion on such roll and roster, respectively, and of protests with respect thereto;

(3) the hearing of, and decision upon, any appeal from a refusal of the Services Corporation to approve a village plan for the management and expenditure of funds, as provided in section 11 (e) ;

(4) the determination of Village land entitlement, the determination of regional boundaries under section 9 (a), the determination of land disputes between Native Villages, the determination of disputes relating to land patents, and the certification of eligibility for patents under this Act;

(5) the approval of land transactions as provided under this Act; and

(6) such other duties and responsibilities as are provided under this Act.

(l) During the same period of time no person may serve in more than any one of the following capacities:

(1) as a member of the Commission;

(2) on the board of directors or as an officer of the Services Corporation;

(3) on the board of directors or as an officer of the Investment Corporation.

(m) Upon termination of the Commission's existence or upon completion of its duties under this Act pursuant to subsection 6(a) hereof, any pending business, any uncompleted matters, or any duties required to be performed by the Commission shall be performed by the Secretary in accordance with the provisions of this Act insofar as is practicable, and the Secretary, in consultation with the Commission and the General Services Administration, shall provide for the disposition and preservation of the Commission records: *Provided*, such records shall remain available for public inspection, copying, and other appropriate use.

ENROLLMENT

SEC. 7. (a) (1) In order to facilitate the selection and management of lands, the use of funds and the organization of corporations in furtherance of this Act, the Secretary shall

prepare within six months after the effective date of this Act, pursuant to such rules and regulations as may prescribe, a temporary census roll of all Natives born on or before April 15, 1969, and living on the date of enactment of this Act. Such roll shall show with respect to each Native, insofar as is practicable, his name, date and place of birth, date and place of parents' birth, degree of Native blood and the Native Village or Native group of which he is a member. The decision of the Secretary regarding the eligibility of any person for inclusion on the temporary census roll shall be final: *Provided,* That any person listed on an existing membership roll of any Native Village or group pursuant to requirements similar to those set out in subsection 3 (f) shall be presumed to be eligible for enrollment.

(2) Any person listed on the temporary census roll who is nineteen years of age or over at the time of voting shall be entitled to vote in the election of directors for the Corporations, as provided in this Act, and in the election for the Land Selection Committee of the village, if any, of which he is a member, as provided in sections 11, 14, and 23. The population of each Native Village which meets the requirements set out in, as is appropriate, section 13 or 23 of this Act, as shown on the temporary census roll and as corrected at the time of determination, shall be the basis

for determining the number of acres of land to which the Native Village Corporation is entitled pursuant to this Act. Except as provided in this subsection, however, the temporary census roll shall not be used as a basis for determining the right of any Native, any Native Village Corporation, or any other corporation to receive funds and property or otherwise to share in the benefits accorded the Native people of Alaska under this Act.

(b) (1) The Commission shall prepare, in accordance with such rules and regulations as it may prescribe: (A) within five years after the effective date of this Act a final membership roll of all Natives born on or before April 15, 1969, and living on the effective date of this Act, including a separate listing and designation of the membership of each Native Village Corporation, the Urban Corporation and the National Corporation; and (B) a roster of all Native Villages which meet the requirements of section 13 or 23 and are eligible for benefits hereunder, within three years after the effective date of this Act. Before any such roll or roster is finally approved by the Commission, it shall be published in the Federal Register and in such other manner as the Commission shall find practicable and effective (including posting in each Native Village listed in the roster and in each village which was denied inclusion in the roster).

Any applicant denied enrollment or any village omitted from the roster shall be notified by the Commission in writing of the Commission's action and of his or their right to protest such action.

(2) Within three months after notice of the Commission's action, any person denied enrollment or any Native group whose village is omitted from the village roster, as the case may be, shall have the right to protest such denial or omission to the Commission, and within three months after publication in the Federal Register, the Secretary or any Native Village eligible under section 13 or 23 or the Urban and National Corporations shall have the right to protest to the Commission the inclusion of any individual on the membership roll or any village on the roster of Native Villages. Any Native Village shall have the right, for three months after publication of the membership roll in the Federal Register, to protest a designation of membership therein by a Native on behalf of himself or his children below the age of nineteen under subsection (c) hereof. Such protests shall be the subject of a hearing by the Commission and judicial review as provided in section 6 (j) of this Act. The membership rolls and village roster prepared by the Commission, as modified after any hearing or judicial review, shall be final and shall be promulgated by publication in the Federal Register.

(c) Each Native shall have the right to designate the Native Village in which he and his children under the age of nineteen years are to be listed as members and, in the absence of a protest by the named village pursuant to subsection (b) (2) hereof, such designation shall be final. In the event a Native Village does protest a designation of membership, the Commission shall determine the Native Village or villages, if any, of which the Native and his children under the age of nineteen are members, and the burden of proof of membership shall be upon the individual. In making its determination, and subject to the provisions of subsections (d) and (e) hereof, the Commission shall give priority to villages in the following order: (1) to the Native Village where the Native resides on the effective date of this Act, if such residence has continued without substantial interruption for a period of more than two years; (2) to the Native Village where the Native previously resided for a period or periods which aggregate ten years or more; (3) to the Native Village where the Native was born; (4) to the Native Village where either parent of such Native was born; (5) to the Native Village where the Native resides on the effective date of this Act; and (6) to a Native Village from which an ancestor of the Native came: *Provided*, That the Commission, upon the request of any Native, shall have discretion to deviate from the foregoing priorities and declare

such person and/or his child under the age of nineteen to be a member of a Native Village from which he otherwise would be excluded in order to avoid hardship (such as the division of a family) or any other unreasonable classification.

(d) Natives who do not meet the requirements to qualify as members of a Native Village set out in this section or Native residents of urban areas who do not indicate or state their intention to return to a Native Village shall be enrolled as members of the Urban Alaska Native roll and shall be entitled to receive benefits under this Act through the Urban Corporation established pursuant to section 12.

(e) Natives living outside the State and who do not meet the requirements to qualify as members of a Native Village or who do not indicate or state their intention to return to a Native Village shall be listed as members of the Alaska Native National roll and shall be entitled to receive benefits under this Act through the National Corporation established pursuant to section 12.

(f) In preparing the final membership roll the Commission shall insure that each Alaska Native is designated a member of an eligible Native Village or a member of either the Urban or the National Corporations established pursuant to section 12.

(g) Any person who gives false information to qualify himself or any other person for inclusion on the temporary

census roll or upon a Native membership roll, willfully and with knowledge that such information is false, shall be guilty of perjury and, upon conviction, shall be fined not more than $1,000 or imprisoned not more than a year, or both.

ALASKA NATIVE SERVICES AND DEVELOPMENT CORPORATION

SEC. 8. (a) (1) There is hereby established the Alaska Native Services and Development Corporation as a non-profit membership corporation which shall have the powers hereinafter granted. The Services Corporation shall be a Federally chartered corporation but shall not be an agency or establishment of the United States Government and shall cease to be in existence after twelve fiscal years from the date of enactment of this Act.

(2) The members of the board of directors appointed by the President shall serve as the incorporators and shall prepare the original articles of incorporation for the Services Corporation in a form consistent with the provisions of this section, and shall serve as the initial board of directors until the Native members of the board are elected. The incorporators shall file the articles of incorporation with the Secretary within six months after their appointment as members of the board of directors, and the Services Corporation shall be deemed to be incorporated and formally organized as of the date of such filing. The incorporators also shall

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transmit a copy of the articles of incorporation to the Commissioner of Commerce of the State. The Secretary of the Treasury is authorized and directed to advance from the Services Corporation's share of moneys in the Fund such sums as may be reasonably necessary for the organization of the Services Corporation.

(b) (1) The management of the Services Corporation shall be vested in a board of directors, which shall consist of eighteen members:

(A) four members of which shall be appointed by the President of the United States and each member shall serve a term of one, two, three or four years. Members so appointed shall serve until their successor has been appointed; and,

(B) fourteen members of which shall be elected by the voting members of the Services Corporation on the following basis:

(i) one member representing and elected by each of the twelve regions of Alaska as determined by section 9 of this Act;

(ii) one member representing and elected by the members of the Urban Alaska Native roll; and

(iii) one member representing and elected by the members of the Alaska Native National roll.

Members of the board so elected shall serve for terms

of four years or until their successors have been elected and qualified: *Provided,* That among the directors first elected, two shall serve for terms of one year, four shall serve for terms of two years, four shall serve for terms of three years, and four shall serve for terms of four years: *And provided further,* That the directors who serve the shorter terms shall be determined by a drawing of lots conducted by the initial board. Any director elected to fill a vacancy shall serve only for the period of the unexpired term of the director whom he succeeds. Elections for membership on the board of directors shall be conducted in accordance with procedures set forth in the articles of incorporation or bylaws of the Services Corporation: *Provided,* That the first such election shall be held not less than six months nor more than one year after the effective date of incorporation of the Services Corporation.

(2) The board of directors shall elect a chairman annually from among its own membership. The board also may appoint a member of the Services Corporation to fill a vacancy within its membership, but such appointed director shall serve only until the next regular election of directors.

(3) Notwithstanding any other provision of this Act or the articles of incorporation to the contrary, the initial board of directors of the Services Corporation appointed by the

President shall exercise only the following corporate powers: (A) completion of the organization of the Corporation and qualifying it to do business, including, but not limited to, the adoption of a corporate seal, the opening of bank accounts, the establishment of a place or places of business and the rental or acquisition of all necessary offices, furnishings, equipment and supplies related thereto, subject to the condition that no lease shall be for a period in excess of one year; (B) approval of amendments to the articles of incorporation; (C) the appointment of officers of the Corporation, the hiring of other employees and the employment of consultants, accountants, and other professional or financial advisers, subject to the condition that no contract of employment shall be for a period in excess of one year; (D) the receipt, investment, and distribution of moneys from the Fund in accordance with subsections 8 (e) and (f) hereof; (E) the expenditure of corporate funds to pay for or carry out the activities authorized under this section; (F) the conduct of the first election for membership on the board of directors; and (G) take any actions necessary to organize the Urban and National Corporations.

(c) The Services Corporation shall have a president, and such other officers as may be named and appointed by the board, at rates of compensation fixed by the board and

serving at the pleasure of the board. The president and other officers of the Services Corporation may, but need not, be members of the board. No officer of the Services Corporation shall receive any salary from any source other than the Services Corporation during the period of his employment by the Corporation. The president shall be responsible for conducting the business and affairs of the Services Corporation in a manner consistent with the provisions of this Act, the articles of incorporation, and the policies of the board of directors, and shall appoint such other employees as the board deems appropriate.

(d) (1) Until publication of the membership roll in accordance with subsection 7 (b) (1) of this Act, the members of the Services Corporation shall consist of all Natives shown on the temporary census roll prepared pursuant to section 7 (a). After publication of the membership roll in accordance with subsection 7 (b) (1) and before such roll becomes final in accordance with subsection 7 (b) (2), the members of the Services Corporation shall consist of all Natives shown on the temporary census roll, and any other Native whose name is listed on the membership roll except an individual whose inclusion thereon is the subject of a pending protest. After promulgation of the final membership roll in accordance with subsection 7 (b) (2), the mem-

bers of the Services Corporation shall consist of all Natives listed upon such roll, as amended to reflect the death of any individuals so listed.

(2) The right to vote for directors and on such other matters as properly may be placed before the membership for decision shall be limited to members of the Services Corporation nineteen years of age or over at the time of voting.

(e) As soon as the Services Corporation is incorporated and formally organized in accordance with subsection (a) hereof, the Secretary of the Treasury shall pay to the Services Corporation all moneys deposited in the Fund to which the Services Corporation is entitled up to the date of such incorporation, together with any accrued interest. Thereafter, on January 1, April 1, July 1, and October 1 of each calendar year, the Secretary of the Treasury shall pay to the Corporation additional moneys deposited in the Fund to which the Services Corporation is entitled up to the date of payment, together with any accrued interest. The Secretary of the Treasury shall also furnish to the Services Corporation each month a statement showing the amount and source of moneys on deposit in the Fund.

(f) (1) Except as otherwise provided in this section and pursuant to the provisions of subsection 11(e), the Services Corporation shall distribute moneys paid to it out of the Fund after the receipt thereof to the Native Village

Corporations, and to the Urban and National Corporations in accordance with the provisions of this Act. The amount of money distributed shall, except as provided in section 9 (d) (1), be apportioned in direct proportion to the membership of each of the Village Corporations, the Urban Corporation and the National Corporation as shown on the final membership rolls promulgated in accordance with section 7. Moneys received from the Fund which the Services Corporation must distribute in accordance with this subsection shall not constitute income to the Services Corporation for any purpose.

(2) Until the membership roll becomes final in accordance with subsection 7 (b) (2) of this Act, the Services Corporation shall distribute only eighty per centum of all moneys paid to it out of the Fund. The amount of money distributed to each Native Village Corporation and to the Urban Corporation and the National Corporation shall be apportioned in direct proportion to the Native population before publication of the membership roll in accordance with subsection 7 (b) (1) as shown on the temporary census roll prepared in accordance with section 7 (a), and after publication of the membership roll in accordance with subsection 7 (b) (1) as shown thereon. Appropriate adjustments shall be made in actual distributions to reflect any prior advances, and the relative rights of the beneficiaries under this para-

graph: *Provided,* That all distributions made pursuant to this paragraph shall be deemed advances of moneys to which the beneficiaries will become entitled upon promulgation of the final membership roll in accordance with section 7(b) and shall not constitute a determination of their relative rights to receive funds or property under this Act. Moneys paid to the Services Corporation out of the Fund, which are withheld by it pursuant to this paragraph, shall be invested by the Services Corporation for the benefit of the beneficiaries as their interests therein ultimately are determined.

(3) After promulgation of the final membership roll in accordance with subsection 7(b)(2), the Services Corporation shall distribute all moneys withheld under subsection (f)(2) hereof (adjusted to reflect earnings or losses from investment), after appropriate adjustments in the amounts of actual distributions also to reflect prior distributions and their respective rights in moneys derived from the Fund, to the beneficiaries as provided in subsection (f)(1) hereof.

(4) The Services Corporation shall withhold and invest any moneys due a Native Village Corporation or the Urban or National Corporations until such corporations are organized and qualified. The Services Corporation may withhold and invest in trust any moneys due a Native Village Corporation or the Urban or National Corporations if it is found that a corporation is violating any provision of this

Act or of its articles of incorporation. All moneys so withheld (adjusted to reflect earnings or losses from investment) shall be paid over to the affected corporation upon a determination that the violations have been corrected or upon termination of the Services Corporation.

(5) The Services Corporation shall prepare and distribute to the Native Villages proposed articles of incorporation and other appropriate forms necessary to their organization and shall provide funds to the Native Villages for organization of the Village Corporations.

(g) The Services Corporation shall retain out of moneys paid to it out of the Fund: (1) such amounts as are necessary, but not in excess of 5 per centum for carrying on the business and affairs of the Service Corporation; and (2) 5 per centum as a contingency fund to be used for purposes specified in the articles of incorporation: *Provided*, That payments to the contingency fund shall not exceed a total unused balance of $5,000,000 and moneys in the contingency fund shall be prudently invested.

(h) (1) The Services Corporation shall be considered a public instrumentality eligible for grants and contracts for planning and development programs under any Federal law which will assist Natives, Native Villages, and Native Village Corporations. For a period of twelve fiscal years after the date of its formal organization, the Services Corporation

shall be subject to audit by the General Accounting Office. Copies of such audits together with a report of the Administrator shall be filed with the appropriate committees of Congress. At the end of twelve fiscal years, and after a final audit by the General Accounting Office and the filing of a final financial report with the Congress, the limitations established, and the powers granted under this Act for the Services Corporation shall terminate.

(2) Upon expiration of the Charter of the Services Corporation, the assets and liabilities of the Services Corporation may, at the option of its membership:

(A) be transferred to the Investment Corporation or the Successor to the Investment Corporation;

(B) be transferred to a new corporation organized pursuant to subsection 8 (h) (3) hereof; or

(C) be liquidated and distributed among the members in any form permitted by law.

(3) In the event that the members of the Services Corporation, pursuant to subsection 8 (h) (2) (B) hereof, elect to establish a new corporation to succeed the Services Corporation, the Directors of the Services Corporation shall appoint the incorporators of a new business for profit corporation (hereinafter called the successor to the Services Corporation), to which the assets and liabilities of the Services Corporation shall be transferred. Ten per centum of the

total number of shares issued and outstanding shall be reserved for the Foundation established pursuant to section 24 of this Act. The remaining number of shares issued shall be distributed equally among Natives on the final roll and to those who have succeeded to their interest by request or pursuant to the statutes of descent or distribution. The successor to the Services Corporation will not be an agency or establishment of the United States and shall be governed entirely by the Federal and State laws ordinarily governing business corporations of the same type, and shall not be governed by the terms of this Act, except as follows:

(A) payments from the Fund to the Services Corporation or its successor as provided in subsection 5 (f); and

(B) shares of stock in the successor to the Services Corporation shall not be alienable for fifteen years from the date of enactment of this Act, and shall be subject to the provisions of subsection (h) (4) hereof.

(4) Any shares of stock held by Alaska Natives under any successor corporation established pursuant to this section for the benefit of Alaska Natives shall be inalienable for a period of fifteen years from the date of enactment of this Act. No contract to sell, pledge, or otherwise alienate such stock during this period of time shall be of any validity or enforceable in any court of law. Any person who knowingly

seeks to acquire from an Alaska Native such stock in violation of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

(i) The Services Corporation shall have and may exercise all rights and powers vested in a nonprofit membership corporation under the laws of the State. In addition, and without limitation upon any of the powers so conferred, or the powers conferred elsewhere in this Act, the Services Corporation shall have the following powers—

(1) to maintain an appropriate staff to provide professional, technical, engineering, social services, and financial assistance and advice to Natives, Native villages, and Native Village Corporations: (A) in the selection, use, management, leasing, and disposition of lands or interests therein; (B) in the development of comprehensive land use plans; (C) in the use, investment, and expenditure of funds; and (D) in the acquisition, use, and disposition of other property;

(2) to assist Native Villages and Native Village Corporations in the planning and execution of programs for community development, including, but not limited to, housing, the establishment of local industry and the construction of public works;

(3) to enter into contracts with Natives, Native villages and Native Village Corporations, where appropriate, for the use, management, investment, economic development or disposition of lands, interests in lands, funds and other property for the benefit of such Natives and Native organizations;

(4) to provide loans and grants for the education and relief of distress of individual Natives, or their descendants and subject to the provisions of this Act, make distributions of funds to Native Village Corporations, and to municipal corporations in predominately Native areas;

(5) to exercise authority to conduct the business and affairs of any Native Village Corporation shown to be violating any provision of this Act or of its articles of incorporation;

(6) to carry out any and all activities directed toward promoting the health, welfare, education and social and economic development of Natives and their descendants; and

(7) to provide any advice or assistance requested by the Urban and National Corporations.

(j) The internal affairs of the Services Corporation shall be governed in accordance with the laws of the State

relating to nonprofit membership corporations, except to the extent inconsistent with the provisions of this Act; and except that—

(1) amendments to the articles of incorporation and annual reports shall be filed with the Secretary and certified copies thereof shall be transmitted to the State Commissioner of Commerce;

(2) the Services Corporation shall not be subject to any State licensing requirements, incorporation fees or other corporate charges, except the designation of a registered office and registered agent, and nominal fees for the filing of corporate papers, or to the imposition of State taxes as provided in this Act; and

(3) the Services Corporation shall not be subject to any State law which places a burden or duty upon it greater than is placed upon any other nonprofit membership corporation, or, unless the Corporation so consents, to any State corporate law which is in effect applicable only to the Services Corporation.

REGIONAL ADVISORY BOARDS

SEC. 9. (a) For purposes of this Act, the State shall be divided by the Commission within one year after the effective date of this Act 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 shall approximate the areas covered by the operations of the following existing Native associations:

(1) Arctic Slope Native Association (Barrow, Point Hope);

(2) Bering Strait Association (Seward Peninsula, Unalakleet, St. Lawrence Island);

(3) Northwest Alaska Native Association (Kotzebue);

(4) Association of Village Council Presidents (southwest coast, all villages in the Bethel area, including all villages on the Lower Yukon River and the Lower Kuskokwim River);

(5) Tanana Chief's Conference (Koyukuk, Middle and Upper Yukon Rivers, Upper Kuskokwim, Tanana River);

(6) Cook Inlet Association (Kenai, Tyonek, Ekutna, Iliamna);

(7) Bristol Bay Native Association (Dillingham, Upper Alaska Peninsula);

(8) Aleut League (Aleutian Islands, Pribilof Islands, and that part of the Alaska Peninsula which is in the Aleut League);

(9) Chugach Native Association (Cordova, Tititlek, Port Graham, English Bay, Valdez, and Seward);

(10) Tlingit-Haida Central Council (southeastern Alaska);

(11) Kodiak Area Native Association (all villages on and around Kodiak Island); and

(12) Copper River Native Association (Copper Center, Glennallen, Chitina, Mentasta).

Any dispute over the boundaries of any region or regions shall be determined by the Commission and, without regard to subsection 6(j), shall be final.

(b) (1) There are hereby authorized to be established, at the option of the Natives within each region, pursuant to such procedures as the Commission may prescribe, a Regional Advisory Board for each of the regions defined under subsection (a) of this section. The Services Corporation, the Investment Corporation and the Village Corporations shall establish procedures for consultation from time to time with the appropriate Regional Advisory Boards on matters affecting the region represented thereby.

(2) There is hereby authorized to be established under the laws of the State by the Natives of the region described in section 9(a)(1) a North Slope Native Corporation which may carry out the duties of a Regional Advisory Board as specified in section 9, and shall in addition hold title to lands patented to it pursuant to section 19(f)(1). The North Slope Native Corporation shall be so organized that it may

manage such lands, distribute to its members or shareholders revenue therefrom, and carry on such other activities as its members or shareholders may decide.

(3) The Regional Advisory Boards established pursuant to this subsection shall not be agencies or establishments of the United States Government. The Regional Boards shall be considered political subdivisions of the State solely for the purpose of being eligible for grants, loans, and contracts for regional planning, housing assistance, economic development, public works, construction, transportation and other programs under any Federal law which will assist Natives, Native villages, and Native Village Corporations. Village corporations located within each region may allocate funds for that Regional Board.

(c) For purposes of electing the regional members to the board of directors of the Services Corporation as provided in section 8(b)(1) of this Act, the regional boundaries determined by the Commission under this section shall be used as the boundaries for the election.

(d)(1) In the distribution of funds the Services Corporation shall segregate, on a regional basis, revenues derived from the sale, lease, permit, development, use or other disposition of the leasable mineral estate of the lands to which the Services Corporation acquires a patent under section 15(d) of this Act and of the Village lands to which the

Services Corporation acquires a patent under section 15 (c) and 23 (m) (3) of this Act. The Native Village Corporations within each region as defined in subsection (a) of this subsection shall be entitled, on a direct proportion of membership basis, to 50 per centum of the net proceeds derived from the disposition of the mineral estate to Village lands located within that region's boundaries. The remaining 50 per centum of such net proceeds shall be distributed among all the other Native Village Corporations and the Urban and National Corporations in direct proportion to their membership. For purposes of this subsection, membership shall be as shown on the final membership roll promulgated in accordance with subsection 7 (b) (2).

(2) Moneys distributed pursuant to paragraph (1) hereof shall not constitute income of the Services Corporation, but shall constitute income of the receiving Native Village Corporations and the Urban and National Corporations and shall be subject to taxation on the same basis as like income is taxed when received by any other nonprofit membership corporation.

ALASKA NATIVE INVESTMENT CORPORATION

SEC. 10. (a) (1) There is hereby established the Alaska Native Investment Corporation (hereinafter referred to as the "Investment Corporation") as a business for profit cor-

poration, which shall have the powers and duties hereinafter granted. The Investment Corporation shall be subject to the provisions of this Act and, to the extent consistent with subsection (i), to the Investment Company Act of 1940, as amended (11 U.S.C. 72a, 107f; 15 U.S.C. 80a–1 to 80a–52 et seq.). The Investment Corporation shall be a Federally chartered corporation, but shall not be an agency or establishment of the United States Government.

(2) The directors appointed by the President pursuant to subsection (b) (1) (A) hereof shall serve as the incorporators and as the initial board of directors, and shall take whatever actions are necessary to formally establish the Investment Corporation, including the preparation of the original articles of incorporation in a form consistent with the provisions of this Act. The incorporators shall file the articles of incorporation with the Secretary within six months after their appointment, and the Investment Corporation shall be deemed to be incorporated and formally organized as of the date of such filing. The incorporators also shall transmit a copy of the articles of incorporation to the Commissioner of Commerce of the State of Alaska and to the appropriate office of the State designated pursuant to subsection (e) hereof. The Secretary of the Treasury is authorized and directed to advance to the incorporators from the Inves-

ment Corporation's share of moneys in the Fund such sums as are reasonably necessary for the organization of the Investment Corporation.

(b) (1) The management of the Investment Corporation shall be vested in a board of directors, which shall consist of twelve members:

(A) five members of which shall be appointed by the President of the United States, within six months of the date of enactment of this Act: *Provided,* That no more than three members of the initial board shall be members of the same political party;

(B) four members of which shall be elected by Alaska Natives as provided in subsection (b) (6) hereof; and

(C) three members of which shall be elected by the nine directors named in subsections (b) (1) (A) and (B) hereof.

(2) Directors appointed by the President pursuant to subsection (b) (1) (A) hereof, and directors elected pursuant to subsection (b) (1) (C) hereof, shall, insofar as is possible, be persons who have demonstrated business ability and who have displayed a high degree of expertise in national and international investments or corporate enterprise.

(3) Members of the board of directors shall serve for terms of six years or until their successors have been elected

and qualified: *Provided,* That among the directors first appointed and elected, two shall serve for terms of six years; two for terms of five years; two for terms of four years; two for terms of three years; two for terms of two years; and two for terms of one year. The directors who serve the shorter terms shall be determined by a drawing of lots conducted by the initial board, except that the member appointed by the President to serve as the initial Chairman of the board of directors pursuant to subsection (b) (4) hereof shall serve for a full six-year term. Elections for membership on the board of directors shall be conducted in accordance with procedures set forth in the articles of incorporation or the by-laws of the Investment Corporation. Any director elected to fill a vacancy shall serve only for the period of the unexpired term of the director whom he succeeds. Upon the expiration of each director's term of office the shareholders of the Investment Corporation shall elect a new director to serve a term of six years, or until reorganization of the Investment Corporation as required in subsection (l) hereof.

(4) The President of the United States shall appoint one of the members of the initial board of directors to serve as Chairman of the board. The member appointed shall serve as Chairman for a three-year term. Thereafter, the board of directors shall elect a Chairman annually from among its own membership. The board also may appoint persons to fill

vacancies within its membership, but such appointed directors shall serve only until the next regular election of directors.

(5) Notwithstanding any other provision of this Act or the articles of incorporation to the contrary, the initial board of directors appointed pursuant to subsection (b) (1) (A) hereof shall exercise only the following corporate powers: (A) completion of the organization of the Corporation and qualifying it to do business, including, but not limited to, the adoption of a corporate seal, the opening of bank accounts, the establishment of a place or places of business and the rental or acquisition of necessary offices, furnishings, equipment and supplies related thereto, subject to the condition that no lease shall be for a period in excess of one year; (B) approval of amendments to the articles of incorporation; (C) the appointment of officers of the Corporation, the hiring of other employees and the employment of consultants, accountants, and other professional or financial advisers, subject to the condition that no contract of employment shall be for a period in excess of one year; (D) the receipt, investment and distribution of moneys from the Fund in accordance with the provisions of this Act; and (E) the expenditure of corporate funds to pay for or carry out the activities authorized under this paragraph.

(6) Within ninety days after the filing of the articles of incorporation of the Investment Corporation, the initial

board of directors shall organize and conduct an election for the four directors named in subsection (b) (1) (B) hereof.

(c) The Investment Corporation may establish such executive committees as are necessary for the conduct of business and may have a president and such other officers as may be named and appointed by the board, at rates of compensation to be fixed by the board and serving at the pleasure of the board. The president and other officers of the Investment Corporation may, but need not, be members of the board. No officer of the Investment Corporation shall receive any salary from any source other than the Investment Corporation during the period of his employment by the Corporation. The executive committee or committees or the president, as determined by the board, shall be responsible for conducting the business and affairs of the Investment Corporation in a manner consistent with the provisions of this Act, the articles of incorporation, and the policies of the board of directors, and shall appoint such other employees as the board deems appropriate.

(d) (1) The board of directors of the Investment Corporation shall contract with a Business Management Group or groups to manage and advise upon the conduct of the affairs of the Investment Corporation, subject to the terms of this Act and the policies established by the board. The Business Management Group or groups to the extent con-

sistent with this section and subsection (i) hereof shall be subject to the terms of the Investment Advisers Act. The Business Management Group or groups may, if the board of directors so decides, have a power of attorney for the sale, purchase, exchange, and transfer of securities of the Investment Corporation. The terms of the original contract between the Investment Corporation and the Business Management Group or groups shall be no longer than a renewable term of one year, and the contract shall be subject to review and comment by the Securities and Exchange Commission as provided in subsection (i) hereof.

(2) At the end of any year or upon cancellation of a contract the Investment Corporation may:

(A) award new contracts to the Business Management Group or groups;

(B) award contracts to another Business Management Group or groups; or

(C) at the end of three years establish an in-house management and investment capacity and staff to manage the affairs of the Investment Corporation.

The Investment Corporation through the board of directors and the Business Management Group or groups shall, to the extent consistent with sound management practices and the provisions of this section and the policies of the

board, train and employ Alaska Natives in executive, management, and staff positions.

(3) The board of the Investment Corporation and the Business Management Group or groups shall manage the Investment Corporation's assets in such a manner as to maximize the financial interests of the shareholders, by investing in a balanced and diversified portfolio of:

(A) national and international public and private securities ("securities" as used in this section shall have the same meaning as defined in the Investment Company Act of 1940, as amended) (11 U.S.C. 72a, 107f; 15 U.S.C. 80a–1 to 80a–52);

(B) enterprises based in, or doing business in Alaska;

(C) enterprises having an impact on sectors of the economy especially important to Natives; and

(D) enterprises wholly or partially owned by Natives.

Neither (B), (C), nor (D) of this subsection shall be construed as obliging or authorizing the board of the Investment Corporation or the Business Management Group to make any investment which does not meet prudent investment standards and which is not in the best financial interests of the shareholders.

(e) The Investment Corporation shall have and may exercise, in addition to the powers and rights granted by this Act, all rights and powers vested in a business for profit corporation under the laws of any State which the board of directors designate in the articles of incorporation as the state whose law is to be applied in resolving legal questions arising from the corporate activities of the Investment Corporation. In addition, and without limitation upon any of the powers so conferred, the Investment Corporation may—

(1) make any lawful investments in local, national, and international business enterprises and securities which the board of directors determines would yield an acceptable return; and

(2) make loans and investments in such a manner as to maintain a creditor's protected interest which may, at the option of the board of directors, be converted into an equity interest: *Provided,* That notwithstanding any other provision of this Act, no more than twenty percent of the assets of the Investment Corporation may at any time be invested in venture capital situations.

(f) (1) As soon as the Investment Corporation is incorporated and formally organized in accordance with subsection (a) (2) hereof, the Secretary of the Treasury shall pay to the Investment Corporation all moneys deposited in the Fund to which the Investment Corporation is entitled

up to the date of such incorporation and formal organization, together with any accrued interest. Thereafter, on January 1, April 1, July 1, and October 1 of each calendar year, the Secretary of the Treasury shall pay to the Investment Corporation or its successor additional moneys deposited in the Fund to which the Investment Corporation is entitled up to the date of payment, together with any accrued interest. The Secretary of the Treasury also shall furnish to the Investment Corporation or its successor each month a statement showing the amount and source of moneys on deposit in the Fund.

(2) The board of directors may retain out of moneys paid to the Investment Corporation such funds as are necessary for contingency funds, for the payment of dividend and for the administrative costs and the business expenses of the Corporation: *Provided,* That the compensation to be paid to the Business Management Group or groups during any years shall not exceed $250,000 or not more than one-half of 1 per centum of the invested assets of the Investment Corporation.

(3) The Investment Corporation and the Business Management Group shall be subject to periodic audits by a qualified group of certified public accountants to be selected by the board of directors. Such audits as are in accord with standard business practice shall be made at least once a year.

(g) (1) The Investment Corporation shall issue and have outstanding not more than one hundred shares of no par common stock for each Native.

(2) Until publication of the membership roll in accordance with section 7(b), the stockholders of the Corporation shall consist of all Natives shown on the temporary census roll prepared pursuant to section 7(a). After publication of the membership roll in accordance with section 7(b)(1) and before such roll becomes final in accordance with section 7(b)(2), the stockholders of the Corporation shall consist of all Natives shown on the temporary census roll, except an individual whose inclusion thereon is the subject of a pending protest. Stock held pursuant to this paragraph shall carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to stockholders, and the right to file a stockholder's derivative suit, but shall not vest in the holder any right to dividends or other distributions from the Corporation, except as provided in subsection (h) hereof.

(3) Upon promulgation of the final membership roll in accordance with section 7(b)(2), all stock issued pursuant to section 10(g)(2) shall be deemed canceled, new shares shall be issued and thereafter the stockholders of the Corporation shall consist of all Natives shown on the final membership roll. Stock held pursuant to this paragraph shall

carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to stockholders, shall permit the holder to receive dividends or other distributions from the Corporation, and shall vest in the holder all rights of a stockholder in a business corporation organized under the laws of the State designated pursuant to subsection (e) of this section.

(4) Upon the death of any stockholder holding stock in the Corporation pursuant to section 10(g) (2) or (3), ownership of such stock shall be transferred to natural persons in accordance with his last will and testament or under the laws of intestacy: *Provided,* That such stock shall carry voting rights only if the holder thereof through inheritance also is a Native: *And provided further,* That in the event the deceased stockholder fails to dispose of his stock in the Corporation by will and has no heirs under the laws of intestacy, such stock shall escheat to the Corporation.

(5) (A) In the event that a Native under the age of nineteen shall become entitled to shares of stock in the Investment Corporation pursuant to section 10(g), such shares shall be issued to that member of such Native's family who is highest in the order of priority set forth in section 10(g) (5) (B) who shall agree, within thirty days of his receipt of notice of eligibility, to accept such shares as custodian for such Native. If a person designated as custodian or succes-

sor custodian under this section dies, resigns, is removed, or becomes legally incapacitated before such Native attains the age of nineteen, there shall be designated as successor custodian that member of such Native's family who is next highest in the order of priority set forth in section 10(g) (5) (B) who shall agree, within thirty days of his receipt of notice of eligibility, to accept such shares as successor custodian for such Native. In the event that no member of the Native's family accepts such shares as custodian (or successor custodian) pursuant to this section, such shares shall be held by the Secretary as custodian for such Native.

(B) The order of priority in which members of the family of a Native under the age of nineteen shall be eligible to receive shares of stock in such business corporation as custodian for such Native is the following:

(i) the father;

(ii) the mother;

(iii) a brother;

(iv) a sister;

(v) an uncle;

(vi) an aunt;

(vii) a grandparent.

If more than one individual shall occupy any of the foregoing priority categories, the individuals within such category shall

have priority in accordance with date of birth, with the individual having the earliest date of birth being assigned the highest priority.

(C) The custodian or successor custodian for a Native under the age of nineteen appointed pursuant to subsection (5) (A) hereof shall have the rights and obligations of, and be subject to the terms and conditions applicable to, custodians under the Alaska Gifts of Securities to Minors Act (Alaska Stat. Ann. § 45.60.010 et seq.), or corresponding provisions of subsequent law, except where inconsistent with the foregoing provisions of this subsection.

(6) The stock issued pursuant to this section and the right to any dividends paid pursuant to section 10(h) may not be sold, pledged, subjected to a lien or judgment execution, assigned in present or future, or otherwise alienated. Any person who knowingly seeks to acquire from a Native such stock in violation of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than twelve months, or both.

(7) Contemporaneous with any issuance of stock pursuant to this Act, each stockholder shall receive a report which shall contain the type of information similar to that normally contained in a prospectus of a corporation subject

to the provisions of the Investment Company Act of 1940. Such additional information shall be included as the board of directors may require.

(h) (1) Commencing no later than eighteen months from the date of its incorporation, the Investment Corporation shall pay to its shareholders a quarterly dividend. Regardless of the current or cumulative earnings on the investments of the Investment Corporation, the total cash dividends paid in any quarter shall not be less than $1,000,000 for the first five fiscal years after enactment of this Act: *Provided, however,* That dividend payments prior to the first distribution of stock shall be made only subject to the provisions of subsection (g) hereof.

(2) The Investment Corporation shall pay out in dividends to holders of stock issued pursuant to section 10 (g) (2) no more than 80 per centum of the moneys available in any quarter for payment of dividends. The Investment Corporation shall retain in a reserve account sufficient moneys to pay dividends, plus interest at 4 per centum, to persons not listed on the temporary census roll who are later determined to be eligible for benefits under this Act and enrollment on the final membership roll.

(3) The Investment Corporation may withhold any dividends due to a person eligible to receive stock pursuant to section 10 (g) (2) whose eligibility for inclusion on the

final membership roll is subject to a pending protest or is subject to substantial doubt, until such time as the stockholder's eligibility for benefits under this Act has been determined. Any stockholder who receives dividends and who is later determined to be ineligible for enrollment on the final membership roll shall repay the amount of those dividends, plus interest at 4 per centum to the Investment Corporation.

(i) (1) The provisions of the Investment Company Act of August 22, 1940 (54 Stat. 789), as amended; the Investment Advisers Act of August 22, 1940 (54 Stat. 847), as amended; the Securities Act of May 27, 1933 (48 Stat. 74), as amended; and the Securities Exchange Act of June 6, 1934 (48 Stat. 881), as amended, relating to public disclosure, reporting, and protection of the interests of stockholders shall, to the extent consistent with the purposes of this Act, be applicable to the activities of the Investment Corporation for a period of thirteen years.

(2) The Investment Corporation and its duly authorized representatives may, by application to the Securities and Exchange Commission, in accord with the procedures of section 6(c) of the Investment Company Act of 1940, request appropriate waivers and exemptions from any of the provisions of the Acts referred to in subsection (1) hereof if necessary to accomplish the purposes of this Act or to avoid hardship. This provision shall apply only to the

Investment Corporation and only during its period of existence as a federally chartered corporation under this Act.

(3) The Securities and Exchange Commission is authorized, should it prove necessary to provide business certainty, to prepare rules and regulations which identify those provisions of applicable law or existing regulations of the securities law which, consistent with the purposes and provisions of this Act, may be applied to the Investment Corporation. Rules and regulations prepared pursuant to this subsection may be waived or exemptions made thereto in accord with subsection (2) hereof. Such rules shall be prepared and issued according to the procedures set forth in section 4 of the Administrative Procedure Act, section 553 of title 5, United States Code, and shall be subject to judicial review only as rules issued in such manner are normally reviewed.

(j) The Directors shall annually prepare and cause to be deposited with the Securities and Exchange Commission a report or reports which shall include information and data required under the provisions of the Investment Company Act of 1940 and such additional information and reports as the Securities and Exchange Commission and the Investment Company Act of 1940 may require. Copies of the report or reports herein required shall be made available for public inspection at the chief offices of the Investment Corporation and a summary shall be furnished upon request to any share-

holder of the Investment Corporation. The report herein required shall be in addition to, and not in lieu of, any other report or disclosure required by law.

(k) The internal affairs of the Investment Corporation shall be governed in accordance with the laws of the state designated by the board of directors pursuant to subsection (e) hereof, except to the extent inconsistent with the provisions of this Act, and except that—

(1) amendments to the articles of incorporation and annual reports shall be filed with the Securities and Exchange Commission and certified copies thereof shall be transmitted to the appropriate office of the state referred to in subsection (e) hereof; and

(2) the Investment Corporation shall not be subject to any State law which places a burden or duty upon it greater than is placed upon any other similar corporation, or, unless the Corporation so consents, to any State corporate law which is in effect applicable only to the Investment Corporation.

(l) (1) At the end of the twelfth fiscal year commencing with the fiscal year in which this Act becomes effective, by operation of law all of the assets of the Investment Corporation shall be transferred to and all of its liabilities assumed by a new business for profit corporation (hereinafter called the Successor Corporation) established pursuant to

this subsection, and the Investment Corporation shall terminate.

(2) During the fiscal year preceding the date specified in section 10 (l) (1), the directors of the Investment Corporation shall draft the articles of incorporation for the Successor Corporation, appoint incorporators, and take all other steps necessary to create the Successor Corporation under the laws of any State selected by the directors. The Successor Corporation will not be an agency or establishment of the United States, and shall not be governed by the terms of this Act, except as follows:

(A) payments from the Fund to the Investment Corporation provided in section 5 (f) ;

(B) limitations on disposition of shares within fifteen years of incorporation of the Investment Corporation in section 10 (g) ; and

(C) merger of the Services Corporation with the Successor Corporation to the Investment Corporation as allowed pursuant to subsection 8 (h).

(3) The stock in the Investment Corporation issued pursuant to section 10 (g) (3) shall be deemed canceled on the date specified in section 10 (l) (1), and shares of stock in the Successor Corporation shall be issued in replacement to all stockholders in the Investment Corporation on that date.

(4) The Successor Corporation shall also issue shares of stock to the Foundation established pursuant to section 24 in such number that the Foundation shall hold 10 per centum of stock issued and outstanding under this section.

NATIVE VILLAGE CORPORATIONS

SEC. 11. (a) The Native members of each Native Village entitled to receive lands and benefits under this Act shall organize as a nonprofit membership corporation under the laws of the State before the Village Corporation may receive patent to lands or benefits under this Act except as otherwise provided. The initial articles of incorporation for each Village Corporation shall be subject to the approval of the Services Corporation. Amendments to the articles of incorporation and the annual budget of the Village Corporations shall, for a period of five years, be subject to review by the Services Corporation. The Services Corporation shall assist and advise Native Villages in the preparation of articles of incorporation and other documents necessary to meet the requirements of this subsection.

(b) Native Villages which are qualified under Alaska State law to organize as Municipal Corporations are encouraged to do so to be eligible for Federal grant-in-aid programs. In Native Villages which do not meet the population and other requirements of the State to organize as Municipal Corporations, and only for so long as they do

not meet these requirements, the Village Corporations required to be established pursuant to this section shall be considered political subdivisions of the State solely for the purpose of being eligible for grants, loans, and contracts for planning, housing assistance, economic development, public works, construction, and other programs under Federal law which will assist Natives and Native Villages.

(c) Each Village Corporation shall have five incorporators. The incorporators shall be the Village Land Selection Committee as elected by the Native Village members pursuant to subsection 14(c) of this Act. After promulgation of the final membership roll in accordance with subsection 7(b)(2) the board of directors shall be elected by the Natives shown on the final membership roll in accordance with the articles of incorporation and the bylaws of the Village Corporation.

(d) Each Village Corporation shall be devoted to promoting the health, welfare, education, and economic and social well-being of its members and their descendants, and shall be authorized by its articles of incorporation, among other purposes, to construct, operate and maintain public works and community facilities, to engage in medical, educational, housing and charitable programs, to make loans and grants consistent with its corporate purposes, to foster industrial and economic development, to lease, sell, and manage

real property and to distribute funds to its members and their descendants in furtherance of family plans.

(e) The Services Corporation shall not distribute more than the reasonable sums required for planning and administrative purposes and to deal with any pressing health and social problems to a Village Corporation until the Village Corporation has developed an initial program for the management, investment, and expenditure of such funds, and such program has been approved by the Services Corporation: *Provided*, That a failure or refusal of the Services Corporation to approve a Village program within ninety days after its receipt may be appealed to the Commission, and the Commission's decision thereon shall, without regard to subsection 6(j), be final. After approval of its initial program, each Village Corporation shall be entitled to distributions from the Services Corporation in accordance with this Act. The Services Corporation may invest for the benefit of a Village Corporation all moneys withheld under this paragraph until the Village program is approved.

(f) The articles of incorporation for each Village Corporation shall include the following provisions—

(1) all persons shown as members of the Native Village on the final membership roll prepared in accordance with section 7(b) of this Act shall be entitled to membership in the Village Corporation;

(2) for a period of at least thirteen years after the effective date of this Act, membership in a Village Corporation shall be limited to Natives and their descendants.

(g) (1) In any Native Village which is now organized or which becomes organized as a Municipal Corporation under State law within five years from the effective date of this Act, the Municipal Corporation shall be entitled to receive title to the surface estate of the land on which the village is located and as much additional land as is necessary for community expansion. Prior to the transfer of lands from a Village Corporation to a Municipal Corporation, lands shall be granted to occupants pursuant to section 15(b)(2)(A), (B), and (D) and section 23(m)(2)(B)(i), (ii) and (iv). The acreage limitations in section 15(b)(2)(C) and section 23(m)(2)(b)(iii) shall apply to the transfer.

(2) In addition to the land grants referred to in subsection (1) hereof, Village Corporations shall also grant to Municipal Corporations or, where appropriate, to the State, title to existing rights-of-way necessary for public use, airport sites, and such other interests in land as are reasonably necessary for public use and benefit: *Provided*, That this subsection does not require the creation of floating easements or rights-of-way unless the Village Corporation

decides to grant such rights-of-way for future use and expansion.

(3) The Alaska Native Commission shall settle any disputes with respect to the land transfers required under subsections (1) and (2) hereof and the Commission's decision shall, without regard to subsection 6(j), be final.

URBAN AND NATIONAL CORPORATIONS

SEC. 12. (a) (1) There shall be established two nonprofit, membership corporations as follows:

(A) Alaska Native Urban Corporation; and

(B) Alaska Native National Corporation.

(2) The Urban Corporation shall be incorporated under the laws of Alaska. The Natives listed on the temporary census roll under section 7(a) (1) who are listed as residents in Alaska but not as members of any Native Village shall be its temporary members and the Natives listed as members of the Urban Alaska Native roll under subsection 7(d) of this Act shall be its permanent members.

(3) The National Corporation shall be incorporated under the laws of any State other than Alaska determined by the Secretary to be the most appropriate. The Natives listed on the temporary census roll under section 7(a) (1) who are listed as not resident in Alaska and not members of any Native Village shall be its temporary members, and the Natives listed as members of the Alaska Native National roll

under subsection 7(e) of this Act shall be its permanent members.

(4) The Secretary shall, within sixty days after the effective date of this Act appoint five incorporators for each of the corporations established under this section and shall select as such incorporators persons whom the Secretary deems to be knowledgeable in the needs of, and benefits desired by, the respective members of each corporation. The incorporators of each corporation shall, within sixty days after their appointment, prepare and submit to the Secretary, articles of incorporation and bylaws for the government of their respective corporations not inconsistent with the provisions of this Act. When the articles of incorporation and bylaws of either of such corporations are approved by the Secretary, or if they shall not have been disapproved by the Secretary within thirty days after they have been received, the articles of incorporation shall be filed with appropriate authorities in the State of incorporation and all other actions necessary to establish corporate existence shall be performed.

(5) The Urban and National Corporations shall be managed by their respective boards of directors, each of which boards shall be comprised of not less than five members.

(A) The incorporators shall constitute the initial board of directors to hold office until their successors are elected.

They may engage such legal counsel, advisers and employees and perform such further acts as may be required to carry out the purposes of this Act. Any contract or other obligation of the corporation existing upon the date of the first election of directors shall be terminable at will by the corporation at any time within ninety days thereafter.

(B) All directors other than the initial board of directors shall be elected by the members of the respective corporations who are nineteen years of age or over at the time of voting. The first election shall be held within four months following

(i) completion of the temporary census roll under subsection 7 (a) of this Act, or

(ii) commencement of the existence of the corporation under the laws of its state of incorporation, whichever occurs later.

(6) The article of incorporation and the bylaws of the Urban Corporation and the National Corporation may be amended from time to time. Such amendments made during the first five years after the effective date of this Act shall be filed with the Secretary and the Services Corporation.

(7) The Urban Corporation and the National Corporation shall manage and use the funds distributed to them in accordance with this Act to serve the needs of their members and members' descendants. They shall have all of the

powers granted to nonprofit corporations under the laws of their respective states of incorporation, except as such powers may be limited by their articles of incorporation and bylaws; and they shall carry out activities, either directly or through other instrumentalities, directed toward promoting the health, welfare, education, and cultural, social and economic development of their members and members' descendants.

(8) The National Corporation shall maintain an office or offices in its state of incorporation and in such other location or locations as will best serve the needs of its members.

(b) The provisions of subsection 11(e) of this Act relating to the distribution, withholding and investment of sums to, and for the benefit of, Village Corporations shall apply also with regard to sums received by the Services Corporation for distribution to the Urban and National Corporations.

(c) The Urban and National Corporations shall be entitled in proportion of their memberships to the total final membership roll to receive distributions from the Services Corporation on the same basis as Village Corporations, including, prior to completion of the final membership roll, advances for organizational, planning, and administrative purposes and to deal with pressing health and social problems.

(d) The Urban Corporation and the National Corporation shall be entitled to a share, in proportion of their respective memberships to the total final membership roll, of the funds, retained pursuant to subsection 8(g), for administrative expenses and for contingency purposes.

(e) The Urban Corporation and the National Corporation shall be considered public instrumentalities eligible for grants, loans, and contracts for planning, housing assistance, economic development, and other programs under Federal law which will assist their members and members' descendants.

(f) Upon termination of the Services Corporation pursuant to subsection 8(h) the limitations established and the powers granted under this Act for each of the corporations established under this section 12 shall terminate, and by vote of not less than a majority of its members casting votes in accordance with its articles of incorporation and bylaws, the members of the Urban and National Corporations shall elect to reincorporate either as a nonprofit corporation or a business corporation for profit, or to merge or consolidate with other corporation or otherwise reorganize or liquidate as the members deem appropriate. If either such corporation fails for any reason to make such election and carry it into effect within one year after the Services Corporation shall have gone out of existence, it shall be dissolved and liqui-

dated in accordance with the provisions of its articles of incorporation and bylaws and applicable state law.

WITHDRAWAL OF PUBLIC LANDS

SEC. 13. (a) Public Land Order Numbered 4582, 34 Federal Register 1025, is hereby revoked.

(b) (1) There are hereby withdrawn, subject to valid existing rights, from the selection by the State under the Statehood Act (72 Stat. 341, 77 Stat. 223) and from all others forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands in each township, which encloses all or part of any Native Village listed in subsection (c) hereof, and any Native Village not listed, but which is approved for benefits under this Act by the Alaska Native Commission pursuant to subsection (e) hereof, plus all public lands in each township which is contiguous to or corners upon the townships in which such Native Villages are located, except lands withdrawn or otherwise reserved for national defense purposes other than Naval Petroleum Reserve No. 4, as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the State where protraction diagrams of the Bureau of Land Management are not available.

(2) At the time any Native Village not listed in section 13 (c) is approved for benefits under this Act by the Com-

mission pursuant to section 13 (e), there shall be withdrawn, subject to valid existing rights, from selection by the State under the Statehood Act and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands in each township which encloses all or part of the Native Village, plus all public lands in each township which is contiguous to or corners upon the township in which the Native Village is located, except lands excepted from withdrawal under section 13 (b) (1).

(3) (A) In the event that any Native Village referred to in subsections (b) (1) and (2) hereof is so located that less than nine townships of public lands are available for withdrawal as therein provided, there shall be withdrawn, subject to valid and existing rights, from selection by the State under the Statehood Act and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, from among the available public lands, except lands excepted from withdrawal under section 13 (b) (1), in order of their proximity to the center of the village, as much land of at least an equal character and value as the land upon which such Village is located as may be necessary for a withdrawal of an acreage equivalent to nine townships of public lands for such Native Village.

(B) The land exchange authority granted pursuant to section 16(a) of this Act may be exercised to make land exchanges with the State or other parties for the purpose of making lands in the townships on which villages referred to in subsection (b) (3) (A) hereof are located, or in the contiguous and cornering townships, available for selection: *Provided*, That the Secretary shall classify those public lands suitable for exchange under this section before any exchanges are made.

(c) The following Native villages are qualified for land withdrawals under the provisions of subsection (b) (1) hereof:

NAME AND PLACE AND REGION
Akiachak, Southwest Coastal Lowland.
Akiak, Southwest Coastal Lowland.
Akutan, Aleutian.
Alakanuk, Southwest Coastal Lowland.
Aleknagik, Bristol Bay.
Alatna, Koyukuk-Lower Yukon.
Allakaket, Koyukuk-Lower Yukon.
Ambler, Bering Strait.
Anaktuvuk Pass, Arctic Slope.
Andreafsey, Southwest Coastal Lowland.
Aniak, Southwest Coastal Lowland.
Anvik, Koyukuk-Lower Yukon.

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1 Arctic Village, Upper Yukon-Porcupine.
2 Atka, Aleutian.
3 Atkasook, Arctic Slope.
4 Barrow, Arctic Slope.
5 Beaver, Upper Yukon-Porcupine.
6 Belkofsky, Aleutian.
7 Bethel, Southwest Coastal Lowland.
8 Bill Moore's, Southwest Coastal Lowland.
9 Biorka, Aleutian.
10 Birch Creek, Upper Yukon-Porcupine.
11 Brevig Mission, Bering Strait.
12 Buckland, Bering Strait.
13 Candle, Bering Strait.
14 Cantwell, Cook Inlet.
15 Canyon Village, Upper Yukon-Porcupine.
16 Chalkyitsik, Upper Yukon-Porcupine.
17 Chanilut, Southwest Coastal Lowland.
18 Chefornak, Southwest Coastal Lowland.
19 Chevak, Southwest Coastal Lowland.
20 Chignik, Kodiak.
21 Chignik Lagoon, Kodiak.
22 Chignik Lake, Kodiak.
23 Chistochina, Copper River.
24 Chukwuktoligamute, Southwest Coastal Lowland.
25 Circle, Upper Yukon-Porcupine.

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1 Clark's Point, Bristol Bay.
2 Copper Center, Copper River.
3 Crooked Creek, Upper Kuskokwim.
4 Deering, Bering Strait.
5 Dillingham, Bristol Bay.
6 Eagle, Upper Yukon-Porcupine.
7 Dot Lake, Tanana.
8 Eek, Southwest Coastal Lowland.
9 Egegik, Bristol Bay.
10 Eklutna, Cook Inlet.
11 Ekwok, Bristol Bay.
12 Elim, Bering Strait.
13 Emmonak, Southwest Coastal Lowland.
14 English Bay, Cook Inlet.
15 False Pass, Aleutian.
16 Fort Yukon, Upper Yukon-Porcupine.
17 Gakona, Copper River.
18 Galena, Koyukuk-Lower Yukon.
19 Gambell, Bering Sea.
20 Georgetown, Upper Kuskokwim.
21 Golovin, Bering Strait.
22 Goodnews Bay, Southwest Coastal Lowland.
23 Grayling, Koyukuk-Lower Yukon.
24 Gulkana, Copper River.
25 Hamilton, Southwest Coastal Lowland.

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1 Holy Cross, Koyukuk-Lower Yukon.

2 Hooper Bay, Southwest Coastal Lowland.

3 Hughes, Koyukuk-Lower Yukon.

4 Huslia, Koyukuk-Lower Yukon.

5 Igiugig, Bristol Bay.

6 Iliamna, Cook Inlet.

7 Inalik, Bering Strait.

8 Ivanof Bay, Aleutian.

9 Kaktovik, Arctic Slope.

10 Kalskag, Southwest Coastal Lowland.

11 Kaltag, Koyukuk-Lower Yukon.

12 Karluk, Kodiak.

13 Kasigluk, Southwest Coastal Lowland.

14 Kiana, Bering Strait.

15 King Cove, Aleutian.

16 Kipnuk, Southeast Coastal Lowland.

17 Kivalina, Bering Strait.

18 Kobuk, Bering Strait.

19 Koliganek, Bristol Bay.

20 Kokhanok, Bristol Bay.

21 Kongiganak, Southwest Coastal Lowland.

22 Kotlik, Southwest Coastal Lowland.

23 Kotzebue, Bering Strait.

24 Koyuk, Bering Strait.

25 Koyukuk, Koyukuk-LowerYukon.

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1 Kwethluk, Southwest Coastal Lowland.

2 Kwigillingok, Southwest Coastal Lowland.

3 Larsen Bay, Kodiak.

4 Levelock, Bristol Bay.

5 Lime Village, Upper Kuskokwim.

6 Lower Kalskag, Southwest Coastal Lowland.

7 McGrath, Upper Kuskokwim.

8 Makok, Koyukuk-Lower Yukon.

9 Manokotak, Bristol Bay.

10 Marshall, Southwest Coastal Lowland.

11 Mary's Igloo, Bering Strait.

12 Medfra, Upper Kuskokwim.

13 Mekoryuk, Southwest Coastal Lowland.

14 Mentasta Lake, Copper River.

15 Minchumina Lake, Upper Kuskokwim.

16 Minto, Tanana.

17 Mountain Village, Southwest Coastal Lowland.

18 Nabesna Village, Tanana.

19 Naknek, Bristol Bay.

20 Napaimute, Upper Kuskokwim.

21 Napakiak, Southwest Coastal Lowland.

22 Napaskiak, Southwest Coastal Lowland.

23 Nelson Lagoon, Aleutian.

24 Newhalen, Cook Inlet.

25 Nenana, Tanana.

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1 New Stuyahok, Bristol Bay.
2 Newtok, Southwest Coastal Lowland.
3 Nightmute, Southwest Coastal Lowland.
4 Nikolai, Upper Kuskokwim.
5 Nikolski, Aleutian.
6 Ninilchik, Cook Inlet.
7 Noatak, Bering Strait.
8 Nome, Bering Strait.
9 Nondalton, Cook Inlet.
10 Nooiksut, Arctic Slope.
11 Noorvik, Bering Strait.
12 Northeast Cape, Bering Sea.
13 Northway, Tanana.
14 Nulato, Koyukuk-Lower Yukon.
15 Nunapitchuk, Southwest Coastal Lowland.
16 Ohogamiut, Southwest Coastal Lowland.
17 Old Harbor, Kodiak.
18 Oscarville, Southwest Coastal Lowland.
19 Ouzinkie, Kodiak.
20 Paradise, Koyukuk-Lower Yukon.
21 Paulof Harbor, Aleutian.
22 Pedro Bay, Cook Inlet.
23 Perryville, Kodiak.
24 Pilot Point, Bristol Bay.
25 Pilot Station, Southwest Coastal Lowland.

Pitkas Point, Southwest Coastal Lowland.

Platinum, Southwest Coastal Lowland.

Point Hope, Arctic Slope.

Point Lay, Arctic Slope.

Portage Creek (Ohgsenakale), Bristol Bay.

Port Graham, Cook Inlet.

Port Lions, Kodiak.

Port Heiden (Meshick), Aleutian.

Quinhagak, Southwest Coastal Lowland.

Rampart, Upper Yukon-Porcupine.

Red Devil, Upper Kuskokwim.

Ruby, Koyukuk-Lower Yukon.

Russian Mission (Kuskokwim) (or Chauthalue), Upper Kuskokwim.

Russian Mission (Yukon), Southwest Coastal Lowland.

St. George, Aleutians.

St. Mary's Southwest Coastal Lowland.

St. Michael, Bering Strait.

St. Paul, Aleutians.

Salamatof, Cook Inlet.

Sand Point, Aleutians.

Savonoski, Bristol Bay.

Savoonga, Bering Sea.

Scammon Bay, Southwest Coastal Lowland.

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1 Selawik, Bering Strait.

2 Shageluk, Koyukuk-Lower Yukon.

3 Shaktoolik, Bering Strait.

4 Sheldon's Point, Southwest Coastal Lowland.

5 Shishmaref, Bering Strait.

6 Shungnak, Bering Strait.

7 Slana, Copper River.

8 Sleetmute, Upper Kuskokwim.

9 South Naknek, Bristol Bay.

10 Squaw Harbor, Aleutians.

11 Stebbins, Bering Strait.

12 Stevens Village, Upper Yukon-Porcupine.

13 Stony River, Upper Kuskokwim.

14 Tanacross, Tanana.

15 Tanana, Koyukuk-Lower Yukon.

16 Telida, Upper Kuskokwim.

17 Teller, Bering Strait.

18 Tetlin, Tanana.

19 Togiak, Bristol Bay.

20 Toksook Bay, Southwest Coastal Lowland.

21 Tuluksak, Southwest Coastal Lowland.

22 Tuntutuliak, Southwest Coastal Lowland.

23 Tununak, Southwest Coastal Lowland.

24 Twin Hills, Bristol Bay.

25 Tyonek, Cook Inlet.

Ugashik, Bristol Bay.

Unalakleet, Bering Strait.

Unalaska, Aleutian.

Unga, Aleutian.

Uyak, Kodiak.

Venetie, Upper Yukon-Porcupine.

Wainwright, Arctic Slope.

Wales, Bering Strait.

White Mountain, Bering Strait.

(d) Any of the villages listed in subsection (c) hereof shall not be eligible for land or benefits under this Act if the Commission determines within three years from the effective date of this Act that—

(1) less than twenty-five Natives are residents of the village; or

(2) the village is of a modern and urban character, that the majority of the residents are non-Native, and that the best interests of the Native residents would be served if they derived benefits through the Urban Corporation and other land provisions of this Act rather than as a Native Village; or

(3) the village was not in existence of the date of enactment of this Act: *Provided,* That this provision shall not be used to exclude any Native Village otherwise eligible which has been required to move to a new

location because of a natural disaster or the actions of any governmental agency.

(e) Native Villages not listed in subsection (c) hereof shall be eligible for land and benefits under this Act and added to the village roster if the Commission determines that—

(1) twenty-five or more Alaska Natives are residents of an established village; and

(2) the best interests of the Native residents would be served if they derived benefits under the Act as a Village Corporation; and

(3) the village would not be disqualified by the provisions of subsection (d) hereof.

(f) In making the determinations required pursuant to subsections (d) and (e) hereof, the Commission shall review all relevant evidence offered by the members of the concerned Native group or their representatives and shall review any recommendations of the State and the Secretary. The Commission's determination shall, without regard to section 6(j), be final.

(g) (1) In addition to determining which villages are entitled to land and other benefits under the terms of this Act, the Commission shall determine the total land acreage which eligible Village Corporations shall be entitled to select. The maximum grant of land which the Commission may award

to an eligible Village Corporation shall be twenty-three thousand and forty acres for those Villages having an enrollment of less than four hundred Natives and an additional twenty-three thousand and forty acres for each additional four hundred Natives enrolled as members of the Village as follows: four hundred to eight hundred enrolled Natives, forty-six thousand and eighty acres; eight hundred to one thousand and two hundred enrolled Natives, sixty-nine thousand and one hundred twenty acres; one thousand and two hundred to one thousand and six hundred enrolled Natives, ninety-two thousand and one hundred sixty acres; one thousand and six hundred to two thousand enrolled Natives, one hundred and fifteen thousand two hundred acres; and two thousand to two thousand four hundred enrolled Natives, one hundred and thirty-eight thousand two hundred forty acres. In making determinations pursuant to this subsection the Commission shall consider the following factors:

(A) the Native population of the Village;

(B) the nature of the use, both historic and present, of the lands surrounding the Native Village including the carrying capacity of the surrounding lands and biological community in relationship to the village population and subsistence use patterns of the Native residents therein;

(C) the amount of land needed for prospective community expansion, the area to be granted to Municipal Corporations or to the State, and the area to be granted for access, rights-of-way, and other public services and facilities;

(D) the nature and economic value of the lands surrounding the village (without regard to the mineral estate) for the purpose of insuring some degree of comparability in value as between Native Villages; and

(E) the comprehensive land use plan prepared by the Village Corporation with the assistance of the Services Corporation staff pursuant to subsection (8) (i) hereof.

(2) Land acreages equal to the difference between the maximum grants of land which the Commission may award pursuant to subsection (g) (1) and the actual amounts awarded to eligible Village Corporations, together with land in the amount of one million and five hundred thousand acres, shall be granted by the Commission upon application, as follows:

(a) to any Village Corporation which received the maximum grant the Commission may award, but which needs additional lands to maintain historic subsistence use patterns, but not to exceed the balance of the acreage withdrawn for that Village Corporation;

(b) to any Village Corporation which demonstrates that the nature, amount and economic value (without respect to the mineral estate) of the lands granted pursuant to subsection (g) (1) do not result in comparable values with the lands granted to other Village Corporations, but not to exceed the balance of the acreage withdrawn for that Village Corporation; and

(c) any remaining lands shall be granted to the Services Corporation.

In making the determinations required by this subsection the Commission shall consider the geographical relationship of individual villages to the lands in question and should avoid determinations which result in land grants that are separated by large bodies of water unless one of the above factors or the operation of section 13 (b) (3) makes such a determination reasonably necessary. The Commission's determinations under this subsection shall, without regard to section 6 (j), be final.

(h) (1) The Secretary, after consultation with the Commission and, where appropriate, with the Secretary of Agriculture or the Secretary of Defense, is authorized to withdraw from all forms of appropriation under the public land laws any public lands reasonably necessary to protect: (A) any settlement of a Native group established as of April 15, 1969, and not otherwise eligible for lands under

this Act; (B) any historic Native village from which the population has been required to move, because of either direct or indirect actions of the Federal, State, or local government, and to which twenty-five or more adult Natives wish to return and reside; (C) any place which constitutes a new Native village location to which by virtue of natural phenomenon, or direct or indirect governmental actions, twenty-five or more adult Natives wish to relocate; or (D) any land occupied by a Native as a primary place of residence on May 1, 1970, and continuing on the effective date of this Act: *Provided, however,* That any withdrawal made pursuant to this subsection shall not exceed one township.

(2) The Commission shall determine the amount of land to which any Native group or individual is entitled under paragraph (1) hereof. The decision of the Commission shall, without regard to subsection 6(j), be final. Lands granted to Native groups or individuals pursuant to this subsection shall not exceed five thousand seven hundred and sixty acres under subsections (1) (A), (B), and (C) hereof nor more than one hundred and sixty acres under subsection (1) (D) hereof. Any lands granted under this subsection shall be patented by the Secretary on the basis of the Commission's decision and shall be deducted from the five hundred thousand-acre "miscellaneous" selection right created by subsection 19(b) (2). Patents issued pursuant

to this subsection shall not include the leasable or locatable mineral estate.

(3) Where the lands referred to in subsection (h) (1) hereof are located within the national park system, the national forest system or the national wildlife refuge system the Secretary in withdrawing lands, and the Commission in granting lands pursuant to this subsection, may reduce the amount of lands withdrawn and granted to insure that the purposes for which these lands were reserved by the United States may be achieved with a minimum of interference.

(i) If the Secretary determines that a substantial dispute is involved or that the best interests of justice would be served he may direct that a public hearing be held in accordance with such rules as he shall prescribe prior to making any of the withdrawals permitted by subsection (h) hereof. Any hearings held pursuant to this subsection shall be held within five years of the date of enactment of this Act. The Commission shall consider, in any contested case, the hearing record prepared by the Secretary as well as his recommendations in making its determinations. The actions of the Commission under this subsection shall, without regard to section 6 (j), be final.

(j) Pending the disposition of any lands withdrawn under this section, the Secretary is authorized to take such actions as may be necessary to administer, manage, and

protect the withdrawn public lands for the benefit of the potential beneficiaries and the United States in accord with section 16 of this Act.

SELECTION OF PUBLIC LANDS

SEC. 14. (a) Upon application of any Native Village found eligible for land selections pursuant to section 13 of this Act, and upon certification thereof by the Commission, and after survey of the area selected pursuant to section 15 (a), the Secretary shall issue a patent, without payment therefor, to the Village Corporation, or, if not yet incorporated, in trust to the Services Corporation for the benefit of the Native Village pending its incorporation as provided in section 11, for that amount of land to which the Native Village is found entitled by the Commission pursuant to the procedures set out in subsection 13 (g). Lands to be patented may be selected, subject to all valid existing rights, from any public land within areas withdrawn for each Native Village under the provisions of section 13 of this Act.

(b) In exercising selection rights pursuant to subsection (a) hereof, Native Village Corporations shall select from among the public lands withdrawn pursuant to section 13, and all such selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection, and shall be in whole sections and, wherever feasible, in units of not less

than one thousand two hundred and eighty acres. In the event the public lands withdrawn pursuant to section 13 are not sufficient in amount to satisfy the entitlement of any Village Corporation, as determined by the Commission, such Corporation may select noncontiguous tracts from among the vacant and unappropriated public lands, without regard to section 23, in order of their proximity to the center of the village until the Village Corporation's selection rights are exhausted.

(c) Within 2 months after a determination by the Commission that a Native Village is eligible for a grant of land pursuant to subsections 13 (d) and (e), the Secretary shall conduct an election for the village, under such rules and regulations as he may prescribe, to choose a five-member Village Land Selection Committee. The committee so elected is hereby authorized to exercise the land selection rights of the village pending organization of the Village Corporation. The persons entitled to vote in the election or serve on the Land Selection Committee shall be the members of each Native Village nineteen years of age or over, as shown on the temporary census roll prepared pursuant to section 7 (a).

(d) (1) Where two or more Native Villages, because of proximity in location, are entitled to select lands in the same townships and actually select the same lands, their Village Corporations, or if not yet organized, their Land

Selection Committees, shall be authorized to settle the overlap by negotiation and, in furtherance of any such settlement, to release selected lands to each other. If Native Villages making overlapping selections do not reach agreement within six months after the date such conflict arises, the controversy may be referred to the Commission by the Village Corporation or the Land Selection Committee for decision in accordance with section 6 of this Act. The Commission shall award the land, or portions thereof, to the Native Village or Villages shown historically by a preponderence of the evidence to have made greater use and occupancy thereof, or in such manner as will do substantial justice. The decision of the Commission shall, without regard to subsection 6 (j), be final.

(2) A Native Village which releases selected lands in order to settle an overlap, or which loses selected lands under a Commission award in accordance with subsection (d) (1) hereof, shall be entitled to select additional public lands pursuant to subsection (b) hereof, until its selection rights are exhausted.

(e) Upon application of the Services Corporation, and upon certification thereof by the Commission, and after survey of the areas involved, the Secretary shall issue patents, without payment therefor, to the Services Corporation for lands to which it is entitled pursuant to subsection 13 (g)

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(2) (c). The Services Corporation shall select such lands from among the lands withdrawn for Native Villages pursuant to section 13 which remains after Native Village selection rights are exercised as provided in this section. All such selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection and shall be in whole sections and, wherever feasible, in units of not less than one thousand two hundred and eighty acres.

(f) Except as otherwise provided in subsection (d) (2) hereof, all public lands withdrawn pursuant to section 13, which have not been selected by a Village Corporation or by the Services Corporation under this section, shall eighteen months after the effective date of this Act, or nine months after the election required under subsection (c) hereof, whichever later occurs, be placed in the status provided for by section 24 of this Act: *Provided,* That lands withdrawn around a Village whose eligibility for land selection has not been finally determined by the Commission within eighteen months after the effective date of this Act shall remain withdrawn until six months after the Commission makes the determinations required pursuant to subsections 13 (d) through (g).

SURVEY AND CONVEYANCE OF LANDS

SEC. 15. (a) The Secretary shall promptly survey the townships withdrawn under section 13 and the areas selected for conveyance to Village Corporations and to the Services Corporation pursuant to section 14 of this Act, but need monument only the exterior boundaries of these townships or areas. He also shall promptly survey (1) within the townships withdrawn or areas selected all lands occupied as a primary place of residence, a primary place of business, subsistence campsites, reindeer grazing grounds, and for other purposes as required under subsection (b) (2) hereof, and (2) any other land to be patented under this Act.

(b) (1) Upon completion of the survey of lands selected by a Village Corporation, as provided in subsection (a) hereof, the Secretary promptly shall issue a patent or patents to the Village Corporation to the land and all interests therein, except minerals covered by the Federal mineral leasing laws, subject to valid existing rights, and subject to the provisions of paragraph (2) hereof, and the provisions of section 14 (a).

(2) Upon receipt of a patent or patents to selected lands, Village Corporations or the Services Corporation on their behalf—

(A) shall issue deeds to the occupants, without payment of any consideration, to the surface estate for any tracts occupied by Natives as a primary place of residence, as a primary place of business, or used for subsistence campsites or for reindeer husbandry, subject to valid existing rights;

(B) shall issue deeds to the occupants, either without consideration or upon the payment of an amount not in excess of fair market value for such property, determined as of the date of initial occupancy and without regard to any improvements thereon, to the surface estate for any tracts occupied by non-Natives as a primary place of residence or a primary place of business, subject to valid existing rights: *Provided*, That all occupants of the same general character shall be accorded similar treatment with respect to any payment for land;

(C) shall issue deeds pursuant to subsection 11(g), without payment of any consideration, to any Municipal Corporation in the Native Village or to any Municipal Corporation established in the Native Village within five years of the date of enactment of this Act, to the surface estate of the improved land on which the village is located and of as much additional land as is necessary for community expansion, for appropriate rights-of-way for public use, airport sites, and such other

interests in land as are reasonably necessary for public use and for foreseeable community needs: *Provided*, That prior to the transfer of lands from a Village Corporation to a Municipal Corporation, individuals shall receive patent to any lands used for residences and businesses: *And provided further*, That the amount of lands to be transferred to the Municipal Corporation shall be no less than one hundred and sixty acres;

(D) shall issue deeds to the occupants, either without consideration or upon payment of an amount not in excess of fair market value for such property determined as of the date of initial occupancy and without regard to any improvements thereon, to the surface estate for any tracts occupied by nonprofit organizations for the purposes for which such organizations were established, subject to valid existing rights: *Provided*, That all nonprofit organizations of the same general character shall be accorded similar treatment with respect to payment for land; and

(E) may issue deeds, subject to valid existing rights, to all others.

Any dispute over the boundaries, use, occupancy or value of any tract which is covered by this paragraph may be submitted by any party to the dispute to the Commission for

decision. The decision of the Commission, without regard to subsection 6(j), shall be final.

(c) Upon completion of the survey of lands selected by any Village Corporation, as provided in subsection (a) hereof, and contemporaneous with the issuance of patents to Village Corporations as provided in subsection (b) hereof, the Secretary shall issue a patent or patents to all minerals in such village lands covered by the Federal mineral leasing laws, subject to valid existing rights, to the Services Corporation. At the time of such conveyance, the Services Corporation shall succeed and become entitled to any and all interests of the United States, as lessor, contractor, or permitter, in any mineral leases, contracts or permits covering lands selected by any Village Corporation as provided in subsection (k) of this section.

(d) Upon completion of the survey of lands selected by the Services Corporation, as provided in subsection (a) hereof, the Secretary promptly shall issue a patent or patents to the Services Corporation to the land and all interests therein, subject to valid existing rights.

(e) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years from the effective date of this Act, issue a patent, without payment therefor, to any adult Native or Native group, subject to all valid existing rights, to the surface estate of any

public land located in Alaska, outside of areas selected pursuant to this Act, except land within the national park system, national wildlife refuge system, national forest system, or land withdrawn or reserved for national defense purposes, other than Naval Petroleum Reserve No. 4, which has been used by such adult Native or Native group for a period of more than three years immediately prior to the effective date of this Act as a campsite for the harvesting of fish, wildlife, berries, fuel, or other products of the land. Such patents shall be issued—

(1) for five-acre tracts for each subsistence use campsite separate from the campsite of any other applicant;

(2) for forty-acre tracts where the campsites of several applicants are in such proximity to each other as to make it not feasible to patent individual five-acre campsites; or

(3) for larger tracts, not to exceed sixty acres, where individuals can establish, under such rules and regulations as the Commission may prescribe, historic occupancy and use of the larger tracts.

Applications for patents under this subsection must be filed with the Commission within five years after the effective date of this Act. Pending the issuance of a patent for campsites under this subsection the Secretary is authorized

to permit the use of such lands, upon which applications have been filed, as campsites. The Secretary is authorized to apply the rule of approximation with respect to acreage limitations set forth in this subsection.

(f) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent, without payment therefor, for the surface estate of up to two thousand five hundred and sixty acres to each bona fide reindeer husbandryman, family, or Native group who on the effective date of this Act was practicing reindeer management. Patents issued under this subsection may cover any public lands in Alaska outside the areas selected pursuant to this Act, subject to all valid existing rights, that on the effective date of this Act are leased, permitted, or used for reindeer management purposes, including summer and winter range facilities and intervening line camps. Lands granted pursuant to this subsection shall not include any lands selected pursuant to section 14 and shall not include lands within the national park system, national wildlife refuge system, national forest system or land withdrawn or reserved for national defense purposes, other than Naval Petroleum Reserve No. 4. The Secretary is authorized to apply the rule of approximation with respect to acreage limitations set forth in this subsection.

(g) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent without payment therefor, for up to, but not to exceed, one hundred and sixty acres of land and interests therein, except the minerals covered by the Federal mineral leasing laws, and subject to all valid existing rights, from any public lands within the areas withdrawn for Natives under section 13, but not selected pursuant to section 14 of this Act to any Native occupying land within such one hundred and sixty acres on the effective date of this Act as a primary place of residence. The Secretary is authorized to apply the rule of approximation with respect to the acreage limitations set forth in this subsection.

(h) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent without payment therefor, of up to, but not to exceed, one hundred and sixty acres to the surface estate of any public land located in Alaska, subject to all valid existing rights, except 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 Naval Petroleum Reserve No. 4, to any Native nineteen years of age or older occupying such lands as a primary place

of residence on the effective date of this Act and whose residence is outside the areas withdrawn for the benefit of Native Villages by section 13 of this Act. The Secretary is authorized to apply the rule of approximation with respect to acreage limitations set forth in this subsection.

(i) Notwithstanding the provisions of subsections (e) and (f) hereof any adult Native or Native group may apply for and shall receive special use permits for lands within any national wildlife refuge for the purposes set out in subsections (d) and (e) hereof: *Provided further*, That notwithstanding the provisions of subsection (h) hereof any Native nineteen years of age or older whose primary place of residence or business is outside the areas withdrawn by section 13 of this Act, but within the national wildlife refuge system, shall be entitled to a patent of up to eighty acres of land. Such patent shall be issued pursuant to the procedures set forth in subsection (h) hereof.

(j) In carrying out the provisions of this section, patents shall be issued by the Scretary in accordance with the following priorities:

(1) Within the areas withdrawn pursuant to section 13 of this Act—

(A) lands selected by Native Village Corporations;

(B) lands for the Services Corporation pursuant to subsection 13 (g) (2) (C) ;

(C) land for individual places of residence; and

(D) land for subsistence campsites and reindeer management areas.

(2) Outside the areas withdrawn pursuant to section 13 of this Act—

(A) land for individual places of residence;

(B) land for subsistence campsites; and

(C) lands for reindeer husbandry.

(k) Where, prior to patent of any land or minerals under this section, a lease, contract, or permit has been issued for the utilization of surface or mineral resources covered under such patent, 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 as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the estate patented. The administration of such lease, contract, or permit shall continue to be by the United States. In the event that 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 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.

(l) The Secretary shall require as a condition to the granting of each permit to prospect, or to the granting of each lease to mine or drill for minerals covered by the Federal mineral leasing laws, on lands patented pursuant to subsections (e) through (i) of this section, and are not covered by such patent, that the permittee or lessee shall provide a bond, satisfactory to the Secretary, to indemnify the surface patentee for any damages which such permittee or lessee may cause in connection with the development of such permit or lease, and further the Secretary shall include provisions in such lease or permit which will protect the surface patentee against unreasonable interference in the use of his land.

ADMINISTRATION OF LANDS

SEC. 16. (a) Natives, Village Corporations and the Services Corporation may exchange lands and interests in lands with each other, or with the State or the United States and the Secretary, the Secretary of Agriculture, and the Secretary of Defense, under such rules and regulations as they respectively may prescribe, may exchange land and interests in lands under their jurisdiction and classified as suitable for

exchange with Village Corporations, the Services Corporation, and Natives, for the purpose of effecting land consolidations or to facilitate the management or development of land. Exchanges of land and interests in lands hereunder shall be made on the basis of equal value, and the value of improvements on lands shall be given due consideration and allowance made therefor in any valuation: *Provided*, That either party to an exchange under this subsection may pay or accept cash in order to equalize the values of the properties exchanged.

(b) Pending the patenting to a Village Corporation pursuant to section 15 of public lands withdrawn pursuant to section 13, or the restoration of such lands to the status in which they had been placed pursuant to section 24, the Secretary may take such actions as shall be necessary to administer, manage, and protect such withdrawn public lands: *Provided*, That the Secretary shall not sell or otherwise permanently dispose of lands or interests therein, except as provided in this subsection: *And provided further*, That the Secretary shall not, without the consent of the Services Corporation, issue or enter into any lease, contract, or permit covering lands withdrawn pursuant to this Act which will be in effect more than eighteen months after the effective date of this Act. The Secretary may renew existing leases which would be in effect more than eighteen months after the effec-

tive date of this Act only if the basic lease provides for a right of renewal and then only on the terms provided in the basic lease. The Secretary, with the approval of the Commission, and in accordance with such rules and regulations as he shall prescribe, may grant an easement or right-of-way for a public purpose over, across, under, or through withdrawn public lands on condition that the grantee of such easement or right-of-way (1) shall provide a bond, satisfactory to the Secretary, in an amount sufficient to pay the fair market value of any interest the grantee acquires in lands which may be subsequently selected by a Village Corporation, issue or enter into any lease, contract, or permit resources of the land and the environment, including fish and wildlife, and to protect the surface owner from unreasonable interference in the enjoyment of his land. All payments or revenues attributable to the use or other disposition of withdrawn lands later selected by a Village Corporation, after deducting the cost of administration thereof, shall be paid to the Village Corporation, or to the Services Corporation, as appropriate: *Provided*, That if the selected land does not include all of the land covered by a particular lease, contract, or permit, the amount of the revenues therefrom to be paid to such Village Corporation, or to the Services Corporation, as appropriate, shall be 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.

(c) After lands are patented pursuant to sections 15 and 23 of this Act, Village Corporations and the Services Corporation may hold, manage, lease, or dispose of such lands and interests therein in accordance with the laws of the State: *Provided,* That for a period of twelve fiscal years after the effective date of this Act, any sale (other than a sale or grant under section 15 (b) (2)), mortgage, surface lease for a term (including renewals) of more than twenty years, grant of a permanent easement or right-of-way, or gift of such lands, or interests in lands by a Village Corporation shall require the approval of the Services Corporation in order to be valid: *Provided further,* That easements or rights-of-way for public purposes may be acquired within such lands by condemnation in accordance with the laws of the State without any necessity for approval of the Services Corporation.

MINERAL LEASING ACT

SEC. 17. Disposition of all minerals included under the Federal mineral leasing laws including but not limited to deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur located in public lands in Alaska and of all

deposits of any other minerals located in such lands, which the Congress may hereafter authorize to be disposed of by sale or lease, after the effective date of this Act may, where there is competitive interest shown in a particular tract of land, be under such competitive bidding procedures, as the Secretary may prescribe by regulation. The provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437; 30 U.S.C. 181 and following), and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) shall apply to the extent that such provisions are not inconsistent with this Act. Where such competitive interest has not been displayed the provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437; 30 U.S.C. 181 and following), and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) shall apply.

REVENUE SHARING

SEC. 18. (a) (1) Disposition of all deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur located in public lands in Alaska and of all deposits of any other minerals located in such lands which the Congress may hereafter authorize to be disposed of by sale or lease, after the effective date of this Act shall be made only pursuant to the terms of this Act and shall be subject to the provisions on revenue sharing as provided in this section. The provisions

of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437; 30 U.S.C. 181 et seq.), and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) shall apply to the extent that such provisions are not inconsistent with this Act.

(2) All revenues derived by the United States from rentals and bonuses upon disposition of such minerals during the period beginning January 1, 1969, and ending on the effective date of this Act, shall be distributed as provided in the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), except that, prior to calculating the shares of the State and the United States as set forth in such Act, 2 per centum of such proceeds shall be deducted and paid into the Fund. From the royalty derived by the United States from the disposition of such minerals during the same period, an amount equal to 2 per centum of the gross value of the minerals (as the gross value thereof is determined for royalty purposes under the lease involved) shall be deducted and paid into the Fund, and the respective shares of the State and the United States in such royalty shall be calculated on the remaining balance.

(3) All leases or other dispositions of such minerals made after the effective date of this Act shall provide that prior to calculating the respective shares of the State and the United States in such proceeds under the Statehood Act:

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(A) a royalty of 2 per centum upon the gross value of any minerals produced (as that gross value is determined for royalty purposes under such lease or other disposition) shall be paid into the Fund; and (B) 2 per centum of all revenues derived from rentals and bonuses shall be deducted and paid into the Fund.

(b) Should the United States ever dispose of deposits of minerals referred to in subsection (a) (1) of this section located within Naval Petroleum Reserve No. 4, such disposition shall be made only under such competitive bidding procedures as the Secretary shall prescribe by regulation. The provisions of the Mineral Leasing Act of February 25, 1920 (30 U.S.C. 181 et seq.), as amended and supplemented, shall apply to the extent that such provisions are not inconsistent with this Act. Any leases or other dispositions of such minerals shall be made in accordance with this subsection and shall provide: (1) that a royalty of 2 per centum upon the gross value of any minerals produced (as that gross value is determined for royalty purposes under such lease or other disposition) shall be paid into the Fund from the royalties derived by the United States; (2) that 2 per centum of all revenues derived from rentals and bonuses upon disposition of such minerals shall be deposited in the Fund; and (3) that the remaining proceeds from the disposition of such

minerals shall be deposited as miscellaneous receipts to the Treasury of the United States.

(c) The royalties provided under this section shall not operate to exclude lands subject thereto from selection by the State under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), if such lands otherwise are available for selection. Every patent of public lands issued to the State under the Statehood Act after the effective date of this Act, however, shall expressly reserve for the benefit of the Natives: (1) a royalty of 2 per centum upon the gross value (as such gross value is determined for royalty purposes under any lease or other disposition by the State) of the minerals referred to in subsection (a) hereof produced on or removed from such lands from the royalties payable to the State; (2) a right to receive 2 per centum of all revenues derived by the State from rentals and bonuses upon disposition of such minerals. There are also reserved for the benefit of the Natives from and after January 1, 1969, an amount equal to a like royalty and other revenues from rentals, royalties and bonuses payable to the State under (i) leases of the United States which are or may be assumed by the State under section 6(h) of the Alaska Statehood Act, and (ii) under conditional leases and sales made pursuant to section 6(g) of the Alaska Statehood Act in the case

of lands heretofore or hereafter selected by the State, the selection of which is or was tentatively approved by the Secretary, but as to which patents had not issued to the State by January 1, 1969: *Provided, however,* That the bonus revenues received by the State at the September 1969, sale of lands tentatively approved under the Statehood Act shall not be subject to the 2 per centum revenue sharing provisions of this section, nor shall rentals received pursuant to such sale up to the date of April 15, 1970. Any royalty, and rentals received pursuant to such sale after April 15, 1970, shall be subject to the revenue sharing provisions of this section.

(d) Revenues received by the United States or the State as compensation for estimated drainage of oil and gas shall, for purposes of this section, be deemed to be revenues from the disposition of oil and gas and the appropriate payments shall be paid into the Fund on account thereof. All royalty and other revenues required to be paid under this section shall be paid into the Fund promptly after the expiration of the fiscal year in which they accrue by the Secretary of the Treasury or the State, as the case may be, and shall be distributed or withdrawn therefrom only in accordance with this Act. In the event the United States or the State elects to take royalties in kind, there shall be paid into the Fund on account thereof an amount equal to the

royalties that would have been paid into the Fund under the provisions of this section had the royalty been taken in cash.

(e) The payments required pursuant to this section shall continue only until $500,000,000 has been paid into the Fund. Thereafter the provisions of this section shall not apply and the reservation required in patents under subsection (c) of this section shall be of no further force and effect.

(f) The provisions of this section requiring revenue sharing by the State shall be enforceable by the United States on behalf of the Natives but this shall not preclude the Services Corporation, or its successor, from pursuing any remedies available to it in the event of default by the State. In the event of default by the State in making any payments due under this section, and in addition to any other remedies provided by law, there shall be deducted annually and deposited in the Fund the amount of any underpayment, to be taken first from the share of mineral revenues from public lands in Alaska which would otherwise be paid to the State pursuant to Federal law and, if such share is insufficient, from any other funds otherwise payable to the State as grants-in-aid by the United States which the President of the United States, at his discretion, deems appropriate.

(g) (1) The provisions of this section requiring revenue

sharing by the State and the United States are enacted pursuant to the authority reserved by the United States in section 4 of the Alaska Statehood Act to determine the disposition of lands used and claimed by Natives and as to which the State was, by the Alaska Statehood Act, required to and did disclaim all right and title. Therefore:

(A) in the event that the State initiates litigation or becomes a party to litigation to contest in any manner the operation of this section 18 all rights of land selection granted to the State by the Alaska Statehood Act shall be suspended as to any public lands which are determined by the Secretary as potentially valuable for mineral development, timber or other commercial purposes, and no selections shall be made, no tentative approvals shall be granted, and no patents shall be issued for such lands during the pendency of such litigation; and

(B) in the event that the State or any other party initiates litigation to contest in any manner the operation of this section and any of the provisions of this section are judicially determined to be inapplicable to the State, such suspension and prohibition on the granting of tentative approvals and issuance of patents shall continue for as long as may be necessary, but not in excess of two years, to allow the Services Corporation or its successor an opportunity to select, out of lands described in

section 19 (a), in addition to the selection rights provided for in that section, the mineral estate of one million acres of land in noncontiguous blocks of our townships, half of which must be south of the Brooks Range. The Secretary upon application therefor filed by the Services Corporation or its successor shall issue to the Services Corporation or its successor, without payment, a patent to the mineral estate in the lands selected, subject to all valid and existing rights. Where, prior to such patent, a lease, contract, or permit has been issued for the utilization of the mineral resources covered under such patent, 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 such patent, the Services Corporation shall succeed and become entitled to any and all interests of the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the minerals patented. The administration of such lease, contract, or permit shall continue to be by the United States. In the event that the patent does not cover all of the land embraced within any such lease, contract, or permit, the Services Corporation shall only be entitled to the proportionate

amount of the revenues reserved under such lease, contract, or permit by the United States 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) Any civil action commenced by the State or by any other parties to contest in any manner the purpose and the substantive operation of this section 18 shall be barred unless the complaint is filed within one year of the date of enactment of this Act. The purpose of this limitation on suits is to insure that, after the expiration of a reasonable period of time, the right, title and interest of the United States, the Natives and the State to share in revenues will vest with certainty and finality and may be relied upon by all other parties in their dealings with the State, the Natives and the United States.

(3) In the event that rights of land selection granted to the State by the Alaska Statehood Act should ever be suspended pursuant to the provisions of subsection (g) (1) (A) hereof, the State's right of land selection pursuant to section 6 of the Alaska Statehood Act, Act of 1958 (72 Stat. 341, 77 Stat. 223) shall be extended for a period of time equal to the period of time as the selection right was

suspended pursuant to the provisions of subsection (g) (1) (A).

(h) The respective shares of the United States and the State with respect to payments to the Fund required by this section shall be determined pursuant to this subsection and in the following order:

(1) first, from sources identified under subsection (c) hereof;

(2) then, from sources identified under subsection (a) hereof; and

(3) then, subject to the provisions of subsection (b), from sources identified in subsection (b) hereof.

(i) The provisions of this section do not apply to mineral revenues received from the Outer Continental Shelf.

LAND SELECTION FOR ECONOMIC POTENTIAL

SEC. 19. (a) Upon application filed by the Services Corporation with the Commission and upon certification thereof, the Secretary shall issue a patent, without payment therefor, to the Services Corporation, subject to all valid and existing rights, to the appropriate interest in any public lands located in the State as provided in subsection (b) hereof. Any lands within the national park system, national wildlife refuge system, and national forest system, and lands withdrawn or reserved for national defense purposes including Naval Petroleum Reserve No. 4, shall be excluded from the

selection rights granted to the Services Corporation by this section.

(b) The Services Corporation is granted the right to select, subject to subsection (a) hereof, lands in the amounts set out below and subject to the limitations of this section:

(1) the surface estate of one million acres of public land for timber and forest products potential, to be selected in noncontiguous tracts of two to four townships; and

(2) the surface estate of five hundred thousand acres of public land which the Services Corporation will select, administer, and grant to Natives and Native groups to avoid undue hardship; to provide protection for cemeteries, abandoned villages, and areas of historical and cultural significance to Natives; and for such other equitable purposes as the Services Corporation deems appropriate: *Provided*, That tracts selected pursuant to this paragraph shall, insofar as possible, conform to township survey designations and shall be no larger than eight sections nor smaller than one hundred and sixty acres.

Patents issued to the Services Corporation by the Secretary pursuant to this section shall cover only the interests in land designated in subsection (b) (1) and (2) hereof. The remaining estate shall be held by the United States and shall

be subject to the applicable public land laws of the United States.

(c) Lands granted pursuant to this section are granted to provide the Services Corporation with a diversified land resource base, to avoid hardship, and to create opportunities for Natives to enter commercial enterprises not otherwise readily open to them. The Secretary and the State may submit comments upon the Services Corporation's applications for proposed land selections. The decision of the Commission in certifying applications shall, without regard to section 6(j), be final.

(d) (1) Lands selected and granted pursuant to subsection (b) (1) must be at least ten miles outside the boundaries of any city organized as a municipal corporation under State law. Lands granted pursuant to subsection (b) (1) shall be managed in accordance with sustained yield principles of forest management.

(2) "Noncontiguous" for the purposes of this section means that any tract selected under subsection (b) (1) hereof must be separated from any other tract selected by an area at least twice as large as the largest of the areas selected.

(3) All selections made pursuant to this section shall be surveyed by the Secretary and shall conform to township survey designations.

(e) (1) Lands granted pursuant to subsection (b) (1) hereof shall be selected within two years of the date of enactment of this Act. In the event that the Services Corporation, the State, and the Secretary are unable to agree upon a mutual plan for the selection of these lands, the Services Corporation shall select four townships, then the State may identify four townships to be reserved for State selection under the Statehood Act (72 Stat. 341, 77 Stat. 223). The Services Corporation then shall select four more townships and the State shall identify until the Service Corporation's selection rights are exhausted. State identification acts only as a withdrawal for purposes of subsection (b) (1) hereof and does not grant any rights nor does it interfere with any other selection rights granted by this Act. In the event of any overlap or conflict with the selection rights granted to Village Corporations, the village selection right shall have priority.

(2) Lands granted pursuant to subsection (b) (2) hereof shall be selected within ten years of the date of enactment of this Act. In the event of conflict, lands selected pursuant to subsection (b) (2) shall have priority over selections by the State pursuant to the Statehood Act (72 Stat. 341, 77 Stat. 223). At the end of ten years the right of selection shall terminate and any remaining right of the Serv-

ices Corporation to select additional lands shall revert to the United States.

(f) (1) Upon application filed by the North Slope Native Corporation with the Commission and upon certification thereof by the Commission, the Secretary shall issue a patent, without payment therefor, to the North Slope Native Corporation, subject to all valid and existing rights, to the land and all interests therein of any public lands located in the State of Alaska as provided in subsection (2) hereof. The North Slope Native Corporation shall be entitled to retain 50 per centum of revenues derived from the sale, lease, permit, development, use or other disposition of the mineral estate of the land to which it acquires a patent under section 19 (f) (1). The remaining 50 per centum of such net proceeds shall be paid to the Services Corporation for distribution in accordance with the formula set forth in section 9 (d) (1) of this Act. Any lands within the National Wildlife Refuge system and lands withdrawn or otherwise reserved for national defense purposes other than Naval Petroleum Reserve No. 4, shall be excluded from the selection rights granted to the North Slope Native Corporation by this subsection (f).

(2) The North Slope Native Corporation is granted the right to select, subject to subsection (f) (1) hereof, five

hundred thousand acres of land and all interests therein, subject to all valid and existing rights. Lands granted by this subsection shall be selected from the geographic region designated by the Commission pursuant to subsection 9 (a) (1) and shall be within or contiguous to the areas withdrawn pursuant to section 13 (b) (1) respecting any of the Native Villages named in section 13 (c) that are located in such region. All selections made pursuant to this section shall be surveyed by the Secretary, shall conform to township survey designations, and shall be in tracts of two to four townships.

(3) Lands granted pursuant to this subsection shall be selected within two years of the date of enactment of this Act. In the event of any overlap or conflict the priority of land selections shall be as follows:

(A) The Village Corporations;

(B) The North Slope Native Corporation; and

(C) The State of Alaska.

(4) Prior to certifying applications under subsection (f) (1) hereof, the North Slope Native Corporation shall prepare and submit to the Commission a comprehensive land-use plan for the lands designated in the application.

REVOCATION OF INDIAN ALLOTMENTS IN ALASKA

SEC. 20. (a) No Native covered by the provisions of this Act may hereafter avail himself of an allotment under the provisions of any Indian allotment Act including the

Act of February 8, 1887, as amended and supplemented (24 Stat. 389; 25 U.S.C. 334, 336), or the Act of June 25, 1910 (36 Stat. 363; 25 U.S.C. 337). Further, the Act of May 17, 1906, as amended (34 Stat. 197), is hereby repealed.

(b) Native persons who have deeds to lands granted by the United States pursuant to the Acts referred to in subsection (a) hereof or any other public land laws which have restrictions upon the sale, use, or disposal of such lands shall, upon application to the Secretary, be granted unrestricted deeds.

PROTECTION OF SUBSISTENCE RESOURCES

SEC. 21. (a) The Secretary is authorized and directed to classify, in accordance with appropriate ecological criteria, varying environmental circumstances and varying subsistence needs, public lands surrounding any or all of the Native Villages and groups for which lands are withdrawn under sections 13 through 15 and under section 23 as Subsistence Use Units.

(b) The Secretary in preparing such classifications shall hold public hearings concerning the proposed classifications units and shall consult with the State and other appropriate departments of the Federal Government and invite the comments of all parties concerned. Upon determining the lands and resources required for subsistence use in

each area, the Secretary shall publish notice in the Federal Register of a proposed classification. Classification of an area as a Subsistence Use Unit shall not prevent disposal of such lands under the public land laws in conformity with subsection (a) hereof.

(c) After an area has been classified as a Subsistence Use Unit and final notice thereof has been published, the Secretary may, upon petition by residents of, or request by a local governing body within the unit, and upon the concurrence of the State, determine that the health, welfare, or livelihood of residents of the unit are threatened by the depletion of subsistence resources. Upon such a determination, the Secretary may close the area to entry by persons for the purpose of fishing, hunting, and/or trapping other than by residents of the unit for subsistence purposes.

(d) The maximum duration of such emergency closure shall be two years unless, after a public hearing, the Secretary determines the closure should be extended for an additional two-year term.

(e) Any person who knowingly enters upon lands within a subsistence-use classification unit closed under the provisions of this section, for the purpose of hunting, fishing, or trapping in violation of said closure, shall be guilty of a trespass against the United States and shall be subject to a fine of $1,000 or one year imprisonment or both. Com-

plaints may be issued and arrests may be made under this subsection by Department of the Interior personnel designated by the Secretary to enforce this section.

REVOCATION OF RESERVATIONS; EXCEPTIONS

SEC. 22. (a) Notwithstanding any other provisions of law, and except where inconsistent with the provisions of this Act, the various reserves set aside by legislation or by Executive or Secretarial Order for Native use or for the administration of Native affairs, including reserves created under the Act of May 31, 1938 (52 Stat. 593), in Alaska and hereby revoked, subject to any valid existing rights.

(b) Notwithstanding any other provision of law, lands within the various reserves described in subsection (a) hereof are hereby withdrawn from selection by the State and all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, until the Native groups that are the beneficiaries of such reserves have selected lands to which they are entitled under section 14 and until the Secretary issues a patent pursuant to section 15. The requirements set forth in subsections 13 (d) through (f) shall not apply to any Native group settled as a village or community within the various reserves described in subsection (a) hereof, and lands shall be patented to the Village Corporation representing any Native group whose reserve

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was revoked pursuant to this section without regard to subsections 13 (d) through (f).

(c) Notwithstanding any other provision of law, the Tanina Indians, the beneficiaries of the Moquawkie Reservation (hereinafter referred to as the Tyonek Indians), shall vote, within one year of the date of enactment of this Act, under procedures established by the Secretary, whether their tribe:

(1) shall accept abolition of the existing reservation and a grant to an appropriate entity of which they are the members, stockholders or owners, of twenty-six thousand nine hundred and eighteen acres of such reservation lands, subject to the condition that the mineral estate underlying such lands may not be sold by the Tyonek Indians to anyone other than the United States or the State: *Provided,* That the Tyonek Indians may lease such lands; or

(2) shall accept abolition of the existing reservation and be entitled to full benefits under the terms of this Act.

In the event the Tyonek Indians decide to acquire title to the Moquawkie Reserve set aside by Executive order of February 27, 1915, in accordance with this subsection (1) hereof, the Secretary shall issue a patent to the appropriate entity referred to in subsection (1) hereof to all lands and inter-

ests in lands (including oil, gas, and other minerals) within such Reserve, subject to valid existing rights, and the Tyonek Indians shall not be eligible for benefits under this Act. Where, prior to such patent, a lease, contract, or permit has been issued for the utilization of surface or mineral resources covered by such patent, 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 such patent, the appropriate entity referred to in subsection (1) hereof shall succeed and become entitled to any and all interests of the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the surface or minerals patented. The administration of such lease, contract, or permit shall continue to be by the United States.

(d) The Annette Islands Reserve established by the Act of March 3, 1891 (26 Stat. 1101), is hereby excluded from and shall not be affected by the terms of this section and the terms of this Act.

(e) Nothing in this Act shall repeal, modify, or otherwise affect the right of the Secretary to establish a townsite on Saint Paul Island or the right of Natives of the Pribilof Islands to acquire title to tracts therein pursuant to the Act

of November 2, 1966 (80 Stat. 1094), and to participate in the benefits under this Act.

TLINGIT-HAIDA SETTLEMENT

SEC. 23. (a) (1) (A) There are hereby withdrawn, subject to valid existing rights, from selection by the State under the Alaska Statehood Act (72 Stat. 341, 77 Stat. 223) and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands, including lands in the Tongass and Chugach National Forests, in each township, which encloses all or part of any Native Villages listed in subsection (b) hereof, and any Native Villages not listed, but which are located in southeast Alaska and which are approved by the Commission pursuant to this section, plus all public lands in each one-quarter township which is contiguous to or corners upon the townships in which such Native Villages are located, except lands withdrawn or otherwise reserved for national defense purposes, as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the State where protraction diagrams of the Bureau of Land Management are not available.

(B) At the time any Native Village not listed in subsection (b) hereof is approved for benefits under this Act by the Commission pursuant to this section, there shall be

withdrawn, subject to valid existing rights, from selection by the State under the Statehood Act and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands, including lands in the Tongass and Chugach National Forests, in each townships which encloses all or part of the Native Village, plus all lands in each one quarter township which is contiguous to or corners upon the township in which the Native Village is located, except lands excepted from withdrawal under subsection (a) (1) (A) hereof.

(2) Any and all claims of the Tlingit and Haida Indians to the two and six-tenths million acres of land in southeast Alaska referred to in the Court of Claims case of "Tlingit and Haida Indians of Alaska against United States," jacket number 47900, are hereby extinguished.

(3) The benefits provided for in this Act and the lands granted pursuant to this section are in addition to the judgment award received by the Tlingit and Haida Indians of Alaska in the Court of Claims and constitute full and final compensation for the extinguishment of title made in subsection (a) (2) hereof, and are in lieu of the additional land selection rights granted Village Corporations outside of southeast Alaska by sections 13 to 15.

(b) The following Native Villages are qualified for withdrawals under the provisions of subsection (a) hereof:

Angoon, Southeast.

Craig, Southeast.

Hoonah, Southeast.

Hydaburg, Southeast.

Kake, Southeast.

Kasaan, Southeast.

Klawock, Southeast.

Klukwan, Southeast.

Saxman, Southeast.

Tatitlek, Gulf of Alaska.

Yakutat, Southeast.

(c) Any of the villages listed in subsection (b) hereof shall not be eligible for land or benefits under this Act if the Commission determines within three years from the effective date of this Act, that—

(1) less than twenty-five Alaska Natives are residents of the village;

(2) the village is of a modern and urban character, that the majority of the residents are non-Native, and that the best interests of the Native residents would be served if they derived benefits through the Urban Corporation and other land provisions of this Act rather than as a Native Village; or

(3) the village was not in existence as of the date of enactment of this Act: *Provided,* That this provision

shall not be used to exclude any Native Village otherwise eligible which has been required to move to a new location because of a natural disaster or the actions of any governmental agency.

(d) Native Villages located within southeast Alaska and not listed in subsection (b) hereof shall be eligible for land and benefits under this Act and added to the village roster if the Commission determines that—

(1) twenty-five or more Alaska Natives are residents of an established village; and

(2) the best interests of the Native residents would be served if they derived benefits under the Act as a Village Corporation; and

(3) the village would not be disqualified by the provisions of subsection (c) hereof.

(e) In making the determinations required pursuant to subsections (c) and (d) hereof, the Commission shall review all relevant evidence offered by the members of the concerned Native group or their representatives and shall review any recommendations of the State, the Secretary or the Secretary of Agriculture. The Commission's determination shall, without regard to subsection 6 (j), be final.

(f) In addition to determining which villages are entitled to land and other benefits under the terms of this section and this Act, the Commission shall determine the

total land acreage to which eligible Village Corporations shall be entitled to select pursuant to this section. In no event shall any Village Corporation be awarded a grant of more than twenty-three thousand and forty acres. In making determinations pursuant to this subsection the Commission shall consider the following factors:

(1) the Native population of the Village;

(2) the nature of the use, both historic and present, of the lands surrounding the Native Village including the carrying capacity of the surrounding lands and biological community in relationship to the village population and subsistence use patterns of the Native residents therein;

(3) the amount of land needed for prospective community expansion, the area to be granted to Municipal Corporations or the State, and the area to be granted for access, rights-of-way, and other public services and facilities;

(4) the nature and economic value of the lands surrounding the village (without regard to the mineral estate) for the purpose of insuring some degree of comparability in value as between Native Villages; and

(5) the comprehensive land use plan prepared by the Village Corporation with the assistance of the

Services Corporation staff pursuant to subsection (8) (i) hereof.

In making the determinations required by this subsection the Commission shall consider the geographical relationship of individual villages to the land in question and should avoid determinations which result in land grants that are separated by large bodies of water unless one of the above factors make such a determination reasonably necessary. The Commission's determination under this subsection shall, without regard to section 6 (j), be final.

(g) If the Secretary determines that a substantial dispute is involved or that the best interests of justice would be served he may direct that a public hearing be held in accordance with such rules as he shall prescribe prior to making any of the withdrawals he is required to make by this section. Any hearings pursuant to this subsection shall be held within one year of the date of enactment of this Act. The Commission shall consider, in any contested case, the hearing record prepared by the Secretary as well as his recommendations and the recommendations of the Secretary of Agriculture in making its determination. The actions of the Commission under this subsection shall, without regard to subsection 6 (j), be final.

(h) Pending the disposition of any national forest lands

withdrawn under this section, the Secretary of Agriculture is authorized to take such actions, subject to existing rights, as may be necessary to administer, manage and protect such lands for the benefit of the potential beneficiaries and, in so far as is consistent with this section, in accordance with the laws, rules, and regulations applicable to the national forests and to permit access or grant easements, rights-of-way, or other interests in lands for the purpose of administration, use, or development of contiguous or adjacent national forest lands not withdrawn.

(i) Upon application of any Native Village found eligible for land selections pursuant to this section and upon certification thereof by the Commission, and after survey of the area selected pursuant to subsection (m) (1) the Secretary shall issue a patent, without payment therefor, to the Village Corporation, or, if not yet incorporated, in trust to the Services Corporation for the benefit of the Native Village pending its incorporation as provided in section 11, for that amount of land to which the Native Village is found entitled by the Commission pursuant to the procedures set out in this section. Lands to be patented may be selected, subject to all valid existing rights, from any public land within areas withdrawn for each Native Village under the provisions of this section.

(j) In exercising selection rights pursuant to this sec-

tion, Village Corporations shall select from among the public lands withdrawn pursuant to this section and all such selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection, and shall be in whole sections and, wherever feasible, in units of not less than six hundred and forty acres. In the event the public lands withdrawn pursuant to this section are not sufficient in amount to satisfy the entitlement of any Native Village Corporation, as determined by the Commission, such Corporation may select noncontiguous tracts from the Tongass National Forest in order of their proximity to the center of the village until the Native Village Corporation's selection rights are exhausted.

(k) Within two months after a determination by the Commission that a Native Village is eligible for a grant of land pursuant to this section, the Secretary shall conduct an election for the village, under such rules and regulations as he may prescribe, to choose a five-member Village Land Selection Committee. The committee so elected is hereby authorized to exercise the land selection rights of the village pending organization of the Village Corporation. The persons entitled to vote in the election or serve on the Land Selection Committee shall be the members of each Native Village nineteen

years of age or over, as shown on the temporary census roll prepared pursuant to section 7(a).

(l) All public lands withdrawn pursuant to this section, which have not been selected by a Village Corporation, shall be restored eighteen months after the effective date of this Act, or six months after the election required under subsection (k) hereof, whichever later occurs, to the status in which such lands have been placed pursuant to section 24 of this Act: *Provided*, That lands withdrawn around a village whose eligibility for land selection has not been finally determined by the Commission within eighteen months after the effective date of this Act shall remain withdrawn until six months after the Commission makes the determinations required pursuant to this section.

(m) (1) The Secretary shall promptly survey the townships withdrawn under this section and the areas selected for conveyance to Native Villages pursuant to subsections (i) to (l) of this section, but need monument only the exterior boundaries of such townships or areas. He also shall promptly survey within the townships withdrawn or areas selected all lands occupied as a primary place of residence, a primary place of business, subsistence campsites, and for other purposes as required under subsection (2) (A) hereof, and any other land to be patented under this section.

(m) (2) (A) Upon completion of the survey of lands

selected by a Village Corporation, as provided in subsection (m) (1) hereof, the Secretary promptly shall issue a patent or patents to the Village Corporation to the land and all interests therein, except minerals covered by the Federal mineral leasing laws, subject to valid existing rights, and subject to the provisions of subsection (m) (2) (B) hereof, and the provisions of subsection (i) hereof: *Provided,* That any conveyance of national forest lands under the provisions of this section shall be subject to reservations in the United States of easements, rights-of-way, or other interests in land necessary for access to or for administration, use, or development of contiguous or adjacent national forest lands not conveyed. Such easements, rights-of-way, and interests shall be based upon existing and planned roads and trails as depicted on national forest transportation system plans and related resource plans available for public inspection at the office of the Regional Forester and at the office of the Forest Service in Washington, D.C.: *Provided further,* That in any conveyance of national forest lands under this section the Secretary shall consult with the Secretary of Agriculture and, where possible without working a hardship on a Native or Native Village, shall exclude areas now used or planned to be used for the following purposes:

(i) national forest administrative sites;

(ii) airfields;

(iii) recreation sites necessary to serve visitors to national forest lands not conveyed; and

(iv) public service or other sites necessary to facilitate administration of national forest resources.

The Secretary shall, where he deems appropriate, reserve interests in land recommended by the Secretary of Agriculture as necessary for continued access to such areas. Such excluded areas shall be administered by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to the national forests.

(B) Upon receipt of a patent or patents to selected lands, Village Corporations or the Services Corporation on their behalf—

(i) shall issue deeds to the occupants, without payment of any consideration, to the surface estate for any tracts occupied by Natives on September 1, 1969, as a primary place of residence, as a primary place of business, or used for subsistence campsites, subject to valid existing rights;

(ii) shall issue deeds to the occupants, either without consideration or upon the payment of an amount not in excess of fair market value for such property, determined as of the date of initial occupancy, and without regard to any improvements thereon, to the surface estate for any tracts occupied by non-Natives on Septem-

ber 1, 1969, as a primary place of residence or a primary place of business, subject to valid existing rights: *Provided,* That all occupants of the same general character shall be accorded similar treatment with respect to any payment for land;

(iii) shall issue deeds, pursuant to subsection 11 (g), without payment of any consideration, to any Municipal Corporation in the Native Village or to any Municipal Corporation established in the Native Village within five years of the date of the enactment of this Act, to the surface estate of the improved land on which the village is located and of as much additional land as is necessary for community expansion, for appropriate rights-of-way for public use, airport sites, and such other interests in land as are reasonably necessary for public use and for foreseeable community needs: *Provided,* That prior to the transfer of lands from a Village Corporation to a Municipal Corporation, individuals shall receive deeds to any lands used for residences and businesses: *And provided further,* That the amount of lands to be transferred to the Municipal Corporation shall be no less than one hundred and sixty acres;

(iv) shall issue deeds to the occupants, either without consideration or upon payment of an amount not in excess of fair market value for such property determined

as of the date of initial occupancy and without regard to any improvements thereon, to the surface estate of any tracts occupied on September 1, 1969, by nonprofit organizations for the purposes for which such organizations were established, subject to valid existing rights: *Provided*, That all nonprofit organizations of the same general character shall be accorded similar treatment with respect to payment for land; and

(v) may issue deeds to all others subject to valid existing rights.

Any dispute over the boundaries, use, occupancy, or value of any tract under this subsection may be submitted by any party to the dispute to the Commission for decision. The decision of the Commission, without regard to subsection 6(j), shall be final.

(m) (3) Upon completion of the survey of lands selected by any Village Corporation, as provided in subsection (m) (1) hereof, and contemporaneous with the issuance of patents to Village Corporations as provided in subsection (m) (2) (A) hereof, the Secretary shall issue a patent or patents to all minerals in such village lands covered by the Federal mineral leasing laws, subject to valid existing rights, to the Services Corporation. At the time of such conveyance, the Services Corporation shall succeed and become entitled to any and all interests of the United States as lessor, con-

tractor, or permitter in any mineral leases, contracts, or permits covering lands selected by any Village Corporation as provided in subsection (r) of this section.

(n) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years from the effective date of this Act, issue special use permits, without payment therefor, to any Native or Native group, subject to all valid existing rights, to the surface estate of any public land located in the Chugach or Tongass National Forest, but which has been used by such Native or Native group for a period of more than three years prior to the effective date of this Act as a campsite for the harvesting of fish, wildlife, berries, fuel, or other products of the land. Such permits shall be issued—

(1) for five-acre tracts for each subsistence use campsite separate from the campsite of any other applicant;

(2) for forty-acre tracts where the campsites of several applicants are in such proximity to each other as to make it not feasible to patent individual five-acre campsites; or

(3) for larger tracts, not to exceed sixty acres, where individuals can establish, under such rules and regulations as the Commission may prescribe, historic occupancy and use of the larger tracts.

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Applications for permits under this subsection must be filed with the Commission within five years after the effective date of this Act. Pending the issuance of a permit for campsites under this subsection the Secretary is authorized to permit the use of such lands, upon which applications have been filed, as campsites. After five years after the effective date of this Act permits may be issued pursuant to the laws and regulations on the administration of the national forests.

(o) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent of up to, but not to exceed eighty acres of land and interests therein, except the minerals covered by the Federal mineral leasing laws, and subject to all valid existing rights, from any public lands within the areas withdrawn for Natives under this section, but not selected pursuant to subsections (i) to (l) of this section without payment therefor, to any Native occupying land within such eighty acres on the effective date of this Act as a primary place of residence.

(p) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent of up to, but not to exceed, forty acres to the surface estate of any public land, in Southeast Alaska including the Chu-

gach and the Tongass National Forest, subject to all valid existing rights, without payment therefor, to Natives nineteen years of age or older occupying such land whose primary place of residence, on January 1, 1970 and continuing to the date of enactment of this Act is outside the area withdrawn for the benefit of Native Villages by this section.

(q) In carrying out the provisions of this section, patents shall be issued by the Secretary in accordance with the following priorities:

(1) Within the areas withdrawn pursuant to this section—

(A) lands selected by Native Village Corporations;

(B) land for individual places of residence; and

(C) land for subsistence campsites.

(2) Outside the areas withdrawn pursuant to this section—

(A) land for individual places of residence; and

(B) land for subsistence campsites.

(r) Where, prior to patent of any land or minerals under this section, a lease, contract, or permit has been entered into or issued for the utilization of surface or mineral resources on land covered under such patent, 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 income from the patented land and all interests of the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the estate patented. The administration of such lease, contract, or permit shall continue to be by the United States. In the event that 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 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.

(s) The Secretary shall provide as a condition to the granting of each permit to prospect, or to the granting of each lease to mine or drill for minerals covered by the Federal mineral leasing laws, which minerals are situated in lands patented pursuant to subsections (o) and (p) of this section, and are not covered by such patent, that the permittee or lessee shall provide a bond, satisfactory to the Secretary, to indemnify the surface patentee for any damages which such

permittee or lessee may cause in connection with the development of such permit or lease, and further the Secretary shall include provisions in such lease or permit which will protect the surface patentee against unreasonable interference in the enjoyment of his land.

(t) Notwithstanding the provisions of existing national forest timber sale contracts extending for a period more than three years from the date of this Act and directly affected by conveyances authorized by this Act, the Secretary of Agriculture is authorized to modify any such contracts with consent of the contractor to adjust the areas to which it or they apply for the purpose of avoiding hardship to Natives, unnecessary conflicts, and of offsetting the impacts of conveyances or special use permits authorized by this Act on national forest lands which are subject to any such contracts. Wherever possible such contracts shall be modified to avoid any overlap or conflict with lands withdrawn and lands selected and patented pursuant to this section.

TRANSITIONAL OPERATION OF PUBLIC LAND LAWS

SEC. 24. (a) (1) Except as otherwise provided in this Act, all unreserved public lands in Alaska which have not been previously classified by the Secretary are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, for not to exceed five years. The Secretary of the Interior is hereby

authorized, at his discretion, and after consulting with the State, to classify any lands withdrawn by this section and to open to mineral leasing, entry, selection, or location for disposal in accordance with applicable public land laws, such lands as he determines are chiefly valuable for the purposes provided for by such laws.

(2) Nothing in this section shall restrict the land selection rights of the State under the Statehood Act (72 Stat. 341), or restrict the acquisition, granting, or use of leases, permits, or rights-of-way under existing law, except that rights-of-way under Revised Statutes section 2477 shall take effect only under such terms and conditions as the Secretary may establish.

(3) In making the classifications required by subsection (a) (1) hereof the Secretary shall conduct detailed studies and investigations of all unreserved public lands in Alaska, and of Naval Petroleum Reserve No. 4 and the Rampart Power Site Withdrawal, which are suitable for inclusion as recreation, wilderness or wildlife management areas within the National Park System and the National Wildlife Refuge System, and shall advise the Congress within three years of the date of passage of this Act of the location, size and values of such areas, and shall simultaneously with notification to the Congress withdraw these areas from any appropriation under the public land laws, including application of

the mining and mineral leasing laws, until such time as the Congress acts upon the Secretary's recommendations, but not to exceed the five year period during which all unreserved public lands are hereby withdrawn from appropriation.

(b) Upon the application of any applicant qualified to make entry, selection or location, under the public land laws, on lands not classified for entry under subsection (a) hereof, the Secretary shall examine the lands described in the application and if he classifies them as suitable for the purpose described in the application and opens them to entry, said applicant shall be entitled to enter, select or locate, such lands.

ALASKA NATIVE FOUNDATION

SEC. 25. (a) (1) There shall be created an Alaska Native Foundation during the ninety-day period prior to the dissolution of the Services Corporation as provided in subsection 8(h) of this Act. The Foundation shall be a nonprofit membership corporation with the powers hereinafter granted.

(2) The Foundation shall not be an agency or establishment of the United States Government.

(b) (1) The board of directors of the Services Corporation on the date specified in subsection (a) hereof shall act as the incorporators of the Foundation.

(2) The incorporators shall prepare the original articles

of incorporation and bylaws for the Foundation, subject to the approval of the Secretary of the Treasury, in a form consistent with the provisions of this section and in a form that shall qualify the Foundation for tax exemption under section 501 (c) (3) of title 26, United States Code or any successor provisions thereto.

(3) The incorporators shall serve as the initial board of directors until permanent directors are appointed as provided in subsections (c) and (e). The incorporators shall file the articles of incorporation with the Secretary within thirty days, and the Foundation shall be deemed to be formally organized as of the date of such filing. The incorporators also shall transmit a copy of the articles of incorporation to the Commissioner of Commerce of the State.

(c) (1) The management of the Foundation shall be vested in a board of directors which, with the exception of the initial board, shall consist of the members of the Foundation as selected in accordance with subsection (e).

(2) The board of directors shall elect a chairman annually from among its own membership.

(d) The Foundation shall have a president, and such other officers as may be named and appointed by the board, at rates of compensation fixed by the board and serving at the pleasure of the board. The president and other officers

of the Foundation may, but need not, be members of the Foundation.

(e) (1) There shall be seventeen members of the Foundation, fourteen of whom shall be initially elected by the voting members of the Services Corporation on the following basis:

(A) one member representing each of the twelve regions as determined by section 9 of this Act;

(B) one member representing the members of the Urban Alaska Native roll;

(C) one member representing the members of the Alaska Native National roll; and

(D) three members shall be appointed by the Governor of the State.

(2) Members of the Foundation shall be entitled to reasonable fees and shall serve until their death, resignation, retirement, or removal for cause. A member may be removed only by a two-thirds vote of the members of the Foundation (without the participation of the affected member) upon a showing of physical disability or mental impairment preventing the reasonable performance of his duties, or upon a showing of a willful failure to perform his duties in a reasonable manner.

(3) Upon the death, resignation, retirement, or re-

moval of a member, the remaining members shall elect a new member by a majority vote.

(f) (1) The purposes of the Foundation shall be to engage exclusively in charitable, educational, and scientific activities for the benefit of individuals of Native background.

(2) In furtherance of the purposes set forth in subparagraph (1), the Foundation may carry out such charitable, educational or scientific projects as may be consistent with its status as an organization exempt under section 501 (c) (3) of title 26, United States Code, or any successor provisions thereto.

(g) (1) The Foundation shall have and may exercise all rights and powers vested in a nonprofit membership corporation under the laws of the State.

(2) The Services Corporation, before its dissolution pursuant to section 8 (h) of this Act, shall distribute to the Foundation and its incorporators sufficient funds to meet the necessary costs of the Foundation's organization and initial operation.

ATTORNEY FEES AND EXPENSES

SEC. 26. (a) The chief commissioner of the Court of Claims is authorized to receive, consider, and settle, in accordance with the provisions of this section, any unreimbursed claim submitted to him for attorney's fees, and out-of-pocket expenses by any person in connection with services rendered,

on or before the date of the enactment of this Act, on behalf of any Native, Native Village, statewide or Regional Native Associations or other Native tribe, band, or group (1) in the actual prosecution pursuant to any contract, of a claim pending before any court or the Indian Claims Commission which is dismissed pursuant to this Act, or (2) for legal representation with respect to the scope and preparation of this Act and previously proposed legislation to settle claims against the United States or the State based upon aboriginal right, title, use, or occupancy of lands by Natives, or with respect to litigation (other than litigation covered under clause (1)) involving the validity of or otherwise affecting such claims.

(b) Any claim made pursuant to subsection (a) of this section shall be filed with the chief commissioner of the Court of Claims within six months following the date of the enactment of this Act, and shall be in such form and contain such information as the chief commissioner shall prescribe. The chief commissioner shall give reasonable notice to the interested parties and an opportunity for them to be heard and to present evidence before making a final determination upon any such claim. The amount of attorney fees payable pursuant to any claim filed in accordance with this section shall be determined by the chief commissioner on a quantum meruit basis. Out-of-pocket expenses shall be approved for

payment pursuant to this section only if the chief commissioner has first determined that such expenses were unreimbursed and were necessary, reasonable, and actually incurred.

(c) (1) No more than $100,000 in the aggregate shall be available for the payment of claims for attorneys' fees (exclusive of approved out-of-pocket expenses) for such services (referred to in subsection (a)) rendered prior to January 1, 1964. In the event that the amount determined by the chief commissioner to be payable as attorneys' fees for such services rendered prior to such date exceeds in the aggregate $100,000, the chief commissioner shall authorize, in accordance with subsection (d), payment of each such claim for such fees on a pro rata basis so that the aggregate amount authorized therefor does not exceed $100,000.

(2) No more than $400,000 in the aggregate shall be available for the payment of claims for attorneys' fees (exclusive of approved out-of-pocket expenses) for such services (referred to in subsection (a)) rendered during the period commencing January 1, 1964, and ending on December 31, 1967. In the event that the amount determined by the chief commissioner to be payable as attorneys' fees for such services rendered prior to such date exceeds in the aggregate $400,000, the chief commissioner shall authorize, in accordance with subsection (d), payment of each such

claim for such fees on a pro rata basis so that the aggregate amount authorized therefor does not exceed $400,000.

(3) No more than $1,000,000 in the aggregate shall be available for the payment of claims for attorneys' fees (exclusive of approved out-of-pocket expenses) for such services (referred to in subsection (a)) rendered during the period commencing January 1, 1968, and ending on the date of the enactment of this Act. In the event that the amount determined by the chief commissioner to be payable as attorneys' fees for such services rendered during such period exceeds in the aggregate $1,000,000, the chief commissioner shall authorize, in accordance with subsection (d), payment of each such claim for such fees on a pro rata basis so that the aggregate amount authorized therefor does not exceed $1,000,000.

(d) The chief commissioner of the Court of Claims shall certify to the Secretary of the Treasury, with respect to each such claim, the name and address of the claimant and the amount determined by the chief commissioner, pursuant to subsection (c), to be payable to such claimant under this section for attorneys' fees and out-of-pocket expenses. The Secretary of the Treasury, upon receipt of such certification, shall pay to each such person named therein the amounts so certified. Any amounts so certified as attorneys' fees shall

be payable from moneys in the Fund set aside pursuant to section 5(a)(1) of this Act. Such amounts so certified as out-of-pocket expenses shall be payable from other moneys in such Fund.

(e) No remuneration on account of any such services referred to in subsection (a) of this section and for which a claim is made pursuant to this section shall be received by any person for such services in addition to the amount paid in accordance with this section, and any contract or other agreement to the contrary shall be void. Whoever receives, on account of such services, any remuneration in addition to the amount paid in accordance with this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

TAXATION

SEC. 27. (a) The compensation paid to Natives pursuant to section 5(a) of this Act, and any interest earned with respect thereto while such funds are deposited in the Fund or are invested by the Secretary pursuant to section 5, shall not be subject to any form of Federal or State taxation either (1) at the time of receipt, or (2) upon distribution to any Native corporation or individual Native, whether directly by a per capita payment or indirectly through such corporation or corporations. For purposes of

this subsection, the first dividend payments or other cash distributions made by any Native corporation shall be deemed to be distributions out of its share of funds derived from section 5(a), including interest, until such share has been fully distributed.

(b) The compensation paid to the Natives pursuant to section 5(b) of this Act, and any interest earned with respect thereto while such funds are deposited in the Fund, shall not be subject to any form of Federal or State taxation either (1) at the time of receipt, or (2) upon distribution to any Native corporation or individual Native, whether directly or by a per capita payment or indirectly through such corporation or corporations, for a period of twelve fiscal years commencing with the fiscal year during which this Act becomes effective. For purposes of this subsection, the first dividend payment or other cash distributions made by any Native corporation, after the distribution of compensation paid pursuant to section 5(a) in accordance with subsection (a) hereof, shall be deemed to be distributions out of its share of funds derived from section 5(b), including interest. After the expiration of the foregoing twelve fiscal years period, the compensation paid to the Natives pursuant to section 5(b) and any interest with respect thereto while such funds are deposited in the Fund, shall not be subject to Federal or State income taxation at the time of

receipt, but shall be subject to taxation upon distribution to any Native or Native corporation on the same basis as like income is taxed when received by a non-Native individual or corporation.

(c) The receipt of shares of stock in the Investment Corporation or its successor by or on behalf of any Native pursuant to section 10 (g) or (l) or pursuant to section 8 (h) by a successor to the Services Corporation shall not be subject to any form of Federal, State or local taxation. The basis for computing gain or loss on subsequent sale or other disposition of any shares in the successor to the Investment Corporation issued pursuant to section 10 (l) or in any successor to the Services Corporation issued pursuant to section 8 (h) shall be the fair market value of such shares at the time of receipt.

(d) The receipt of money or other property pursuant to section 8 (h) or 10 (l) by the successor to the Investment Corporation or pursuant to section 8 (h) by a successor to the Services Corporation shall not be subject to any form of Federal, State or local taxation. No money or property so received shall be treated as a contribution to capital for purposes of section 362 (c) of the Internal Revenue Code, title 26, United States Code. The basis for computing gain or loss on subsequent sale or other disposition of any property so received by the successor to the Investment Corporation, for

purposes of any Federal, State or local tax, shall be the fair market value of such property at the time of receipt.

(e) The receipt of land or any interest therein pursuant to sections 13, 14, 15, 16, 19 or 23 or of cash in order to equalize the values of properties exchanged pursuant to section 16(a), shall not be subject to any form of Federal, State or local taxation. The basis for computing gain or loss on subsequent sale or other disposition of such land or interest in land for purposes of any Federal, State or local tax imposed on or measured by income shall be the fair market value of such land or interest in land at the time of receipt.

(f) Real property interests conveyed, pursuant to this Act, to a Native individual, group, village, corporation, or any other Native organization, shall be exempt from State real property taxes for a period of twelve fiscal years after the effective date of this Act: *Provided*, That municipal taxes, real property taxes, or assessments may be imposed upon individually owned real property within its jurisdiction by any Native village incorporated as a governmental unit under the laws of the State: *And provided further*, That easements, rights-of-way, leaseholds, and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalties, profits, and other revenues

or proceeds, derived from such real property interests shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

(g) Real property interests conveyed, pursuant to this Act, to a Native individual, group, village, corporation, or any other Native organization, shall, so long as the fee therein remains not subject to State or local taxes on real estate, continue to be regarded as public lands for the purpose of computing the Federal share of any highway project pursuant to title 23 of the United States Code, as amended and supplemented, and so long as there are also no substantial revenues from such lands, continue to receive forest fire protection services from the United States at no cost.

(h) The Foundation established pursuant to section 24 shall be treated as a private foundation for purposes of applying the taxes and restrictions on self-dealing provided for in section 4941 of the Internal Revenue Code, title 26, United States Code, and on expenditures for political purposes described in section 4945(d) (1) and (2) of the Internal Revenue Code, title 26, United States Code, or corresponding provisions of subsequent law, but otherwise shall not be treated as a private foundation.

REVIEW BY CONGRESS

SEC. 28. On or before March 1 of each year during the

thirteen years following the effective date of this Act, the Commission, until its termination, and the Secretary, respectively, shall submit reports to Congress concerning the operation and implementation of this Act during the previous calendar year. Within ninety days after the end of each five-year period following enactment of this Act, the Commission and the Secretary also shall submit to Congress, through the President, a joint report on the status of the Natives and their organizations, a summary of actions taken under this Act, and their respective recommendations as may be appropriate for extension, amendment, or clarification of any provisions of this Act. This joint report and the Commission's annual report shall include as an appendix all statements, memorandums, reports, and other written comments presented to the Commission for forwarding to Congress by any Native Village, corporation, or association.

APPROPRIATIONS

SEC. 29. (a) There is authorized to be appropriated to the Alaska Native Commission such sums as are necessary to carry out the functions and responsibilities it is required to perform under the provisions of this Act.

(b) There is authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to pre-

pare the temporary roll, to survey lands to be granted pursuant to this Act, to classify lands and to carry out other functions and responsibilities required to be performed under the provisions of this Act.

(c) The President of the United States is requested to advance from the contingency fund established for his office such sums as the Director of the Bureau of the Budget determines to be necessary to defray the initial organizational and administrative expenses of the corporations to be established pursuant to this Act, pending the availability of moneys in the Fund. Such advances shall be reimbursed to the President's contingency fund from the Fund when sufficient moneys become available therein.

PUBLICATIONS

SEC. 30. The Secretary of the Interior and the Commission are authorized to issue and publish in the Federal Register, pursuant to the Administrative Procedures Act (5 U.S.C. 500 and following) such regulations as may be necessary to carry out the purposes of this title.

SAVING CLAUSE

SEC. 31. Except as specifically provided for in this Act, nothing in this Act shall be construed as repealing any other provision of Federal law applicable to Alaska. To the

extent that there is a conflict between any provision of this Act and any other Federal laws applicable to Alaska, the provisions of this Act shall govern.

INDIAN CLAIMS COMMISSION,
Washington, D.C., February 16, 1971.

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

DEAR MR. CHAIRMAN: This is in reply to your letter of February 8, 1971, received by us on February 11, 1971, transmitting a copy of and requesting this Commission's report on S. 35, a bill "To provide for the settlement of certain land claims of Alaska natives, and for other purposes."

The bill S. 35 would provide for the settlement of claims of Alsaka natives based upon aboriginal right, title, use or occupancy of land in Alaska (including submerged land underneath all water areas, both inland and offshore, and any aboriginal hunting or fishing rights). The bill would not provide for the disposition of claims of Alaska natives based on grounds other than the loss of "original Indian title land" that are pending before any court or the Indian Claims Commission on the effective date of the proposed act.

In compliance with paragraph 3 of your letter concerning specific information on the present status of all proceedings before the Commission relating to the Alaska land claims settlement, the following information is furnished:

Twelve petitions of Alaska Native groups are pending before the Indian Claims Commission. Ten of these petitions allege claims for the taking of aboriginal title to Alaska land. One of the petitions includes an express allegation for loss of fishing rights, which would be extinguished under the terms of S. 35. The twelfth petition has a remaining cause of action for damages accruing as a result of Naval gunfire, and it would appear that this claim would not be extinguished as a result of the provisions of S. 35.

Of the 12 petitions mentioned in the preceding paragraph, six of them contain causes of action from an accounting of funds which may be due from the United States Government. It is our understanding that these claims would not be extinguished by the provisions of S. 35.

All claims of Alaska natives have been held in abeyance by this Commission pending the outcome of legislation to provide for the settlement of claims of Alaska natives.

It appears to us that Sec. 26 of the bill adequately provides for the disposition of claims of attorneys for fees earned and out-of-pocket expenses incurred in the prosecution of any Alaska claim before this Commission that is hereafter dismissed pursuant to the proposed act.

Our docket numbers, the names of the claimants, and the types of claims asserted in the 12 pending petitions are briefly indicated on the attached list.

Please call upon me if I can be of any further assistance.

Sincerely yours,

JEROME K. KUYKENDALL,
Chairman.

Pending Alaska cases—Claimants' names and types of claims

	Docket numbers
Natives of Chitina, Alaska. Land claim	187
Natives of Tatitlek Village, Alaska. Land claim	200
Tlingit and Haida Indians of Alaska. Claims for the taking of certain Alaska lands; for trespass on Tlingit and Haida lands; and for certain uses and expropriation of tidelands	278
Tlingit and Haida Indians of Alaska. Claims for expropriation of certain Alaskan fisheries	278–A
Tlingit and Haida Indians of Alaska. Claims for compensation or damages for an 1882 naval shelling of the village of Angoon and other property	278–B
Native village of Gambell, Alaska. Land and accounting claims	284
Native village of Unalakleet, Alaska. Land and accounting claims	285
Native village of Shungnak. Land and accounting claims	286
The Nisgah Tribe. Land and accounting claims	287
The Aleut community of St. Paul Island. Land and accounting claims	352
The Aleut Tribe et al. Land and accounting claims	369
Natives of Palmer, Alaska. Land claim	370

U.S. COURT OF CLAIMS,
Washington, D.C., February 12, 1971.

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

DEAR MR. CHAIRMAN: Thank you for your letter of February 8, 1971, extending to me the opportunity to comment by February 17 upon Section 26 of S. 35 (92d Cong., 1st Sess.), the proposed "Alaska Native Claims Settlement Act of 1971."

In compliance with your request I submit herewith 50 copies of my report on this section of the bill, including a proposed amendment to Section 26 which it is believed will help carry out the intent thereof more effectively.

Section 26 is novel in that it places upon an official of the United States Court of Claims a responsibility not involving adjudication of a claim against the United States, but rather against a trust fund established by the bill for Alaska natives and the claims against the fund do not appear to be adversary in that there is no provision for any agency or person to contest them. Historically, this type of problem is handled administratively.

The attention of the committee is respectfully invited to the congressional reference procedures set forth in 80 Stat. 958, 28 U.S.C. § 2509, which are adaptable, with minor modifications, to the claims referred to in Section 26 of the bill. My proposed amendment to Section 26 makes these modifications. The draft amendment does not attempt to resolve all the policy problems listed in the attached report on the section, but that can be done by altering the draft or it can be done in the language of the committee report which will constitute an important part of the legislative history of the bill. My draft deals with the mechanics of handling these claims and tracks the language of the Senate bill as far as possible. Changes are shown in italics. The changes, in turn, track existing law and my rules for congressional reference cases, to the extent feasible.

It is hoped that this contribution will be of service to the Committee in accomplishing its will. The bill puts no small responsibility upon me and my only desire is to make sure that it is handled appropriately and within clear guidelines if the Congress makes the policy decision that these claims should be handled in a judicial manner instead of administratively by the Department of Interior.

Respectfully,

S MARION T. BENNETT
Marion T. Bennet,
Chief Commissioner.

FEBRUARY 12, 1971.

REPORT TO THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS ON SEC. 26 OF S. 35 (92D CONG., 1ST SESS.)

(From Marion T. Bennett, Chief Commissioner, U.S. Court of Claims)

Several serious questions are raised by the provisions of section 26 of S. 35, the proposed Alaska Native Claims Settlement Act of 1971. The measure is similar to S. 1830 (91st Cong. 2d Sess.) which passed the Senate on July 15, 1970, and authorizes the Chief Commissioner of the United States Court of Claims to resolve certain claims for attorney fees and expenses. These are not claims against the United States and do not involve cases or controversies before the court or the chief commissioner under any standing statutory authority. They do not appear to be adversary claims. The facilities of the court and its staff have never heretofore been used for other than claims against the government. While the judges of the court, which is created under Article III of the Constitution, are clearly barred from being involved even in congressional reference cases, the commissioners are presently used for extra-judicial as well as judicial tasks, involving claims against the United States. I suppose it is possible for Congress to extend this authority to other types of claims but there are certain questions which need to be answered in this connection. They can be resolved either in the language of the bill or the committee reports, and some perhaps may be left to the discretion of the commissioner. Examples of such questions follow:

(1) Since it is not clear how large a caseload will be put on the chief commissioner by the bill, which would interfere with his judicial duties for which he is paid from the judicial appropriation, would it not be appropriate to authorize him to delegate this responsibility to other commissioners as well, and authorize the court to include the expenses therefor, if any, in its annual appropriation? *Cf.* 28 U.S.C. § 2509(g).

(2) To the extent that claims are based on books or records of account, should not they be subject to audit? This is standard procedure on claims against the government. Court of Claims Rule 111.

(3) Section 26(a) speaks in terms of claims for "attorney fees and out-of-pocket expenses *by any person* in connection with services rendered * * *" This language suggests that claims can be made by those who are not lawyers. Senate Report 91–925 on S. 1830 (91st Cong. 2d Sess.), page 165, speaks, however, only in terms of compensation for services and reimbursement of expenses of attorneys. This inconsistency needs clarification. Non-lawyers appear to be provided for under section 5(g) of the bill. They should not be allowed duplicate claims.

(4) Should the section not require findings and conclusions by the commissioner in deciding these claims? *Cf.* 28 U.S.C. § 2509(c).

(5) Is it the considered desire of Congress that the claims should be certified directly to the Treasury for payment or should they be returned to Congress in the form of recommendations for payment, including findings and conclusions, so that they can be included in private bills if deemed appropriate? *Cf.* 28 U.S.C. § 2509(e).

(6) Should not provision be made for challenge to the claims by the Department of Justice or the Department of Interior legal staffs rather than to require determination of the claims upon the self-serving testimony of claimants?

(7) If the Indians, bands, groups, tribes, villages, associations, or others benefited by the legislation desire to contest the claims of attorneys which they feel will unreasonably delete their trust fund created by the bill, can they do so? If they are permitted to intervene and employ counsel for the purpose, how about their fees?

(8) In order to reduce the possibility that the chief commissioner (or his court) might have to use additional personnel for the processing of claims, would it not be wise to authorize the use of the clerk's office and other staff and facilities of the court in these matters, at his discretion or under such regulations as the court might prescribe? *Cf.* 28 U.S.C. § 2509(g).

(9) Should not the chief commissioner be authorized to employ additional personnel, if necessary, to assist him in carrying out the provisions of the Act?

(10) What method is to be used in providing the required "reasonable notice to the interested parties?" Would publication of the Act pursuant to chapter 15, title 44, United States Code not suffice? Or is personal service or publication contemplated?

(11) Must interested parties appear in person to present their claims in Washington or must the chief commissioner (or his delegate) travel to Alaska (or elsewhere) if requested, in order to afford "an opportunity for them to be heard and to present evidence"?

(12) May interested parties elect to present their claims on the basis of documentary evidence alone?

(13) If non-lawyers are permitted to present claims as stated in section 26 (a), are they entitled to be represented by an attorney, and, if so, do the fees and expenses of such attorneys fall within the purview of the Act?

(14) Are representatives of the federal or state governments, among the "any other persons," entitled to make claims?

(15) Are representatives of the federal or state governments, or any other persons, entitled to contest claims filed under the Act?

(16) What form of hearing is to be held? Public? Are witnesses to be allowed? Cross-examination and by whom? Oaths? Rules of evidence? Subpoenas? Discovery? Sanctions? Transcripts? If there is a transcript, who pays for it since the commissioner has no official reporter?

(17) What effect, if any, is to be given to prior or existing contractual arrangements in applying a *quantum meruit* standard to claims for fees and expenses? Is judicial precedent to be followed?

(18) Are all claims for fees and expenses barred if incurred after expiration of the prescribed 6-month filing period?

(19) What is meant by the reference in section 26(a) to claims "with respect to litigation (other than litigation covered under clause (1)) involving the validity of or otherwise affecting such claims"? Does this encompass claims accruing after enactment of the Act?

(20) Is interest to be awarded on approved claims and, if so, when does it start to run? *Cf. McMurray* v. *Choctaw Nation, et al.*, 62 Ct. Cl. 458 (1926), *cert. denied*, 275 U.S. 524 (1927).

(21) Should there not be language making the report of a decision by the commissioner final and not subject to judicial review in any court?

(22) Section 26(b) of the bill states that recovery shall be determined "on a *quantum meruit* basis." Senate Report 91–925 on S. 1830 (91st Cong. 2d Sess.), page 165, states, in addition thereto, that the commissioner shall take "into consideration where applicable the standards set forth in Canon 2 of the Code of Professional Responsibility and Canon 12 of the Canons of Judicial Ethics of the American Bar Association . . . " Whatever standards are to be used should be in the statute. Canon 12, however, is not at all in point as it does not pertain to the fixing of fees. Canon 12 of the Canons of *Professional* Ethics which was replaced by Canon 2, effective January 1, 1970, did set forth considerations in the fixing of legal fees. Perhaps the reference was inadvertent. The proper reference now is to Canon 2 and Diciplinary Rule 2–106. Reference appropriately could be made, also, to the prior published decisions of the court and commissioners in fixing fees. For instance, *see Confederated Bands of Ute Indians* v. *United States*, 120 Ct. Cl. 609, 667 (1951).

(23) Prior legislation regarding legal fees has imposed a ceiling of no more than ten percent of the amount of recovery. Since the instant legal fees will not be related to the amount of recovery, there being no claims pending before the commissioner to which fees can relate, should there not be some percentage limitation of the total allowable fees for individual attorneys or firms? *Cf. Cherokee Nation* v. *United States*, 174 Ct. Cl. 131, 149, 355 F. 2d 945, 955 (1966).

(24) What is the definition of "out-of-pocket expenses"? If a lawyer hires a young attorney to do some research for him, is this out-of-pocket expense or attorney fees when claimed? Is overhead included in the definition? Is there to be no dollar limit on out-of-pocket expenses? Section 26(d), lines 3 and 4, page 152, provides that out-of-pocket expenses shall be payable "from other moneys in such Fund." Attorney fees are payable from the initial appropriation. Section 5(a). It is not clear when out-of-pocket expenses are to be paid or from what funds.

AMENDMENT TO SEC. 26, S. 35 (92D CONG., 1ST SESS.) ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1971

[Those added portions which differ from the original section are italicized.]

SEC. 26. (a) The chief commissioner of the *United States* Court of Claims, *or his delegate(s)*, is authorized to receive, consider, *determine* and settle, in accordance with the provisions of this section *and rules and orders promulgated thereunder, all* unreimbursed claims submitted to him for attorneys' fees, and out-of-pocket expenses *incurred or committed* by *attorneys exclusively for* services rendered, on or before the date of the enactment of this Act, on behalf of any Native, Native Village, statewide or Regional Native Associations or other Native tribe, band, or group (1) in the actual prosecution pursuant to any *authorized* contract, of a claim pending before any *Federal or State* court or the Indian Claims Commission which is dismissed pursuant to this Act, or (2) for legal representation with respect to the preparation *and passage* of this Act and previously proposed legislation to settle claims against the United States or the State *or territory of Alaska* based upon aboriginal right, title, use or occupancy of lands by Natives, or with respect to litigation (other than litigation covered under clause (1)) involving the validity of or otherwise affecting such claims. *Publication of this Act in accordance with the provisions of chapter 15, title 44, of the United States Code, shall constitute reasonable notice to all persons having such claims.*

(b) Any claim made pursuant to subsection (a) of this section *must* be filed with the *clerk* of the Court of Claims within six months following the date of enactment of this Act, and shall be in such form and contain such information as the chief commissioner shall prescribe. *Claims not so filed shall be barred.*

(c) Upon the filing of a claim, the clerk of the Court of Claims shall forward a copy of such claim to the individuals or entities on whose behalf services were rendered or fees and expenses were allegedly incurred, as shown by the pleadings, to the Attorney General of the United States, to the Attorney General of the State of Alaska, to the Secretary of Interior, and to any other person(s) who appears to have an interest in the claim, and shall give such individual or entity 90 days within which to file an answer contesting the claim.

(d) The chief commissioner may designate a trial commissioner for any claim made under this section and a panel of three commissioners of the court to serve as a reviewing body. One member of the review panel shall be designated as presiding commissioner of the panel.

(e) Proceedings in all claims under this section shall be pursuant to rules and orders prescribed for the purpose by the chief commissioner who is hereby authorized and directed to require the application of the pertinent rules of practice of the Court of Claims insofar as feasible. Claimants may appear before a trial commissioner in person or by attorney, and may produce evidence and examine witnesses. Hearings may be held in the county where the claimant resides if convenience so demands, in the discretion of the chief commissioner or his designate.

(f) Each trial commissioner and each review panel shall have authority to do and perform any acts which may be necessary or proper for the efficient performance of their duties, including the power of subpoena, the power to order audit of books and records, and the power to administer oaths and affirmations. Any sanction authorized by the rules of practice of the Court of Claims, except contempt, may be imposed on any claimant, witness, or attorney by either the trial commissioner, review panel, or chief commissioner. None of the rules, regulations, rulings, findings, or conclusions authorized by this section shall be subject to judicial review.

(g) The trial commissioner to whom a claim is assigned by the chief commissioner shall proceed in accordance with the applicable rules to determine the claim on a *quantum meruit* basis, taking into consideration the standards set forth in Canon 2 of the Code of Professional Responsibility, American Bar Association, the public service nature of the services performed in connection with this or previous legislation and prior published decisions of the Court of Claims and the commissioners in fixing legal fees. The commissioner may consider, but is not bound by, any contractual arrangements relating to the claim under consideration. Out-of-pocket expenses shall be approved for payment pursuant to this section only if the trial commissioner and the panel have determined that such expenses were unreimbursed and were necessary, reasonable, and actually incurred or committed.

(h)(1) No more than $100,000 in the aggregate shall be available for the payment of claims for attorneys' fees (exclusive of approved out-of-pocket expenses) for such services (referred to in subsection (a)) rendered prior to January 1, 1964. In the event that the amounts to be determined by the trial commissioner or review panel to be payable as attorneys' fees for such services rendered prior to such date exceeds the aggregate $100,000, the trial commissioner or review panel shall authorize, in accordance with subsection (j), payment of each such claim for such fees on a pro-rata basis so that the aggregate amount authorized therefor does not exceed $100,000.

(2) No more than $400,000 in the aggregate shall be available for the payment of claims for attorneys' fees (exclusive of approved out-of-pocket expenses) for such services (referred to in subsection (a)) rendered during the period commencing January 1, 1964, and ending on December 31, 1967. In the event that the amount determined by the *trial commissioner or review panel* to be payable as attorneys' fees for such services rendered prior to such periods exceeds in the aggregate $400,000, the *trial commissioner or review panel* shall authorize, in accordance with subsection (j), payment of each such claim for such fees on a pro rata basis so that the aggregate amount authorized therefor does not exceed $400,000.

(3) No more than $1,000,000 in the aggregate shall be available for the payment of claims for attorneys' fees (exclusive of approved out-of-pocket expenses) for such services (referred to in subsection (a)) rendered during the period commencing January 1, 1968, and ending on the date of the enactment of this Act. In the event that the amount determined by the *trial commissioner or review panel* to be payable as attorneys' fees for such services rendered during such period exceeds in the aggregate $1,000,000, the *trial commissioner or review panel* shall authorize, in accordance with subsection (j), payment of each such claim for such fees on a pro rata basis so that the aggregate amount authorized therefor does not exceed $1,000,000.

(i) The findings and conclusions of the trial commissioner shall be submitted by him, together with the record in the case to the review panel of commissioners for review by it pursuant to such rules as may be provided for the purpose, which shall include provision for submitting the decision of the trial commissioner to the claimant and any party contesting the claim for consideration, exception, and argument before the panel. The panel, by majority vote, shall adopt or modify the findings or the conclusions of the trial commissioner.

(j) The chief commissioner of the Court of Claims shall certify to the Secretary of the Treasury, with respect to each such claim, the name and address of the claimant and the amount determined by the *reviewing panel*, to be payable to such claimant under this section for attorneys' fees and out-of-pocket expenses. The Secretary of the Treasury, upon receipt of such certification, shall pay to each

such person named therein the amounts so certified. Any amounts so certified as attorneys' fees shall be payable from moneys in the Fund set aside pursuant to section 5(a)(1) of this Act. Such amounts so certified as out-of-pocket expenses shall be payable from other moneys in such Fund. *No award under this section shall bear interest.*

(k) No remuneration on account of any such services referred to in subsection (a) of this section and for which a claim is made pursuant to this section shall be *accepted* by any person for such services in addition to the amount paid in accordance with this section, and any contract or other agreement to the contrary shall be void. Whoever *accepts*, on account of such services, any remuneration in addition to the amount paid in accordance with this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

(*l*) *The Court of Claims is hereby authorized and directed, under such conditions as it may prescribe, to provide the facilities and services of the office of the clerk of the court for the filing, processing, hearing, and dispatch of claims made pursuant to this section and to include within its annual appropriations the costs thereof and other costs of administration, including (but without limitation to the items herein listed) the salaries and traveling expenses of its auditors and the commissioners serving as trial commissioners and panel members, mailing and service of process, necessary physical facilities, equipment, and supplies, and personnel (including secretaries, reporters, auditors and law clerks).*

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., February 19, 1971.

MEMORANDUM

To: Staff Director, Senate Interior Committee.
From: The Solicitor.
Subject: Safety regulations applicable to the proposed Trans-Alaska pipeline.

The Natural Gas Pipeline Safety Act of 1968, *49 U.S.C. 1671*, is applicable only to gas pipelines and does not include oil pipelines. Authority to promulgate safety regulations for oil pipelines is vested in the Secretary of Transportation and is exercised under *18 U.S.C. 831, et seq.*, relating to the transportation of explosives and dangerous articles. The proposed stipulations for the Trans-Alaska pipeline specifically provide for compliance with the regulations of the Department of Transportation for the transportation of hazardous materials by pipeline.

The Inter-State Commerce Commission would be involved in this project only to the extent of making a valuation study of the pipeline for rate-making purposes.

Our own regulations specifically provide that such a pipeline must be operated as a common carrier.

MITCHELL MELICH,
Solicitor.

The CHAIRMAN. Now our first witness this morning, Senator Fred Harris, who has taken a very keen interest in this matter that is now before us. We are delighted, Senator Harris, that you could come this morning, and we will certainly welcome your comments in connection with the matters of the committee.

As I understand it, you have not had an opportunity yet to introduce your bill.

Senator HARRIS. We introduced it yesterday, Mr. Chairman.

The CHAIRMAN. Well, as of yesterday, I was unaware of it.

Senator HARRIS. I don't think it has been printed yet.

The CHAIRMAN. You don't have copies.

Senator HARRIS. I just have this one copy, which I will furnish for the official files of the committee, but the actual printed bill should, I suppose, be available today.

The CHAIRMAN. Right. Well, it will be a matter that will be before the committee. I just wanted to make the record clear that we did not have a copy of the bill.

STATEMENT OF HON. FRED R. HARRIS, A U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator HARRIS. Mr. Chairman and members of the committee, I appreciate very much the opportunity to appear before the committee to express my views on the importance of treating with fairness and justice the Eskimos, Indians, and Aleuts of Alaska. The settlement of the land claims of the Natives will surely be one of the most important legislative matters to be considered by the 92d Congress, and is certainly one of the most important pieces of Indian legislation that the U.S. Congress has ever considered.

Yesterday, as I said, Senator Kennedy and I, along with Senators Gravel, Stevens (by request), Hart, McGovern, Cranston, Tunney, Mondale, and Hughes, introduced the Alaska Native Claims Settlement Act of 1971 (S. 835), a bill which basically sets forth the position of the Alaska Federation of Natives.

I appear today to urge the committee to give this bill serious consideration, since we believe that it sets forth the basic framework for doing justice to the Eskimos, Indians, and Aleuts of Alaska.

The basic provisions of the bill include a land settlement of 60 million acres for the Natives, along with a cash settlement of $500 million and a 2-percent overriding royalty, in perpetuity, as compensation for Native lands and interests in lands taken in the past or to which Native title will be extinguished by this legislation. In this respect, that would conform to the statement made by Charles Edwardsen, Jr., executive director of the Arctic Slope Native Association as well, though there are also additional statements which he will make to the committee.

The major thrust and purpose of this bill is to insure that the right of self-determination is preserved for the Natives of Alaska. This right can only be guaranteed if sufficient lands are provided in the settlement for the Natives. The Eskimos, Indians, and Aleuts of Alaska depend upon the land and the inland and coastal waters for their livelihood.

It is well known that vast amounts of land are needed to support the Natives, and it therefore becomes essential that we do not destroy the culture of the Alaska Natives by failing to provide an adequate land settlement.

The Alaska Federation of Natives and the National Congress of American Indians adopted a resolution last year which highlights the importance of the land, which reads in part:

"To deny the Alaska Natives an adequate land base . . . will contribute to their dependency, to the disintegration of their communities, and to the erosion of their cultures. To strip the Alaska Natives of their land will destroy their traditional self-sufficiency, and it is certain to create among them bitterness toward other Alaskans and a deep distrust of our institutions and our laws."

At a meeting of the board of directors of the Alaska Federation of Natives in December of last year, the board concluded that, among other things, a basic element of the settlement of the claims would be: Confirmation of title to 60 million acres of land in the Native villages and regions over which the Native people have asserted dominion through use and occupancy from time immemorial.

This request is altogether reasonable, in my view, since 60 million acres is less than 17 percent of the lands to which the Natives have a valid legal claim.

The Natives are convinced, and I agree, and so do the cosponsors of S. 35, that to provide them with only 10 million acres, as the Senate did last year when considering S. 1830, and as S. 35 also provides, would almost immediately destroy their "historic way of life." We would therefore deprive the Natives of the right of self-determination, a right which the President stated the American Indian is entitled to in his address last summer on Indian Affairs.

The bill we are offering would reserve the right of self-determination by providing the Natives with 60 million acres.

The right of self-determination is further preserved in this bill by requiring that three of the members of the commission to be appointed by the President to prepare the final membership roles and perform other vital tasks be Natives. The bill before the Senate last year, and the bill under consideration today, S. 35, require that only two members be Natives and unfortunately my amendment to require three of the members to be Natives was defeated in the Senate last year.

The provision in the Senate bill of last year which terminated the service of the Bureau of Indian Affairs is also omitted from the bill I and others introduced. This is a matter which should be left to the determination of the Natives themselves, and not to the Congress unilaterally, in our view.

Senator Kennedy was absolutely correct in stating on the floor of the Senate last week that "an Alaska claims settlement is not a welfare bill." It does not, as he stated, "reflect generosity on the part of Congress in giving something to the Native people of Alaska," but is a compromise by both the United States and the Eskimos, Indians, and Aleuts of Alaska.

The importance of this legislation demands that the rights of the Natives and their needs be closely examined. What we do will have an impact on this country for years to come. This thought was eloquently expressed by William L. Hensley, an Eskimo leader who is a member of the Alaska State Senate and a member of the board of directors of Americans for Indian Opportunity, when he said:

> We are testing the American political system * * *. We know the history of our country in dealing with the American Indian, and we want to see a final chapter not written in blood or in deception or in injustice * * *. If there is no settlement or a poor one, we will have a generation of leaders who fought for years to protect their land and lost. This may start a chain of events in which it is seen by future generations of Natives as a disaster for us—and injustice that will mar the relations between Natives and whites for many years. It may bring defeatism to the people and prevent us from becoming an integral part of Alaska's social and economic development. Our present political influence will diminish, and the efforts to develop our communities will falter.

I have also been impressed by the firm resolve, displayed by Don Wright, president of the Alaska Federation of Natives, to see that justice is achieved for the Natives.

In view of what the Native leaders themselves are saying, and in consideration of their legal rights, their social and economic needs, the settlement proposed in the bill I and others propose is just, reasonable, and responsive.

The battle cry of the Natives—"take our land, take our life"—must not go unheeded.

Mr. Chairman, since the bill I and others have offered was introduced only yesterday, it is still not available to the committee in printed form; and since sufficient time has not transpired for the bill to be

fully considered by all concerned, and since there are new issues raised by the testimony that you will hear today from representatives of other Native organizations, I would like to request of the committee that another day, an additional day, at least, be set aside next week for hearings on these measures, and that will give all interested persons the opportunity to appear and set forth their views more fully on the various measures involved.

I appreciate very much the interest and the concern which this committee has shown in this vital matter, and I look forward to working with you in every way I can to see that justice is fully done.

The CHAIRMAN. Senator Harris, we will have an additional day of hearing. We are anxious to move on this, you know. There have been complaints that this has been hanging around for a long time, and we are concerned about time, and I at least will defer questions until I have had an opportunity to see your bill.

I don't know what to ask about it, other than to make a comment. It seems to me the bill that they did pass was a most generous one. I asked the staff to check on the meaning of 60 million acres, and I think it is well to point out that 60 million acres is larger than the area of 40 of our States.

The only States having a larger area are Alaska, Texas, California, Montana, New Mexico, Arizona, Colorado, Nevada, Wyoming, and Oregon.

That is a lot of land.

Senator HARRIS. Of course, Mr. Chairman——

The CHAIRMAN. And what do we do about the Indians who didn't get anything like this? Bear in mind the American Indian is in an entirely different category from the aboriginal rights that these people claim. As you know, the courts have so held. What do we do? Do we go back now and say, in your State and mine, that based on the number of Natives in Alaska, and based on the number of Natives in Washington and Oklahoma, we are going to apportion land on the same basis retroactively?

I mean, this poses—and I am, I think, conscientious about this; I am the author of the Indian Claims Commission Act; I have been interested in Indians for 30 years, legislatively. I was the author of it in 1946. We had a terrible time getting it through.

So my concern here is what we do in Alaska as a precedent in the other 48 States. I mean, I feel deeply about this; and I think that we have to, in this committee, look in a responsible way on these matters that could establish precedents; and I hope you will give some thought to that, when we get into detail on your proposal.

Senator HARRIS. Could I just respond briefly, Mr. Chairman?

The CHAIRMAN. Surely.

Senator HARRIS. I would say first of all that I don't see any relationship between 60 million acres and the size of certain of the States. For that matter, Alaska is larger than many of the States. I think the question is what is justice in this case, and I think a rather good case has been made in that regard by both the Federal Field Committee and by Monroe Price, chairman of the American Bar Association, Committee on Indian Affairs.

I think that is the thing we have to look at—what is justice here—and as the chairman knows, I don't agree with the precedent argument.

He and I and others engaged in some discussion and debate about that last year in the Senate in regard to the Taos land claim.

I said then that I thought there was no precedent involved; that this committee and the Senate and the Congress were quite able to distinguish between claims, and to make a decision in each individual case on what was found to be justice. I recognize the concern, but I disagree with the argument, as the chairman knows.

The CHAIRMAN. Well, the Federal Field Committee, Senator, recommended 2 million acres. I thought you would like to know that.

Senator HARRIS. I understand that, Mr. Chairman, but I think they ought to——

The CHAIRMAN. That is a long ways from 60 million.

Senator HARRIS. Mr. Chairman, I think what is important about what the Federal Field Committee did was in their determination as to what was necessary in regard to subsistence, and I think they said that a minimum of 60 million acres would be necessary for subsistence needs, and as a matter of fact, under certain circumstances, would go to 80 to 120 million acres.

The CHAIRMAN. Well, I am really concerned philosophically whether or not we are going to establish a bunch of enclaves, separating the Natives from the non-Native population. I think this poses some serious questions at a time when we want to try and bring all minority peoples together.

And I would also like to ask you to be thinking about the amount of acreage in Alaska that is habitable, usable. You will recall on the amendment that was introduced last time, on the floor of the Senate, under the amendment that was then pending, it would be possible for the Natives to go into the national parks and the national forests, including Mount McKinley National Park, on right of selection, and the wildlife refuges, and so on. Is that still the position?

Senator HARRIS. It is not my position, Mr. Chairman, but I think that is why we should have some additional days of hearings, or at least one additional day, to go into that kind of question in connection with the bill which I have introduced.

I have not gone into a lot of the detail in regard to the regional corporation concept, and so forth.

The CHAIRMAN. I understand.

Senator HARRIS. But it seems to me those are the kind of issues that ought to be fully discussed.

The CHAIRMAN. There are 375 million acres of land in Alaska, but that does not mean 375 million acres are usable at this point in history. That's the point I want to make. And we have to think in terms of the land that is habitable, and usable, based on present possibilities, and I hope that you will be prepared, you and your colleagues, to go into some of those questions, when we get into this land problem.

Senator HARRIS. I would like to very much.

The CHAIRMAN. Thank you.

Senator Jordan?

Senator JORDAN. Yes, I only have one or two questions, Mr. Chairman.

Senator, I understand that the 60 million acres that you proposed for the settlement to the Natives would have priority over selections by the State. Is that correct?

Senator HARRIS. That would be my understanding.

Senator JORDAN. And undoubtedly, that 60 million acres would, in some areas, probably cover territory that might be used for an

Alaskan pipeline, to move the oil from the North Slope to down to where it could be loaded on tankers. Do you have any feelings, you or your cosponsors, about the Alaska pipeline?

Senator HARRIS. I don't have any right to speak for any of them in connection with that. I myself am a cosponsor of a bill which would declare it the policy of the Congress that the pipeline should not be built, except with the prior approval of the Congress. I have still grave and unresolved doubts in connection with that.

Senator JORDAN. I will reserve further questions until I get a chance to read the bill.

The CHAIRMAN. Senator Anderson.

Senator ANDERSON. I had a question about overrides, in this entire area. You would give a 2-percent override in perpetuity?

Senator HARRIS. Yes, sir.

Senator ANDERSON. On what basis?

Senator HARRIS. I believe that that is the fair thing to do, Senator. I think that the Alaskan Natives ought to share in this production in the future, rather than to have what is really a production right limited to $500 million. I don't believe that that is fair, and does not give them the right in the future to share in these proceeds, as I think they should have, in perpetuity, as other landowners might have.

Senator ANDERSON. Is there some rule by which you think it should be 2 percent? Could the other States then start revising their contracts with the Federal Government, and insist on that 2 percent in perpetuity in every State?

Senator HARRIS. I believe, Senator Anderson, that this is a unique case, but this committee could go into any of that it would care to. I don't advocate it, and I don't have any knowledge in connection with any other claims like this, but as I say, I think this is a unique situation that ought to be settled on its own merits.

Senator ANDERSON. Well, several Members, at one time, and the committee, I believe voted against it. Why should they reverse that decision?

Senator HARRIS. I would just hope, Senator, that I would have been so persuasive that that would have convinced you otherwise.

Senator ANDERSON. Thank you.

The CHAIRMAN. Senator Hansen.

Senator HANSEN. Mr. Chairman, along the same line that you were taking, I just call attention to the fact that the transcript of regional hearings on the President's Indian message, beginning July 8, 1970, and on the attendant legislative package, on page 17 of those hearings, I call attention to a statement made by Mr. Ewan, and he said: "Since I am not going to be here this afternoon, I would like to mention this morning on the President's message that you know in talking to our people about restoring sacred lands to the tribes, I think it is going to be very controversial, giving one special tribe a preference.

"I just wanted to mention that for the record. We feel that if we don't do that, we probably have some place here in Alaska that is sacred, probably, and I think it just opens"—and at that point, he was interrupted by Mr. Jollie, who said, "There are other overlaying circumstances in that particular bill."

I call attention to this because I think it underscores the point you were making, Mr. Chairman, that despite our disavowal of the importance of precedents, they do seem to carry lots of weight with a good many people.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Gravel.

Senator GRAVEL. I have no questions, other than to thank my colleague for his interest in Native issues, Indian issues, which of course he has a long record of doing.

I can only add that when he mentioned about his reservations on the pipeline, that making reference to his cosponsorship with Senator Case of a bill giving the Congress the authority to give permission for the construction of any pipeline in Alaska, that I have included an amendment to that legislation which will require that we also secure the approval of Congress for the construction of pipelines in Oklahoma, New Jersey, California, and Wisconsin.

And then I have another amendment, if that doesn't work, to make sure that if we apply this to Alaska, we also apply it to the rest of the United States, because I for one, see no difference between constructing a pipeline in Alaska or Oklahoma, or any other State. If there is disintegration to the environment and ecology, it is just as bad to disintegrate the environment and ecology all over the United States.

But I do want to compliment my colleague for his interest in this area, and I feel that it will inure to the benefit of the ecology we all seek to do something about.

Senator HARRIS. I understood the Senator had proposed such an amendment. It may raise some very good questions. I do want to compliment Senator Gravel and Senator Stevens for their cosponsorship of this bill, S. 835, and their dedicated interest in doing justice for the Natives of Alaska.

Senator GRAVEL. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Hatfield.

Senator HATFIELD. Senator Harris, would you tell us a little more as to what the criterion was used in determining the 60 million acres, why it wasn't 55 million, or 100 million?

Senator HARRIS. Based on studies like those by the Federal Field Committee and others, on what is necessary for subsistence, Chairman Jackson pointed out quite rightly that this land isn't all farmland, like, say, in Iowa. It is very difficult to make a living from hunting and fishing, and great amounts of acres are needed. The Alaska Federation of Natives, and as a matter of fact, also such organizations as the Arctic Slope Native Association, from which you will hear today, the National Congress of American Indians, and others, have adopted the 60 million figure.

It could actually go higher under different kinds of criteria, but I think that that is the subsistence level.

Senator HATFIELD. There are about 55,000 Alaskan Natives?

Senator HARRIS. 55,000 to 60,000 as I understand it.

Senator HATFIELD. So this would work out, then, to be about—well, they have families to about 6 to 8, so this would work out to be about 6,000 to 8,000 acres per family. Is this correct?

Senator HARRIS. Well, I haven't done any arithmetic, the Senator has, and I trust that it is correct; but I don't think that the implications of how much it is per person are as important and as instructive as an understanding of how much it takes for a village to survive and subsist without their culture being destroyed.

Senator HATFIELD. I would agree, but don't you think we have to so understand a criteria upon which we make our allocations?

Senator HARRIS. I do.

Senator HATFIELD. And this does come not only to a village, but comes down also utimately to a family situation, doesn't it?

Senator HARRIS. Families, yes; that would be true.

Senator HATFIELD. Now on these subsistence lands, you are concerned about subsistence, primarily. What about the mineral rights? Are they necessary on these subsistence lands, to be granted to the Indians?

Senator HARRIS. I wouldn't make any great distinction about that. I think that if you are going to give land, you ought to give it, and I think that these people have a legal right to the land.

Senator HATFIELD. Well, if we are granting land acreage on the basis of subsistence, though, it is a different subject than mineral rights.

Senator HARRIS. But there are different subjects involved here. Mineral rights, cash settlement, and how that will be divided. Whether or not you would grant a 2-percent overriding royalty interest in perpetuity or whether it is just a production rate, which is limited to $500 million.

There are all sorts of issues involved.

Senator HATFIELD. Yes; I understand, but if we are going to determine the number of acreage, and we are going to do that on subsistence rights, that is a subject unto itself.

Senator HARRIS. I think that is a very important subject—whether people have rights to explore and to produce, from this land, without taking into full account the rights of the Natives.

Senator HATFIELD. That gets into another criterion.

Senator HARRIS. It certainly does; yes. But there are a lot of criteria in this bill. It is not just the subsistence land, but you asked how that figure was decided upon, and that is the basic way it was.

Senator HATFIELD. But basically for the purpose of subsistence, that was the basis?

Senator HARRIS. That is right, and then there were other criteria that decided upon such things as mineral rights, the overriding royalty interest, the $500 million cash payment, and so forth.

Senator HATFIELD. Thank you.

The CHAIRMAN. Senator McGovern.

Senator MCGOVERN. Mr. Chairman, I wanted to commend Senator Harris for the fight that he has made on behalf of the Alaskan Natives, not only this year, but also last year, and I am pleased to join in cosponsoring the bill to which he referred.

Basically, what I was concerned about here today is that we have at least another day of hearings next week on this matter, and I know the chairman has been approaching this question in a thoughtful and constructive way all along, and I have no questions, other than to commend the chairman for his decision to schedule additional hearings.

The CHAIRMAN. Thank you, Senator McGovern. I am in the same situation. It is hard. We can't really ask any questions, in fairness to Senator Harris, in connection with his proposed bill, until we have had an opportunity to examine the bill.

Senator Stevens?

Senator STEVENS. Thank you, Mr. Chairman.

Senator Harris, I was pleased to join you as a cosponsor by request of the president of AFN, and I join my colleague in commending you for joining us to see to it that the land question is thoroughly explored.

I want to explain to you that "by request," it means something in Alaska; it may not mean something here, but it means that we are in accord with the objectives of the bill, but we have some reservations as to some of the terms.

As I understand the bill that we cosponsored yesterday, it would permit the Native people to select land ahead of the State, and would apply to any lands that have not been patented to any person, including the State. And as I understand that, that would mean that the Native people could move in and select the 450,000 acres that the State leased at a bonus figure of $900 million in 1969.

Is that your understanding, that the Native people could, in fact, select those lands subject to lease?

Senator HARRIS. Well, I would rather leave the detailed kind of testimony to the AFN and others, but I would think that that would be something the committee would want to consider very carefully.

I do appreciate your willingness to cosponsor the bill, but I wouldn't want to get into the details of that land selection at this moment. I would think that that is something that the committee ought to go into.

Senator STEVENS. Well, in view of your interest, I should think that you should, you know, join us in facing the responsible decisions as to whether the 450,000 acres that now comprise the greatest North American reserve of oil should be subject to selection under a subsistence rights concept.

Do you believe we should turn the Prudhoe Bay Reserve over to the Alaska Federation of Natives and the native people of Alaska, without regard to the other people of Alaska?

Senator HARRIS. I don't intend to go into that detail this morning, Senator Stevens. I will come back, if you would like, at the hearing, and I will be glad to counsel with you, and I think what you primarily ought to hear from is the parties involved in regard to that, and I would, of course, welcome your own recommendations in that report.

Senator STEVENS. Well, I am constrained to say I wish you had consulted with us before you introduced the bill. I am pleased to join with you as a cosponsor, but I think——

Senator HARRIS. The Senator knows, of course, I have been involved with this, as I was last year, and I thought we had consulted with you considerably and with your office.

Senator STEVENS. Well, I am sorry to tell you that is not so. I have under consideration an amendment to a bill that the chairman and my colleague, Senator Gravel and I put in, the bill that passed last year, which would change the subsistence provisions of the bill that the Senate passed last year.

That bill would set a subsistence use unit concept, which would in its application exceed 60 million acres, as far as the use is concerned, and as I travel around Alaska, I feel there is a great feeling, particularly in the tundra country, that these subsistence units ought to be converted into surface titles.

Now, I have an amendment being drafted now that would grant the Alaskan Native Commission set up by the bill we passed last year the prerogative of recommending to the Secretary of the Interior and the Congress the conversion of those subsistence use units to title, where title is necessary to continue the subsistence economy in order to recognize the views of those people who feel that they have not received sufficient acreage of land.

As I say, that would be, as we calculate it, approximately 20 million acres of land in addition to the land that the Senate passed last year.

Now I join with my colleague from Oregon here in just one last question. As we approach these subsistence uses which are outside of the village area that the bill of the committee recommended last year, you understand that the title to the land that the committee recommended last year was title in fee associated with villages, and we went beyond that with a subsistence unit concept of a perpetual use concept.

And you are from an oil country, I am sure. Do you feel that we should grant oil and gas rights and mineral rights in the area that goes beyond the villages, which are designed for subsistence use?

Senator HARRIS. Yes. I do. I generally don't like the idea of separating the surface from the minerals, and then you would have to ask the question, "Who has a better right to the minerals?" And that is, of course, a question that like all the rest of them are, the committee will have to decide, but those are my views.

Senator STEVENS. I am sorry; I had a map, Mr. Chairman, and I hope that we will put it in the record when it is received, from Alaska.

(The map referred to is in the Committee files.)

The Federal Government already has 75 million acres of Alaska reserved. The map that was prepared for me showed that beneath the 4,000-foot mark in Alaska, the 4,000 contour mark on the map, there are less than 60 million acres left for use.

Under those circumstances, another problem that I have with the bill is, where is the land to come from, that the Congress gave to the State of Alaska as its dowry, in order to permit us to survive as a State? I would assume that you would agree that the State ought to survive, for the benefit of Native and non-Native alike, economically speaking.

Senator HARRIS. Surely.

Senator STEVENS. Now, if we would pass the bill, this bill or the amendment you offered last year, the Natives' selections would come ahead of the State. Isn't that correct?

Senator HARRIS. That is my understanding.

Senator STEVENS. Thank you.

The CHAIRMAN. Senator Burdick.

Senator BURDICK. Mr. Chairman, I reserve my questions until this other day. I hope that at that time, Mr. Harris, that you will give us some details of this selection.

One of the things that come to my mind, in view of the questions that have been asked, is how is the selection to be made? Can you make a checkerboard selection? Does it have to be in blocks? And all those related questions.

And I hope this when we have our delayed hearing, there will be some answers to those questions.

Senator HARRIS. I think so, too, and I think that is why it is very important to draw upon the expertise that is in this room, and that will appear before the committee—State, the department, and from the Natives themselves, and I would be glad to appear again as well, and then we can all study the record and do what is right in this instance.

The CHAIRMAN. Thank you, Senator Harris. We know how much time and effort you have put into this, and of your long-time interest in the problems of the Native peoples, and we will welcome further comment from you when we have a hearing on your proposal.

Senator HARRIS. Thank you, Mr. Chairman.

(Letter from Senators Harris and Kennedy to Senator Jackson, S. 835, and the reprint from the Congressional Record relating to this matter follow:)

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., February 18, 1971.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
3106 New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Yesterday we, along with six other Senators, introduced a bill for the settlement of the Alaska Native land claims. Other Senators who did not cosponsor the bill have pledged heir support for the basic provisions of the bill. We believe that as the public becomes more aware of the position of the Natives and their demands and needs for a fair and equitable settlement, that additional support for our bill will grow.

Without an adequate land settlement, the right of self-determination will be meaningless to the Natives. To permit the Natives to keep only ten million acres, which is less than three percent of the lands to which they have a recognizable claim, would result in a change in their culture, since it would be impossible on such limited acreage for the Natives to make a living in their traditional way. We are requesting that the Natives be provided sixty million acres, which is less than seventeen percent of the lands to which they have claim, but which would be sufficient, according to the Alaska Federation of Natives, for the Natives to continue their traditional ways.

Attached for your consideration is a copy of our bill and a reprint of our remarks on this matter which appeared in the *Congressional Record* of February 9, 1971. We would like for this letter and our remarks to be made a part of the record of the hearings on the settlement of the land claims.

With best wishes,
Sincerely yours,

FRED R. HARRIS,
U.S. Senate.
EDWARD M. KENNEDY,
U.S. Senate.

92D CONGRESS
1ST SESSION

S. 835

IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 1971

Mr. HARRIS (for himself, Mr. CRANSTON, Mr. GRAVEL, Mr. HART, Mr. HUGHES, Mr. KENNEDY, Mr. MCGOVERN, Mr. MONDALE, Mr. STEVENS, and Mr. TUNNEY) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To provide for the settlement of certain land claims of Alaska Natives, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alaska Native Claims Settlement Act of 1971".

DECLARATION OF POLICY

SEC. 2. (a) Congress hereby recognizes the claims of Natives and Native villages based upon aboriginal occupancy and use of lands within the State of Alaska, and finds and declares that there is an immediate need for a fair and just settlement of all land claims by such Natives and Native vil-

lages and that the purpose of this Act is to effect such settlement by providing—

(1) a grant to each Native village listed in section 11 (f) of this Act of title to the village site and additional lands adjacent thereto for community use and expansion;

(2) for the organization of Native corporations and, in order to promote economic self-sufficiency as well as enhance the Natives' present and future welfare, for a transfer of lands and rights to such corporations;

(3) a payment of $500,000,000 and retention of an overriding royalty, as compensation for Native lands and interests in lands taken in the past or to which Native title will be extinguished by this Act;

(4) authority for individual Natives to acquire ownership of the lands which they use and occupy for homes, businesses, fishing, hunting and trapping camps, and for reindeer husbandry; and

(5) protection of Native subsistence hunting, fishing, trapping and gathering rights and, where it is within the power of the Federal Government, measures for the conservation of subsistence biotic resources.

(b) It is the intent of Congress to carry out the terms of this settlement promptly, with certainty, and in conformity to the real economic and social needs of Alaska Natives by maximizing the participation by Natives in decisions affecting

their rights and property and by vesting in them as rapidly as prudent and feasible control over the lands set aside and corporations organized pursuant to this Act, without (1) establishing any permanent racially defined institutions, rights, privileges or obligations, (2) creating a reservation system or lengthy trusteeship, or (3) ultimately adding to the categories of property and organization enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska.

(c) No provision of this Act is intended to replace, diminish or otherwise modify any right, privilege, or obligation of Alaska Natives as citizens of the United States and the State of Alaska, nor to relieve, replace, or diminish any obligation of the United States or the State to protect and promote the rights and welfare of Alaska Natives. The payments and grants authorized under section 5 of this Act constitute compensation for the extinguishment of property rights, and shall not be deemed a substitute for any governmental programs otherwise available to the Natives of Alaska in accordance with the laws applicable to Indian affairs.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(a) "Commission" means the Alaska Native Commission established by this Act;

(b) "Corporation" means the Alaska Native Development Corporation authorized to be established pursuant to this Act under the laws of the United States;

(c) "Fund" means the Alaska Native Compensation Fund established under the terms of this Act;

(d) "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, if deceased, was) regarded as Native by such village or any other Native village listed in section 11 (f) of this Act;

(e) "Native village" means any village listed in section 11 (f) of this Act, and, unless expressly provided herein to the contrary, also any other identifiable tribe, band, clan, group, village or community in the United States which is composed of twenty-five or more Natives, regardless of whether or not resident in a predominantly Native area;

(f) "public lands" means 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: *Provided,* That this exception shall not be applicable for purposes of section 14 of this Act;

(g) "regional corporation" means a corporation organized to hold, invest, manage and/or distribute lands, property, funds and other rights and assets for and on behalf of the Natives of a specified region of Alaska in accordance with the terms of this Act;

(h) "Secretary" means the Secretary of the Interior;

(i) "State" means the State of Alaska; and

(j) "village corporation" means a corporation organized to hold, invest, manage and/or distribute lands, property, funds and other rights and assets for and on behalf of a Native village in accordance with the terms of this Act.

DECLARATION OF SETTLEMENT

SEC. 4. (a) 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 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), 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.

(b) The foregoing subsection shall be null and void in the event the provisions of section 5, 10–12, or 14 are held to be unconstitutional or otherwise invalid.

ALASKA NATIVE COMPENSATION FUND

SEC. 5. (a) There is hereby authorized to be appropriated $500,000,000 as partial 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 this Act, such compensation to be paid into a special Alaska Native Compensation Fund in the Treasury of the United States in accordance with the following schedule:

(1) $100,000,000 during the fiscal year in which this Act becomes effective; and

(2) $50,000,000 per year during the next eight fiscal years, plus interest at the rate of 4 per centum annually upon the unpaid balance of such compensation.

(b) As additional compensation to the Natives of

Alaska, there shall be paid into the Fund all revenues derived from the overriding royalty upon the sale, lease or other disposition of public lands in accordance with section 14 of this Act.

(c) Payments under subsections (a) and (b) hereof shall be deemed contractual obligations of the United States enforceable by the Corporation.

(d) All moneys paid into the Fund shall bear interest from the date of deposit at the rate of 4 per centum per annum. Until formal organization of the Corporation pursuant to section 8 of this Act, the Secretary may temporarily withdraw moneys from the Fund for investment in short-term obligations of the United States or for deposit with financial institutions in Alaska qualified to receive and hold public funds of the United States: *Provided,* That no such investment or deposit shall be made by the Secretary unless it provides interest at a rate in excess of 4 per centum per annum.

(e) Moneys paid or deposited into the Fund shall be permanently paid or distributed for the benefit of the Natives of Alaska only in accordance with the provisions of this Act, and the Secretary of the Treasury shall make such payments and distributions.

(f) Up to $500,000 of the moneys paid or deposited into the Fund in the first fiscal year shall be paid by the Sec-

retary of the Treasury upon certification by the Commission to recognized Associations of Alaska Natives to reimburse them for actual costs incurred in filing protests, preserving land claims. Moneys paid pursuant to this subsection shall be presenting testimony to the Congress on the Alaska Native land claims. Moneys pair pursuant to this subsection shall be paid first to the recognized statewide association, and then, to the extent funds are available, to regional Native Associations as determined by the Commission. The determination of the Commission shall be final without regard to subsection 6 (j) of this Act. Such moneys shall not be used to pay any attorney's fees or expenses.

ALASKA NATIVE COMMISSION

SEC. 6. (a) The Alaska Native Commission is hereby established. The Commission shall be in existence for twenty years from the date of its first meeting, and shall be composed of five members to be appointed by the President (with the advice and consent of the Senate). Upon assuming office, each member of the Commission shall become a full-time Federal employee. Not more than three members of the Commission shall be members of the same political party, and at least three members shall be Natives of Alaska. The Federal laws and regulations on conflicts of interest applicable to other Federal employees shall be applicable to

the members of the Commission, but this provision shall not be deemed to preclude a Native from serving as a member: *Provided,* That such Native Commissioner shall not participate in any proceeding before the Commission in which his participation would be in conflict with section 208 of title 18, United States Code.

(b) The term of office of members of the Commission shall be five years: *Provided,* That the members first appointed shall serve staggered terms of one, two, three, four, and five years, respectively: *And provided further,* That any member appointed to fill a vacancy on the Commission occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of his term of office, a member of the Commission shall continue to serve until his successor has been appointed and has qualified to take office. The President shall choose a Chairman from the Commission's membership, and the Commission may elect by a majority vote of its membership other officers, such as a Vice Chairman, as it may find necessary to perform its functions. A member of the Commission may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

(c) The Chairman shall receive compensation at a rate

equal to that provided for in level V of the Executive Schedule in section 5316 of title 5, United States Code. The other four Commissioners shall receive compensation at a rate equal to that provided for grade GS–18 in section 5332 of title 5, United States Code.

(d) The principal office of the Commission shall be in Alaska. Whenever the Commission deems that the convenience of the public or the parties may be promoted, or delay or expense may be minimized, or at the request of any party, it may hold hearings or conduct other proceedings at any other place that a majority of the Commission shall direct. The Commission shall have an official seal which shall be judicially noticed, and which shall be preserved in the custody of the secretary of the Commission.

(e) The Commission shall, without regard to the civil service laws, appoint and prescribe the duties of a secretary of the Commission and such legal counsel as it deems necessary. Subject to the civil service laws, the Commission shall appoint such other employees as it deems necessary in exercising its power and duties. The compensation of all employees appointed by the Commission shall be fixed in accordance with chapter 53 of title 5, United States Code.

(f) (1) For the purpose of carrying out its functions under this Act, three members of the Commission shall constitute a quorum and official action may be taken only on the

affirmative vote of at least three members, but a special panel composed of one or more members upon order of the Commission may conduct any hearing or other proceeding provided for in this Act and submit the record of such hearing or proceeding to the entire Commission for its action thereon. Such record shall be made available to the parties, and they shall be afforded an opportunity to comment thereon, before any final action of the Commission.

(2) The Commission shall give reasonable notice to the interested parties and an opportunity for them to appear and be heard, and shall afford the parties an opportunity to present evidence before making a final determination upon any protest, claim, or other contested matter.

(3) A party to any proceeding before the Commission may appear on his own behalf or be represented by counsel of his own choice.

(g) The Commission shall have power to establish its own rules of procedure. Each official action of the Commission shall be entered in writing, and its hearings and records thereof shall be open to the public.

(h) (1) Any member of the Commission may sign and issue subpenas for the attendance and testimony of witnesses and production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned before the Commission shall be paid the same fees and mileage that are

paid witnesses in the courts of the United States. Any person who fails to comply with a Commission subpena shall be subject to punishment in accordance with section 104 of title 43, United States Code. The Commission may order testimony to be taken by deposition in any proceeding before it and in any stage of such proceeding after reasonable notice is first given in writing by the party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition.

(2) The Commission shall have the power to call upon any of the departments or agencies of the United States for any information it may deem necessary for carrying out its functions under this Act.

(3) In any hearing or other proceeding before the Commission, any letter, paper, document, map, transcript or record in the possession of any officer, department, agency or court of the United States or committee of Congress (or a certified copy thereof) may be used in evidence insofar as relevant and material, and every department or agency of the United States having possession thereof shall give full and free access to such letters, papers, documents, maps, transcripts, and records to any interested Natives, Native villages, or Native corporations, or their representatives.

(i) Each decision made by the Commission shall show the date on which it was made, and shall bear the signatures

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of the members of the Commission who concur therein and, upon issuance of a decision under this Act, the Commission shall cause a true copy thereof to be sent by certified mail to all parties and their attorneys of record. When appropriate, each decision also shall include the findings of fact upon which the Commission's conclusions are based, and a statement of its reasons for such findings and conclusions. The Commission shall cause each decision to be entered on its official record together with any written opinion prepared by any members in support of, or dissenting from, any decision.

(j) Any decision issued by the Commission under this section, except decisions with respect to distributions by regional corporations pursuant to section 9(f), shall be subject to judicial review by the United States District Court for the District of Alaska upon the filing in such court within sixty days from the date of such decision of a petition by the party aggrieved by the decision praying that the action of the Commission be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to any other party to the proceeding and to the Commission, and thereupon the Commission shall certify and file in such court the record upon which the decision complained of was based. The court shall hear such appeal on the record made before the Commission. The findings of the Commission, if supported

by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any decision or may remand the proceeding to the Commission for such further action as it directs. The judgment of the court shall be subject to review by the United States Court of Appeals for the Ninth Circuit, and by the Supreme Court of the United States upon certiorari or certification as provided in section 1254, title 28, United States Code.

(k) The duties and responsibilities of the Commission during the period of its existence shall include, but are not limited to—

(1) the issuance of rules and regulations for preparing a final membership roll of Alaskan Natives and a roster of Native villages, which shall be in addition to those Native villages specified in section 10(c), qualified for benefits under this Act;

(2) the determination of eligibility for inclusion on such roll and roster, respectively, and of protests with respect thereto;

(3) the appointment of the incorporators of the Corporation, and the approval of its articles of incorporation and any amendments thereto before they become effective: *Provided*, That any articles or amendments not disapproved within thirty days after receipt

by the Commission shall be deemed to have been approved;

(4) the approval of the articles of incorporation of all regional and village corporations in advance of filing, and of any amendments thereto for a period of ten years after the effective date of this Act: *Provided,* That any articles or amendments not disapproved within thirty days after receipt by the Commission shall be deemed to have been approved;

(5) the review of annual budgets for the Corporation and the regional and village corporations for a period of ten years after the date of organization of each such corporation;

(6) the hearing of, and decision upon, any appeal from a refusal of the Corporation to approve a village plan for the management and expenditure of funds, as provided in section 9 (f) ;

(7) the determination of regional boundaries under section 9 (a) , the determination of land disputes between Native villages under section 11 (c) , and disputes relating to land patents arising under section 12 (b) (2) , and the certification of eligibility for patents under section 12 (c) ; and

(8) the approval of land transactions under section 13.

The Commission shall have the power to issue rules and regulations in furtherance of its duties and responsibilities under this Act.

ENROLLMENT

SEC. 7. (a) (1) In order to facilitate the selection and management of lands, the use of funds and the organization of corporations in furtherance of this Act, the Secretary shall prepare within six months after the effective date of this Act, pursuant to such rules and regulations as he may prescribe, a temporary census roll of all Natives living on December 31, 1970. Such roll shall show with respect to each Native his name, date and place of birth, date and place of parents' birth, degree of Native blood and the village, if any, listed in section 11 (f) of this Act of which he is a member. The decision of the Secretary regarding the eligibility of any person for inclusion on the temporary census roll shall be final: *Provided*, That any person listed on an existing membership roll of any Native village shall be presumed to be eligible for enrollment.

(2) Any person listed on the temporary census roll who is nineteen years of age or over at the time of voting shall be entitled to vote in the election of directors for the Corporation, as provided in section 8, in the elections with respect to regional corporations, as provided in section 9, and

in the election for the land selection committee of the village, if any, of which he is a member, as provided in section 11. The population of each Native village listed in section 11 (f) of this Act, as shown on the temporary census roll, shall be the basis for determining the number of acres of land to which such village is entitled pursuant to section 11 of this Act. Except as provided in this subsection, however, the temporary census roll shall not be used as a basis for determining the right of any individual, village, or corporation to receive funds and property or otherwise to share in the benefits accorded the Natives of Alaska under this Act.

(b) (1) The Commission shall prepare, in accordance with such rules and regulations as it may prescribe: (A) a membership roll of all Natives living on December 31 of the year in which this Act becomes law, within five years after the effective date of this Act; and (B) a roster of Native villages, which shall be in addition to those Native villages specified in section 11 (f), eligible for benefits hereunder, within three years after the effective date of this Act. Before any such roll or roster is finally approved by the Commission, it shall be published in the Federal Register and in such other manner as the Commission shall find practicable and effective (including posting in each Native village listed in section 11 (f)), and any applicant denied enrollment or

omitted from the roster also shall be notified concurrently in writing of the Commission's action and of his right to protest such action.

(2) Within three months after notice of the Commission's action, any person or village denied enrollment or omitted from the roster, as the case may be, shall have the right to protest such denial or omission to the Commission, and within three months after publication in the Federal Register, the Secretary or any Native village listed in section 11 (f) shall have the right to protest to the Commission the inclusion of any individual on the membership roll or any village on the roster of Native villages. Any Native village shall have the right to protest a designation of membership therein by a Native on behalf of himself or his children below the age of nineteen under subsection (d) hereof, within three months after publication of the membership roll in the Federal Register. Such protests shall be the subject of a hearings and judicial review, shall be final and shall be pro- in section 6 or this Act. The membership roll and village roster prepared by the Commission, as modified after such hearings and judicial review, shall be final and shall be promulgated by publication in the Federal Register.

(c) Each Native shall have the right to designate the Native village in which he and his children under the age of nineteen years are to be listed as members and, in the ab-

sence of a protest by the named village pursuant to subsection (b) (2) hereof, such designation shall be final. In the event a Native village does protest a designation of membership, the Commission shall determine the village or villages of which the Native and his children under the age of nineteen are members, and the burden of proof of membership shall be upon the individual. In making its determination, the Commission shall give priority to villages in the following order: (1) to the village where the Native resides on December 31, 1970, if such residence has continued without substantial interruption for a period of more than two years; (2) to the village where the Native previously resided for a period or periods which aggregate ten years or more; (3) to the village where the Native was born; (4) to the village where either parent of such Native was born; (5) to the village where the Native resides on December 31, 1970; and (6) to a village from which an ancestor of the Native came: *Provided,* That the Commission, upon the request of any Native, shall have discretion to deviate from the foregoing priorities and declare such person and/or his child under the age of nineteen to be a member of a Native village from which he otherwise would be excluded in order to avoid hardship (such as the division of a family) or any other unreasonable classification.

(d) Any person who gives false information to qualify

himself or any other person for inclusion on the temporary census roll or upon a Native membership roll, willfully and with knowledge that such information is false, shall be guilty of perjury and, upon conviction, shall be fined not more than $1,000 or imprisoned not more than a year, or both.

ALASKA NATIVE DEVELOPMENT CORPORATION

SEC. 8. (a) (1) There is hereby created the Alaska Native Development Corporation as a nonprofit membership corporation, which shall have the powers hereinafter granted. The Corporation shall not be an agency or establishment of the United States Government.

(2) The Commission established pursuant to section 6 of this Act shall appoint five incorporators, one of whom shall be the Chairman of the Commission, who shall prepare the original articles of incorporation for the Corporation in a form consistent with the provisions of this section, and who shall serve as the initial board of directors until the Native members of the board are elected. The incorporators shall file the articles of incorporation, as approved by the Commission, with the Secretary within six months after the effective date of this Act, and the Corporation shall be deemed to be formally organized as of the date of such filing. The incorporators also shall transmit a copy of the articles of incorporation to the Commissioner of Commerce of the State.

(b) (1) The management of the Corporation shall be

vested in a board of directors, which, with the exception of the initial board, shall consist of twelve members. Each regional corporation organized under section 9 shall elect one member of the board of the Corporation. Members of the board so elected shall serve for terms of four years or until their successors have been elected and qualified: *Provided,* That among the directors first elected, three shall serve for terms of one year, three shall serve for terms of two years, three shall serve for terms of three years, and three shall serve for terms of four years: *And provided further,* That the directors who serve the short terms shall be determined by a drawing of lots conducted by the initial board. Any director elected to fill a vacancy shall serve only for the period of the unexpired term of the director whom he succeeds. Elections for membership on the board of directors shall be conducted in accordance with procedures (giving due regard, among other matters, to regional and ethnic representation) set forth in the articles of incorporation or bylaws of the Corporation: *Provided,* That the first such election shall be held not less than six months nor more than nine months after the effective date of this Act.

(2) The board of directors shall elect a chairman annually from among its own membership. The board also may appoint a member of the Corporation to fill a vacancy within

its membership, but such appointed director shall serve only until the next regular election of directors.

(3) Notwithstanding any other provision of this Act or the articles of incorporation to the contrary, the initial board of directors of the Corporation shall exercise only the following corporate powers: (A) completion of the organization of the Corporation and qualifying it to do business, including, but not limited to, the adoption of a corporate seal, the opening of bank accounts, the establishment of a place of business and the rental or acquisition of all necessary offices, furnishings, equipment and supplies related thereto, subject to the condition that no lease shall be for a period in excess of one year; (B) approval of amendments to the articles of incorporation; (C) the appointment of officers of the Corporation, the hiring of other employees and the employment of consultants, accountants and other professional or financial advisers, subject to the condition that no contract of employment shall be for a period in excess of one year; (D) the receipt, investment and distribution of moneys from the Fund in accordance with subsections (e) and (f) hereof; (E) the expenditure of corporate funds to pay for or carry out the activities authorized under this paragraph; and (F) the conduct of the first election for membership on the board of directors.

(c) The Corporation shall have a president, and such

other officers as may be named and appointed by the board, at rates of compensation fixed by the board and serving at the pleasure of the board. The president and other officers of the Corporation may, but need not, be members of the board. No officer of the Corporation shall receive any salary from any source other than the Corporation during the period of his employment by the Corporation: *Provided*, That an officer of the Corporation who is also a member or employee of the Commission shall be paid only by the Commission. The president shall be responsible for conducting the business and affairs of the Corporation in a manner consistent with the provisions of this Act, the articles of incorporation, and the policies of the board of directors, and shall appoint such other employees as the board deems appropriate.

(d) (1) Until publication of the membership roll in accordance with subsection 7 (b) (1) of this Act, the members of the Corporation shall consist of all Natives shown on the temporary census roll prepared pursuant to section 7 (a). After publication of the membership roll in accordance with subsection 7 (b) (1) and before such roll becomes final in accordance with subsection 7 (b) (2), the members of the Corporation shall consist of all Natives shown on the temporary census roll, and any other Native whose name is listed on the membership roll except an individual whose inclusion thereon is the subject of a pending protest. After

promulgation of the final membership roll in accordance with subsection 7(b)(2), the members of the Corporation shall consist of all Natives listed upon such roll, as amended to reflect the death of any individuals so listed, and such other persons as the articles of incorporation may authorize.

(2) The right to vote for directors and on such other matters as properly may be placed before the membership for decision shall be limited to members of the Corporation nineteen years of age or over at the time of voting, and only members eligible to vote shall be counted in determining a quorum.

(e) As soon as the Corporation is formally organized in accordance with subsection (a) hereof, the Secretary of the Treasury shall pay to the Corporation all moneys deposited in the Fund established under section 5 of this Act up to the date of such formal organization, together with accrued interest. Thereafter, on January 1, April 1, July 1 and October 1 of each calendar year, the Secretary of the Treasury shall pay to the Corporation all additional moneys deposited in the Fund up to the date of payment, together with accrued interest. The Secretary of the Treasury also shall furnish to the Corporation each month a statement showing the amount and source of moneys on deposit in the Fund.

(f) (1) Upon the organization of each regional corporation established pursuant to section 9, the Corporation shall distribute, from the sums appropriated to the Fund pursuant to section 5 (a) (1), the amount of $8,000,000 to that regional corporation. Such distribution shall be for the purpose of assisting the regional corporation in becoming operational, for the acquisition of technical and other information relevant to the exercise of regional corporation land selection rights and for other corporate purposes. After each regional corporation has received this initial distribution, the corporation shall distribute funds as hereinafter provided in this subsection.

(f) (2) Except as otherwise provided in this subsection, the Corporation shall distribute 95 per centum of all moneys paid to it out of the Fund promptly after the receipt thereof to the regional corporations established pursuant to section 9 of this Act. The amount of money distributed to each regional corporation shall be apportioned in direct relation to the Native population of the region, as shown on the final membership roll promulgated in accordance with subsection 7 (b) (2). Moneys received from the Fund which the Corporation must distribute to regional corporations in accordance with this subsection shall not constitute income to the Corporation for any purpose.

(3) Until the membership roll becomes final in accordance with subsection 7 (b) (2) of this Act, the Corporation shall distribute only eighty per centum of all moneys paid to it out of the Fund to the regional corporations established pursuant to section 9. The amount of money distributed to each regional corporation shall be apportioned in direct relation to the Native population of the region, before publication of the membership roll in accordance with subsection 7 (b) (1) as shown on the temporary census roll prepared in accordance with section 7 (a), and after publication of the membership roll in accordance with subsection 7 (b) (1) as shown thereon, and appropriate adjustments shall be made in actual distributions to reflect any prior advances, and the relative rights of the regional corporations, under this paragraph: *Provided,* That all distributions made pursuant to this paragraph shall be deemed advances of moneys to which the regional corporations will become entitled upon promulgation of the final membership roll in accordance with section 7 (b) and shall not constitute a determination of their relative rights to receive funds or property under this Act. The remaining fifteen per centum of the moneys paid to the Corporation out of the Fund, which are withheld by it pursuant to this paragraph, shall be invested by the Corporation for the benefit of the regional corporations as their interests therein ultimately are determined.

(4) After promulgation of the final membership roll in accordance with subsection 7(b)(2), the Corporation shall distribute all moneys withheld under paragraph (2) hereof (adjusted to reflect earnings or losses from investment), after appropriate adjustments in the amounts of actual distributions also to reflect prior distributions and their respective rights in moneys derived from the Fund, to the regional corporations as provided in paragraph (1).

(5) The Corporation shall withhold and invest any moneys due a regional corporation under this subsection until such regional corporation is organized and qualified to do business. For a period of ten years after the date of incorporation of a regional corporation, the Corporation, with the approval of the Commission, may withhold and invest in trust therefor any moneys due such regional corporation under this subsection if the General Accounting Office audit, provided under section 9(h) of this Act, shows that the regional corporation is violating any provision of this Act or of its articles of incorporation. The trust shall terminate and all moneys so withheld (adjusted to reflect earnings or losses from investment) shall be paid over to the regional corporation upon a determination by the General Accounting Office that the violation has been corrected.

(g) The Corporation shall retain 5 per centum of all moneys paid to it out of the Fund for carrying on the business

and affairs of the Corporation. Notwithstanding any other provision of law or of its articles of incorporation to the contrary, but subject to the provisions of section 15 of this Act, the Corporation during the period after promulgation of a final membership roll in accordance with section 7(b)(2) and before December 31, 1991, may distribute to its then members per capita up to 20 per centum of its share of the moneys paid to it out of the Fund: *Provided*, That the board shall have discretion with respect to any distribution to members under the age of nineteen either to make such distribution to the parent or guardian of such member, or to withhold distribution until such member attains the age of nineteen.

(h) 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. For a period of ten years after the date of its formal organization, the Corporation shall be subject to audit by the General Accounting Office, all amendments to its articles of incorporation must be approved by the Commission as provided in subsection 6(k)(4), and its annual budget shall be subject to review by the Commission.

(i) The Corporation shall have and may exercise all rights and powers vested in a nonprofit membership corpora-

tion under the laws of the State of Alaska. In addition, and without limitation upon any of the powers so conferred, the Corporation may—

(1) provide professional, technical, engineering, or financial assistance to Natives, Native villages, and Native corporations in the selection, use, management, leasing, and disposition of lands or interests therein, in the use, investment, and expenditure of funds, or in the acquisition, use, and disposition of other property;

(2) assist Native villages and Native corporations in the planning and execution of programs for community development, including, but not limited to, housing, the establishment of local industry and the construction of public works;

(3) enter into contracts with Natives, Native villages and Native corporations for the use, management, investment, economic development or disposition of lands, interests in lands, funds and other property for the benefit of such Natives and Native organizations;

(4) provide loans and grants for the education and relief of distress of individual Natives, or their descendants, and, subject to the provisions of subsection (g) hereof, make distributions per capita to its members;

(5) exercise authority to conduct the business and

affairs of any regional corporation shown by the General Accounting Office audit, provided under section 9(h) of this Act, to be violating any provision of this Act or of its articles of incorporation; and

(6) carry out any and all activities directed toward promoting the health, welfare, education and social and economic development of Alaskan Natives and their descendants.

(j) The internal affairs of the Corporation shall be governed in accordance with the laws of the State of Alaska relating to nonprofit membership corporations, except to the extent inconsistent with the provisions of this Act, and except that—

(1) amendments to the articles of incorporation, articles of merger or consolidation, articles of dissolution and annual reports shall be filed with the Secretary and, for a period of ten years after formal organization of the Corporation, also with the Commission, and certified copies thereof shall be transmitted to the State commissioner of commerce;

(2) the Corporation shall not be subject to any State licensing requirements, incorporation fees or other corporate charges, except the designation of a registered office and registered agent, and nominal fees for the fil-

ing of corporate papers, or to the imposition of State taxes as provided in section 18 of this Act; and

(3) the Corporation shall not be subject to any State law which places a burden or duty upon it greater than is placed upon any other nonprofit membership corporation, or, unless the Corporation so consents, to any State corporate law which is in effect applicable only to the Corporation.

OTHER NATIVE CORPORATIONS

SEC. 9. (a) For purposes of this Act, the State of Alaska shall be divided by the Commission within one year after the effective date of this Act 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 shall approximate the areas covered by the operations of the following existing Native associations:

(1) Arctic Slope Native Association (Barrow, Point Hope);

(2) Bering Straits Association (Seward Peninsula, Unalakleet, St. Lawrence Island);

(3) Northwest Alaska Native Association (Kotzebue);

(4) Association of Village Council Presidents (southwest coast, all villages in the Bethel area, includ-

ing all villages on the Lower Yukon River and the Lower Kuskokwin River);

(5) Tanana Chief's Conference (Koyukuk, Middle and Upper Yukon Rivers, Upper Kuskokwin, Tanana River);

(6) Cook Inlet Association (Kenai, Tyonek, Ekutna, Iliamna);

(7) Bristol Bay Native Association (Dillingham, Upper Alaska Peninsula);

(8) Aleut League (Aleutian Islands, Pribilof Islands, and that part of the Alaska Peninsula which is in the Aleut League);

(9) Chugach Native Association (Cordova, Tatitlek, Port Graham, English Bay, Valdez, and Seward);

(10) Tlingit-Haida Central Council (southeastern Alaska), including Metlakatla;

(11) Kodiak Area Native Association (all villages on and around Kodiak Island); and

(12) Copper River Native Association (Copper Center, Glennallen, Chitina, Mentasta).

Any dispute over the boundaries of a region or regions shall be determined by the Commission.

(b) (1) There is hereby created a regional corporation for each of the regions defined under subsection (a) hereof,

which regional corporations shall have the powers hereinafter granted.

(2) The regional corporations established under this subsection shall not be agencies or establishments of the United States Government. The regional corporations shall be considered political subdivisions of the State solely 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.

(c) (1) Each regional corporation established pursuant to subsection (b) hereof shall have five incorporators. The incorporators of the regional corporation for each of the twelve regions specifically named in subsection (a) shall be appointed by each named Native association, respectively.

(2) The incorporators shall prepare the original articles of incorporation for the regional corporations in a form consistent with the provisions of this section, subject to the approval of the Commission as provided in subsection 6 (k) (4), and shall serve as the initial boards of directors until the members of such boards are elected. The incorporators shall file the articles of incorporation for their respective regional corporations with the Secretary within eighteen months after the effective date of this Act, and the various regional cor-

porations shall be deemed to be formally organized as of the date of such filings; certified copies of such articles of incorporation also shall be transmitted by the incorporators to the State commissioner of commerce.

(3) Notwithstanding any other provisions of this Act or the articles of incorporation to the contrary, the initial boards of directors of the regional corporations shall exercise only the corporate powers enumerated in subsection 8(b)(3) and the power to receive, invest, and distribute moneys received from the Corporation in accordance with subsection (f) hereof.

(d) The management of each regional corporation shall be vested in a board of directors, all of whom, with the exception of the initial board, shall be stockholders in the corporation over the age of nineteen. The number, terms, and method of election of members of the board of directors shall be fixed in the articles of incorporation or bylaws of the regional corporation.

(e)(1) Each regional corporation shall be authorized to have five million shares of common stock, having a par value of 1 cent per share, divided into such classes of shares as may be specified in the articles of incorporation to reflect the provisions of section 15 of this Act. Each regional corporation shall issue and have outstanding one hundred shares

of stock for each Native enrolled in the region represented by such corporation as hereinafter provided.

(2) Until publication of the membership roll in accordance with subsection 7 (b) (1) of this Act, the stockholders of each regional corporation shall consist of all Natives enrolled in the region represented by such corporation, as shown on the temporary census roll prepared pursuant to section 7 (a). After publication of the membership roll in accordance with subsection 7 (b) (1) and before such roll becomes final in accordance with subsection 7 (b) (2), the stockholders of each regional corporation shall consist of all Natives enrolled in the region represented by such corporation as shown on the temporary census roll, and any other Native whose name is listed under such region on the membership roll except an individual whose inclusion thereon is the subject of a pending protest. Stock held pursuant to this paragraph shall carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to stockholders, and the right to file a stockholder's derivative suit, but shall not vest in the holder any right to dividends or other distributions from the corporation. The parent or guardian of any Native under the age of nineteen on the date of voting shall have the right to vote the stock of such child held under this paragraph or under paragraphs (3) and (4) hereof.

(3) (A) Upon promulgation of the final membership roll in accordance with subsection 7(b)(2), all stock issued pursuant to paragraph (2) hereof shall be deemed canceled, and thereafter the stockholders of each regional corporation shall consist of all Natives enrolled in the region represented by such corporation, as shown on the final membership roll. Except as otherwise provided in subparagraph (B) hereof, stock held pursuant to this paragraph shall carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to stockholders, shall permit the holder to receive dividends or other distributions from the corporation, and shall vest in the holder all rights of a stockholder in a business corporation organized under the laws of the State of Alaska: *Provided,* That the stock and any dividends paid or distributions made with respect thereto may not be sold, pledged, subjected to a lien or judgment execution, assigned in present or future, or otherwise alienated.

(B) Upon the death of any stockholder holding stock in a regional corporation pursuant to paragraphs (2) and (3) (A) hereof, ownership of such stock shall be transferred in accordance with his last will and testament or under the laws of intestacy: *Provided,* That, during the twenty-year period after December 31 of the year in which this Act becomes law, such stock shall carry voting rights only if

the holder thereof through inheritance also is a Native: *And provided further,* That in the event the deceased stockholder fails to dispose of his stock in a regional corporation by will and has no heirs under the laws of intestacy, such stock shall escheat to the regional corporation.

(4) On January 1 of the twentieth year after the year in which this Act becomes law, all stock issued pursuant to paragraph (3) hereof shall be deemed canceled, and shares of stock of the appropriate class shall be issued without restrictions to each stockholder share for share: *Provided,* That the stock of every individual under the age of nineteen, and any dividends paid or distributions made with respect thereto before he reaches the age of nineteen, may not be sold, pledged, subjected to a lien or judgment execution, assigned in present or future, or otherwise alienated (except through inheritance).

(f) (1) Each regional corporation shall set aside, and thereafter report on its financial records and accounts, the first $50,000 it receives from the Corporation as paid-in capital.

(2) (A) Each regional corporation shall be required to organize an affiliated non-profit-membership corporation, which shall be devoted to promoting the health, welfare, education and economic and social well-being of the Natives of the region and their descendants, and which shall be au-

thorized, among other purposes, to construct, operate and maintain public works and community facilities, to engage in medical, educational, housing and charitable programs, to make loans and grants consistent with its corporate purposes, to foster industrial and economic development, and to distribute funds to individual Natives and their descendants in furtherance of family plans. The members of each such affiliated nonprofit corporation shall be the shareholders of the regional corporation which organizes it.

(B) Each regional corporation shall distribute to its affiliated nonprofit corporation not more than 50 per centum nor less than 10 per centum of (i) all moneys received by it which are derived from payments under section 5 and (ii) all its other net income.

(C) Notwithstanding any other provision of law or of its articles of incorporation to the contrary, but subject to the provisions of section 15 of this Act, a nonprofit corporation organized under this paragraph may distribute to eligible Natives and their descendants in furtherance of family plans not more than 20 per centum of the moneys paid to it by a regional corporation established under subsection (b) (1) hereof.

(D) The provisions of this paragraph (2) shall be enforceable by the Commission or the Corporation.

(3) Except as otherwise provided in this subsection (f),

each regional corporation shall distribute 75 per centum of all moneys paid to it by the Corporation, after deduction of any distributions pursuant to paragraph (2) hereof, promptly after the receipt thereof to the village corporations authorized to be established pursuant to this Act. The amount of money distributed to each village corporation shall be apportioned in direct relation to the Native population of the village, as shown on the final membership roll promulgated in accordance with subsection 7 (b) (2).

(4) Until the membership roll becomes final in accordance with subsection 7 (b) (2) of this Act, each regional corporation shall distribute only 65 per centum of all moneys paid to it by the Corporation, after deduction of any distributions pursuant to paragraph (2) hereof, to the village corporations. The amount of money distributed to each village corporation shall be apportioned in direct relation to the Native population of the village, before publication of the membership roll in accordance with subsection 7 (b) (1), as shown on the temporary census roll prepared in accordance with section 7 (a), and after publication of the membership roll in accordance with subsection 7 (b) (1) as shown thereon, and appropriate adjustments shall be made in actual distributions to reflect any prior advances, and the relative rights of the village corporations, under this paragraph: *Provided,* That all distributions made on such basis shall be

deemed advances of moneys to which the village corporations ultimately will become entitled and shall not constitute a determination of their relative rights to receive funds or property under this Act. The remaining 10 per centum of the moneys paid to each regional corporation by the Corporation, which are withheld by such regional corporation pursuant to this paragraph, shall be invested for the benefit of the village corporations as their interests therein ultimately are determined.

(5) After promulgation of the final membership roll in accordance with subsection 7(b)(2), each regional corporation shall distribute all moneys withheld under paragraph (4) hereof (adjusted to reflect earnings or losses from investment), after appropriate adjustments in the amount of actual distributions also to reflect prior distributions and their respective rights in such moneys, to the village corporations as provided in paragraph (3). A regional corporation shall withhold and invest in trust any moneys due a village corporation under this subsection until such village corporation is organized and qualified to do business.

(6) Notwithstanding the provisions of paragraph (3)-(5) hereof, a regional corporation shall not distribute any money, except reasonable sums required for planning purposes, to a village corporation until the village corporation

has developed an initial five-year program for the management, investment, use, and expenditure of such funds, and such program has been approved by the Corporation: *Provided,* That a failure or refusal of the Corporation to approve a village program within ninety days after its receipt may be appealed to the Commission, and the Commission's decision thereon shall be final. After approval of its initial five-year program, each village corporation shall be entitled to distributions from the regional corporation in accordance with this subsection (f), subject to Commission review of its budget pursuant to subsection (j). Each regional corporation shall invest in trust all moneys withheld from a village corporation under this paragraph until the village five-year program is approved.

(7) Moneys received from the Corporation which a regional corporation distributes to or withholds for the benefit of a village corporation, or distributes to its affiliated nonprofit corporation, in accordance with this subsection shall not constitute income to such regional corporation for any purpose.

(g) (1) Subject to the provisions of subsection (f), each regional corporation shall retain the moneys paid to it by the Corporation for carrying on the business and affairs of such regional corporation.

(2) Each regional corporation shall be entitled to 50 per

centum of the net proceeds derived from the sale, lease, permit, development, use or other disposition of lands, interests in lands, and minerals to which it acquires a patent under subsection 12(b) (3) and (4) of this Act. The remaining 50 per centum of such net proceeds shall be distributed among all the other regional corporations in direct proportion to the Native population of such other regions, as shown on the final membership roll promulgated in accordance with subsection 7(b) (2).

(3) Moneys distributed pursuant to paragraph (2) hereof shall not constitute income of the regional corporation making such distribution, but shall constitute income of the receiving regional corporation subject to taxation on the same basis as like income is taxed when received by any other business corporation.

(h) For a period of ten years after the date of its formal organization, each regional corporation shall be subject to audit by the General Accounting Office, all amendments to its articles of incorporation must be approved by the Commission, and its annual budget shall be subject to review by the Commission.

(i) Each regional corporation shall have and may exercise all rights and powers vested in a business corporation under the laws of the State of Alaska. The internal affairs of such corporations shall be governed in accordance with the

laws of the State of Alaska relating to business corporations, except to the extent inconsistent with the provisions of this Act, and except that—

(1) amendments to the articles of incorporation, articles of merger or consolidation, and articles of disssolution shall be filed with the Secretary and certified copies thereof shall be transmitted to the State Commissioner of Commerce;

(2) annual reports shall be filed with the Secretary and, for a period of ten years after formal organization of the regional corporation, also with the Commission, and certified copies thereof shall be transmitted to the State Commissioner of Commerce;

(3) the regional corporation shall not be subject to any State licensing requirements, incorporation fees or other corporate charges, except the designation of a registered office and registered agent, and nominal fees for the filing of corporate papers, or to the imposition of State taxes as provided in this section and section 18 of this Act; and

(4) the regional corporation shall not be subject to any State law which places a burden or duty upon it greater than is placed upon any other business corporation, or, unless the regional corporation so consents, to

any State corporate law which is in effect applicable only to one or more regional corporations.

(j) Subject to the provisions of subsection (k) hereof, each Native village may organize 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. The articles of incorporation for any Native village so organized shall be subject to the approval of the Commission, and for a period of ten years after the date of its organization, all amendments to the articles of incorporation must be approved by the Commission and its annual budget shall be subject to review by the Commission.

(k) The articles of incorporation for each Native village shall include the following provisions—

(1) all persons shown as members of the Native village on the final membership roll prepared in accordance with section 7 (b) of this Act shall be entitled to membership or to ownership of stock, as the case may be, in the village corporation;

(2) for a period of at least twenty years after the effective date of this Act, membership in a village corporation shall be limited to Natives and their descendants, and stock in a village corporation and any dividends paid or distributions made with respect thereto shall not be sold, pledged, subjected to a lien or judgment execu-

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tion, assigned in present or future, or otherwise alienated (except through inheritance); and

(3) the village corporation may distribute to eligible Natives and their descendants per capita or in furtherance of family plans not more than 20 per centum of the moneys paid to it pursuant to subsection (f) hereof by a regional corporation.

WITHDRAWAL OF PUBLIC LANDS

SEC. 10. (a) Public Land Order Numbered 4582, 34 Federal Register 1025, is hereby revoked.

(b) There are hereby withdrawn, 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, all public lands in Alaska, such withdrawal to continue in effect as hereinafter provided.

SELECTION OF PUBLIC LANDS

SEC. 11. (a) (1) Each Native village listed in subsection (f) of this section is hereby granted and shall be entitled to select, within eighteen months after the effective date of this Act, a total of ninety-two thousand one hundred and sixty acres or five hundred 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: *Provided,* That a Native village having a reserve set aside for its use or benefit

prior to the effective date of this Act shall have a right to select such reserve in accordance with section 15 (b) and (c).

(2) In exercising its selection rights pursuant to paragraph (1), a village shall first select from among the public lands which enclose all or part of that village plus all public lands in each township which is contiguous to or corners upon the township or townships in which such Native village is located. In the event fewer than nine townships of such public land are available around a Native village because of the location of such village on an island, along the coast or near an international boundary, this village may select from other available public land in order of proximity to the center of such village until its selection rights are exhausted. All such selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection, and, wherever feasible, shall be in units of not less than one thousand two hunderd and eighty acres.

(b) If a Native village possesses a council, board of directors or other governing body recognized by the Secretary as having authority to act for such village, and which is both composed of and elected exclusively by Natives, such council, board or governing body is hereby authorized to exercise the land selection rights of its village. In the absence of a

recognized council, board of directors or other governing body of a Native village listed in subsection (f) hereof, the Secretary shall hold an election for such village, under such rules and regulations as he may prescribe, at which a five-man village land selection committee shall be chosen, and the committee so elected is hereby authorized to exercise the land selection rights of its village. The Secretary shall hold all village elections hereunder within one year after the effective date of this Act, and the persons entitled to vote therein or serve on the land selection committee shall be the members of each Native village nineteen years of age or over, as shown on the temporary census roll prepared pursuant to section 7(a).

(c) (1) Where two or more Native villages, because of proximity in location, are entitled to and actually select the same lands, their respective village councils, boards, governing bodies or land selection committees, as the case may be, shall be authorized to settle the overlap by negotiation and, in furtherance of any such settlement, to release selected lands to each other. A Native village at any time may, and, if the villages which are parties to the overlap do not reach agreement within six months after the date such overlap arises, the Secretary shall refer the overlap to the Commission for decision in accordance with section 6 of this Act. The Commission shall award the land, or portions thereof,

to the village or villages shown historically to have made greater use and occupancy thereof by a preponderance of the evidence, or in such manner as will do substantial justice.

(2) A Native village which releases selected lands in order to settle an overlap, or which loses selected lands under a Commission award in accordance with paragraph (1), shall be entitled to select additional public lands pursuant to subsection (a) (2) until its selection rights are exhausted.

(d) The regional corporations created pursuant to section 9 (b) of this Act are hereby granted and shall be entitled to select, during the period beginning eighteen months after the effective date of this Act, from the available public lands, such amount of land as represents the difference, if any, between sixty million acres and the total acreage selected by Native villages under this section and section 15 hereof. Each regional corporation shall have the right to select an amount of land which, when added to the total amount of land selected by all villages located in that region, will be the same proportion of sixty million acres as the total area of that region is of the total area of all the regions.

(e) During the five-year period immediately following the effective date of the Act the State may proceed with selections under the Statehood Act, but tentative approval of such selections shall not be given unless the Commission determines that such approval will not under any foreseeable

circumstances conflict with the selection rights accorded by this Act. At the end of such five-year period the withdrawal of public lands provided by section 10(b) shall terminate. Any unexercised selection rights provided by this Act may be exercised during the period beginning five years after the effective date of this Act and ending ten years after the effective date of this Act, subject to prior rights arising during that period.

(f) The following Native villages are qualified for land selection under the provisions of subsection (a):

NAME AND PLACE OF REGION
Akhiok, Kodiak.
Akiachak, Southwest Coastal Lowland.
Akiak, Southwest Coastal Lowland.
Akutan, Aleutian.
Alaganik, Gulf of Alaska.
Alakanuk, Southwest Coastal Lowland.
Aleknagik, Bristol Bay.
Alatna, Koyukuk-Lower Yukon.
Allakaket, Koyukuk-Lower Yukon.
Ambler, Bering Strait.
Anaktuvuk Pass, Arctic Slope.
Andreafsey, Southwest Coastal Lowland.
Angoon, Southeast.
Aniak, Southwest Coastal Lowland.

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1 Anvik, Koyukuk-Lower Yukon.
2 Arctic Village, Upper Yukon-Porcupine.
3 Atka, Aleutian.
4 Attu, Aleutian.
5 Atkasook, Arctic Slope.
6 Barrow, Arctic Slope.
7 Beaver, Upper Yukon-Porcupine.
8 Belkofsky, Aleutian.
9 Bethel, Southwest Coastal Lowland.
10 Bettles, Koyukuk-Lower Yukon.
11 Bill Moore's, Southwest Coastal Lowland.
12 Biorka, Aleutian.
13 Birch Creek, Upper Yukon-Porcupine.
14 Brevig Mission, Bering Strait.
15 Buckland, Bering Strait.
16 Candle, Bering Strait.
17 Cantwell, Tanana.
18 Canyon Village, Upper Yukon-Porcupine.
19 Chalkyitsik, Upper Yukon-Porcupine.
20 Chanilut, Southwest Coastal Lowland.
21 Chefornak, Southwest Coastal Lowland.
22 Chenenga, Gulf of Alaska.
23 Chevak, Southwest Coastal Lowland.
24 Chignik, Kodiak.
25 Chignik Lagoon, Kodiak.

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1 Chignik Lake, Kodiak.

2 Chilcat, Gulf of Alaska.

3 Chistochina, Copper River.

4 Chukwuktoligamute, Southwest Coastal Lowland.

5 Circle, Upper Yukon-Porcupine.

6 Clark's Point, Bristol Bay.

7 Copper Center, Copper River.

8 Cordova, Gulf of Alaska.

9 Craig, Southeast.

10 Crooked Creek, Upper Kuskokwim.

11 Deering, Bering Strait.

12 Dillingham, Bristol Bay.

13 Dot Lake, Tanana.

14 Eagle, Upper Yukon-Porcupine.

15 Eek, Southwest Coastal Lowland.

16 Egegik, Bristol Bay.

17 Eklutna, Cook Inlet.

18 Ekuk, Bristol Bay.

19 Ekwok, Bristol Bay.

20 Elim, Bering Strait.

21 Ellanar, Gulf of Alaska.

22 Emmonak, Southwest Coastal Lowland.

23 English Bay, Cook Inlet.

24 Eyak Village, Gulf of Alaska.

25 False Pass, Aleutian.

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1 Fort Yukon, Upper Yukon-Porcupine.
2 Gakona, Copper River.
3 Galena, Koyukuk-Lower Yukon.
4 Gambell, Bering Sea.
5 Georgetown, Upper Kuskokwim.
6 Golovin, Bering Strait.
7 Goodnews Bay, Southwest Coastal Lowland.
8 Grayling, Koyukuk-Lower Yukon.
9 Gulkana, Copper River.
10 Haines-Port Chilkoot, Southeast.
11 Hamilton, Southwest Coastal Lowland.
12 Haycock, Gulf of Alaska.
13 Holichuk, Koyukuk-Lower Yukon.
14 Holy Cross, Koyukuk-Lower Yukon.
15 Hoonah, Southeast.
16 Hooper Bay, Southwest Coastal Lowland.
17 Hughes, Koyukuk-Lower Yukon.
18 Huslia, Koyukuk-Lower Yukon.
19 Hydaburg, Southeast.
20 Igiugig, Bristol Bay.
21 Iliamna, Cook Inlet.
22 Inalik, Bering Strait.
23 Ivanof Bay, Aleutian.
24 Juneau, Southeast.

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1 Kake, Southeast.

2 Kaktovik, Arctic Slope.

3 Kalskag, Southwest Coastal Lowland.

4 Kaltag, Koyukuk-Lower Yukon.

5 Karluk, Kodiak.

6 Kasaan, Southeast.

7 Kashiga, Aleutian.

8 Kasigluk, Southwest Coastal Lowland.

9 Katalla, Gulf of Alaska.

10 Kenai, Cook Inlet.

11 Ketchikan, Southeast.

12 Kiana, Bering Strait.

13 King Cove, Aleutian.

14 Kipnuk, Southwest Coastal Lowland.

15 Kivalina, Bering Strait.

16 Klawock, Southeast.

17 Klukwan, Southeast.

18 Kobuk, Bering Strait.

19 Koliganek, Bristol Bay.

20 Kokhanok, Bristol Bay.

21 Kongigonak, Southwest Coastal Lowland.

22 Kotlik, Southwest Coastal Lowland.

23 Kotzebue, Bering Strait.

24 Koyuk, Bering Strait.

25 Koyukuk, Koyukuk-Lower Yukon.

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1 Kwethluk, Southwest Coastal Lowland.

2 Kwigillingok, Southwest Coastal Lowland.

3 Lake Manchumina, Koyukuk-Lower Yukon.

4 Larsen Bay, Kodiak.

5 Latauche, Gulf of Alaska.

6 Levelock, Bristol Bay.

7 Lime Village, Upper Kuskokwim.

8 Livengood, Koyukuk-Lower Yukon.

9 Lower Kalskag, Southwest Coastal Lowland.

10 McGrath, Upper Kuskokwim.

11 Makok, Koyukuk-Lower Yukon.

12 Makushin, Aleutian.

13 Manley Hot Springs, Tanana.

14 Manokotak, Bristol Bay.

15 Mansfield Village, Koyukuk-Lower Yukon.

16 Marshall, Southwest Coastal Lowland.

17 Mary's Igloo, Bering Strait.

18 Medfra, Upper Kuskokwim.

19 Mekoryuk, Southwest Coastal Lowland.

20 Mentasta Lake, Copper River.

21 Metlakatla, Southeast.

22 Minchimina Lake, Upper Kuskokwim.

23 Minto, Tanana.

24 Moses Point, Gulf of Alaska.

25 Mountain Village, Southwest Coastal Lowland.

55

1 Old Harbor, Kodiak.

2 Oscarville, Southwest Coastal Lowland.

3 Ouzinkie, Kodiak.

4 Paradise, Koyukuk-Lower Yukon.

5 Paulof Harbor, Aleutian.

6 Pedro Bay, Cook Inlet.

7 Perryville, Kodiak.

8 Petersburg, Southeast.

9 Pilot Point, Bristol Bay.

10 Pilot Station, Southwest Coastal Lowland.

11 Pitkas Point, Southwest Coastal Lowland.

12 Platinum, Southwest Coastal Lowland.

13 Point Hope, Arctic Slope.

14 Point Lay, Arctic Slope.

15 Portage Creek (Ohgsenakale), Bristol Bay.

16 Port Ashton, Gulf of Alaska.

17 Port Graham, Cook Inlet.

18 Port Lions, Kodiak.

19 Port Heiden (Meshik), Aleutian.

20 Port Nellie Wayn, Gulf of Alaska.

21 Quinhagak, Southwest Coastal Lowland.

22 Rampart, Upper Yukon-Porcupine.

23 Red Devil, Upper Koskokwim.

24 Ruby, Koyukuk-Lower Yukon.

56

1 Mummy Island, Gulf of Alaska.

2 Nabesna Village, Tanana.

3 Naknek, Bristol Bay.

4 Napaimute, Upper Kuskokwim.

5 Napakiak, Southwest Coastal Lowland.

6 Napaskiak, Southwest Coastal Lowland.

7 Nelson Lagoon, Aleutian.

8 Newhalen, Cook Inlet.

9 Nenana, Tanana.

10 New Stuyahok, Bristol Bay.

11 Newtok, Southwest Coastal Lowland.

12 Nightmute, Southwest Coastal Lowland.

13 Nikolai, Upper Kuskokwim.

14 Nikolski, Aleutian.

15 Ninilchik, Cook Inlet.

16 Noatak, Bering Strait.

17 Nome, Bering Strait.

18 Nondalton, Cook Inlet.

19 Nooiksut, Arctic Slope.

20 Noorvik, Bering Strait.

21 Northeast Cape, Bering Sea.

22 Northway, Tanana.

23 Nulato, Koyukuk-Lower Yukon.

24 Nunapitchuk, Southwest Coastal Lowland.

25 Ohogamiut, Southwest Coastal Lowland.

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Russian Mission (Kuskokwim) (or Chauthaluc), Upper Kuskokwim.

Russian Mission (Yukon), Southwest Coastal Lowland.

Saint George, Aleutian.

Saint Mary's, Southwest Coastal Lowland.

Saint Michael, Bering Strait.

Saint Paul, Aleutian.

Salamatof, Cook Inlet.

Sand Point, Aleutian.

Savonoski, Bristol Bay.

Savoonga, Bering Sea.

Saxman, Southeast.

Scammon Bay, Southwest Coastal Lowland.

Selawik, Bering Strait.

Seldovia, Gulf of Alaska.

Seward, Gulf of Alaska.

Shageluk, Koyukuk-Lower Yukon.

Shaktoolik, Bering Strait.

Sheldon's Point, Southwest Coastal Lowland.

Shishmaref, Bering Strait.

Shungnak, Bering Strait.

Sitka, Southeast.

Skituk, Cook Inlet.

Slana, Copper River.

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1 Sleetmute, Upper Kuskokwim.

2 Solomon Council, Gulf of Alaska.

3 South Naknet, Bristol Bay.

4 Squaw Harbor, Aleutians.

5 Stebbins, Bering Strait.

6 Stevens Village, Upper Yukon-Porcupine.

7 Stony River, Upper Kuskokwim.

8 Tanacross, Tanana.

9 Tanana, Koyukuk-Lower Yukon.

10 Tatitlet, Gulf of Alaska.

11 Telida, Upper Kuskokwim.

12 Teller, Bering Strait.

13 Tetlin, Tanana.

14 Togiak, Bristol Bay.

15 Toksook Bay, Southwest Coastal Lowland.

16 Tuluksak, Southwest Coastal Lowland.

17 Tuntutuliak, Southwest Coastal Lowland.

18 Tununak, Southwest Coastal Lowland.

19 Twin Hills, Bristol Bay.

20 Tyonek, Cook Inlet.

21 Ugashik, Bristol Bay.

22 Unalakleet, Bering Strait.

23 Unalaska, Aleutian.

24 Unga, Aleutian.

25 Uyak, Kodiak.

Valdez, Gulf of Alaska.

Venetie, Upper Yukon-Porcupine.

Wainwright, Arctic Slope.

Wales, Bering Strait.

White Mountain, Bering Strait.

Wiseman, Koyukuk-Lower Yukon.

Wrangell, Southeast.

Yakutat, Southeast.

CONVEYANCE OF LANDS

SEC. 12. (a) The Secretary shall promptly survey the areas selected for conveyance to Native villages and regional corporations pursuant to the provisions of sections 11 and 15 of this Act, but need monument only the exterior boundaries of these townships or areas. He also shall promptly survey (1) within the areas selected all lands occupied as a primary place of residence, a primary place of business, subsistence campsites, reindeer grazing grounds, and for other purposes as required under subsection (b) (2) hereof, and (2) any other land to be patented under this Act.

(b) (1) Upon completion of the survey of lands selected by a Native village, as provided in subsection (a) hereof, the Secretary promptly shall issue a patent or patents to such village to the land and all interests therein, except minerals covered by the mining and mineral leasing laws, subject to valid existing rights, and subject to the provisions

of paragraph (2) hereof: *Provided,* That the Secretary shall hold the lands and interests in lands to which the village may be entitled in trust until such village organizes as a corporation or otherwise qualifies to own real property. 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.

(2) Upon receipt of a patent or patents to selected lands, a Native village—

(A) shall 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 residence, as a primary place of business, for subsistence campsites (up to five acres per individual or forty acres per group), or for reindeer husbandry (up to two thousand five hundred and sixty acres per individual and a maximum of five tracts per village), subject to valid existing rights;

(B) shall 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 a primary place of business, subject to valid existing rights;

(C) may issue deeds to the occupants, either in

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the discretion of the village without consideration or upon payment of an amount not in excess of fair market value for such property, to the surface of tracts occupied on September 1, 1969, by nonprofit organizations for the purposes for which such organizations were established, subject to valid existing rights: *Provided,* That all nonprofit organizations of the same general character shall be accorded similar treatment with respect to payment for land; and

(D) 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, subject to valid existing rights.

Any dispute over the boundaries, use, occupancy or value of any tract which is covered by this paragraph may be submitted by any party to such dispute to the Commission for decision.

(3) Upon completion of the survey of lands selected by a Native village, as provided in subsection (a) hereof, the Secretary promptly shall issue a patent or patents to all minerals covered by the mining and mineral leasing laws, subject to valid existing rights, to the regional corporation for the region in which such village is located. 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.

(4) Upon completion of the survey of lands selected by a regional corporation, as provided in subsection (a) hereof, 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, subject to valid existing rights. 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.

(c) Nothing in this Act, except the withdrawal of public lands pursuant to section 10, shall repeal, modify or otherwise affect the right of any Native to acquire public lands of the United States under the Native Allotment Act of May 17, 1906 (34 Stat. 197), as amended. In addition, upon application to the Commission within ten years after the effective date of this Act, and upon certification by the Commission that such application is valid and proper, the Secretary shall issue a patent to the Native applicant, subject to valid existing rights, without payment therefor, to the surface of public lands outside the areas selected pursuant to section 11 and patented pursuant to section 12 (b) —

(1) which have been used by a Native or group of

Natives for a period of more than three years immediately prior to the effective date of this Act as a campsite for the harvesting of fish, wildlife, berries, fuel, or other products of the land: *Provided,* That such patents shall be issued (A) for five-acre tracts for each subsistence use campsite separate from the campsite of any other applicant, (B) for forty-acre tracts where the campsites of several applicants are in such proximity to each other as to make it not feasible to patent individual five-acre campsites, or (C) for larger tracts, not to exceed sixty acres, where individuals can establish, under such rules and regulations as the Commission may prescribe, historic occupancy and use of the larger tracts; or

(2) which have been used by a bona fide reindeer husbandryman, family, or village community reindeer association or group, which was practicing reindeer management on the effective date of this Act: *Provided,* That such patents shall be up to, but shall not exceed, two thousand five hundred and sixty acres, may include more than one tract, and shall cover only lands that have been leased, permitted, or used for reindeer management purposes, including summer and winter range facilities and intervening line camps, for at least three years prior to the date of application to the Commission; or

(3) which have been used by a Native nineteen

years of age or over as a primary place of residence or business for one year prior to the date of application to the Commission: *Provided*, That such patent shall be up to, but shall not exceed, one hundred and sixty acres: *And provided further*, That such patent shall include title to minerals subject to the mining laws, but not to the mineral leasing laws.

Pending the issuance of a patent under this paragraph, the Secretary may permit continued use of the lands for the purposes upon which the application for patent is based. The Secretary shall apply the rule of approximation with respect to acreage limitations set forth in this paragraph.

(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 such leases, contracts, or permits covering the surface or minerals patented.

(2) The Secretary shall provide as a condition to the granting of each permit to prospect, or to the granting of each lease to mine or drill for minerals covered by the mineral leasing laws, which minerals are situated in lands patented pursuant to subsection (c), and are not covered by such patent, that the permittee or lessee shall provide a bond, satisfactory to the Secretary, to indemnify the surface patentee for any damages which such permittee or lessee may cause in connection with the development of such permit or lease, and further the Secretary shall include provisions in such lease or permit which will protect the surface patentee against unreasonable interference in the enjoyment of his land.

ADMINISTRATION OF LANDS

SEC. 13. (a) Village and regional corporations may exchange lands, interests in lands and water rights with each other, or with the State or the United States, and the Secretary, the Secretary of Agriculture and the Secretary of Defense, under such rules and regulations as they respectively may prescribe, may exchange land, interests in lands and water rights under their jurisdiction with village and regional corporations, for the purpose of effecting land consolidations or for facilitating the management or development of land. Exchanges of lands, interests in lands and water rights hereunder shall be made on the basis of equal value, and the

value of improvements on lands shall be given due consideration and allowance made therefor in any valuation: *Provided,* That either party to an exchange under this subsection may pay or accept cash in order to equalize the values of the properties exchanged.

(b) Pending the selection by a Native village or regional corporation pursuant to sections 11 or 15 of public lands withdrawn in accordance with section 10, or the restoration of such lands to the status in which they had been placed prior to the effective date of this Act, the Secretary may take such actions as shall be necessary to administer, manage and protect such withdrawn public lands: *Provided,* That the Secretary shall not sell or otherwise permanently dispose of lands or interests therein, except as provided in this subsection: *And provided further,* That the Secretary shall not, without the consent of the village or regional corporation for the benefit of which the land was withdrawn, 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. The Secretary, with the approval of the Commission, and in accordance with such rules and regulations as he shall prescribe, may grant an easement or right-of-way for a public purpose over, across, under or through withdrawn public lands on condition that the grantee of such easement or right-of-way: (1) shall

provide a bond, satisfactory to the Secretary, in an amount sufficient to pay the fair market value of any interest it acquires in lands subsequently selected by a Native village or regional corporation; and (2) shall agree to conserve the natural resources of the land, including fish and wildlife, and to protect the surface owner from unreasonable interference in the enjoyment of his land. All payments or revenues attributable to the use or other disposition of withdrawn lands selected by a Native village or regional corporation, after deducting the cost of administration thereof, shall be paid by the Secretary to such village or corporation.

(c) After the selection by a Native village or regional corporation pursuant to sections 11 or 15 of public lands but before the issuance of a patent thereto under section 12, such village or corporation shall have a right to lease or dispose of the lands and interests in lands so selected, including minerals, on the same terms and conditions (except that approval shall be by the Commission rather than by the Secretary) as an Indian tribe organized under section 16 of the Act of June 18, 1934 (25 U.S.C. 476; 48 Stat. 987), may dispose of unallotted lands and interests therein, including minerals, to which its title has been recognized by treaty or statute: *Provided,* That easements or rights-of-way for public purposes may be acquired within such lands by condemnation in accordance with the laws of the State. For purposes of

this subsection, the board of directors of the regional corporation, and the council, board of directors or other governing body recognized by the Secretary as having authority to act for a Native village, shall have the same rights, powers, duties and authority as a tribal council possesses in acting for an organized tribe; the village land selection committee, elected pursuant to section 11(b) of this Act, shall be authorized to exercise the same rights, powers and authority, and assume the same duties, if the Secretary and the Corporation both approve. Notwithstanding any other provision of law, all payments or revenues attributable to the leasing or other disposition of selected lands in accordance with this subsection shall be paid directly to the Native village or regional corporation, as the case may be.

(d) After the patenting of selected lands pursuant to section 12 of this Act, the village and regional corporations may hold, manage, lease or dispose of such lands and interests therein, including minerals, in accordance with the laws of the State: *Provided, however,* That for a period of ten years after the effective date of this Act, any sale (other than a sale pursuant to section 12(b)(2)), mortgage, surface lease for a term (including renewals) of more than fifty years, grant of a permanent easement or right-of-way, or gift of such lands, or interests in lands, shall require the approval of the Commission in order to be valid. Land deeded to a

non-Native individual or organization by a Native village pursuant to section 12(b)(2), and land sold by a village or regional corporation to any person or entity other than a Native, the Corporation, or another village or regional corporation shall not be exempt from taxation pursuant to section 18(c) of this Act as of the date of such deed or sale.

ROYALTY ON DISPOSITION OF PUBLIC LANDS

SEC. 14. (a)(1) All revenues derived from rentals and bonuses upon disposition of all deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulphur located in public lands in Alaska and of all deposits of any other minerals located in such lands during the period beginning January 1, 1969, and ending on the effective date of this Act, shall be distributed as provided in the Statehood Act of July 7, 1958 (72 Stat. 339), except that, prior to calculating the shares of the State and the United States as set forth in such Act, 2 per centum of such proceeds shall be deducted and paid into the Fund. From the royalty received by the State or the United States, as the case may be, under each lease for the disposition of such minerals entered into during the same period, an amount equal to 2 per centum of the gross value of the minerals (as the gross value thereof is determined for royalty purposes under the lease involved) also shall be deducted and paid into the Fund, and the respective shares of the State and the United States

in such royalty shall be calculated on the remaining balance. The provisions of this paragraph shall be enforceable by the United States for the benefit of the Natives.

(2) All leases or other dispositions of such minerals made after the effective date of this Act shall provide: (A) that a royalty of 2 per centum upon the gross value of any minerals produced (as that gross value is determined for royalty purposes under such lease or other disposition) shall be paid into the Fund; and (B) that 2 per centum of all revenues derived from rentals and bonuses upon disposition of such minerals shall be deducted and paid into the Fund prior to calculating the respective shares of the State and the United States in such proceeds under the Statehood Act.

(b) The Secretary, with the concurrence of the Secretary of Defense, may dispose of deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur located within Naval Petroleum Reserve No. 4 either upon application therefor or upon his own motion only under such competitive bidding procedures, using oral or sealed bidding or a combination thereof, as the Secretary may prescribe by regulation. The provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented, shall apply to the extent that such provisions are not inconsistent with this Act. All leases or other dispositions of such minerals made in accordance with this subsection shall provide: (1) that a

royalty of 2 per centum upon the gross value of any minerals produced (as that gross value is determined for royalty purposes under such lease or other disposition) shall be paid into the Fund; (2) that 2 per centum of all revenues derived from rentals and bonuses upon disposition of such minerals shall be deposited in the Fund; and (3) that the remaining proceeds from the disposition of such minerals be returned as miscellaneous receipts to the Treasury of the United States.

(c) There shall be paid into the Fund 2 per centum of all revenues derived by the United States from the sale or lease of surface resources located on public lands in Alaska, except lands withdrawn under section 10 of this Act, from the disposition by the Secretary or the Secretary of Agriculture of mineral or vegetative materials pursuant to the Act of July 31, 1947 (61 Stat. 681), as amended, or from the disposition of timber or other resources within any national forest by the Secretary of Agriculture.

(d) The royalties provided under this section shall not operate to exclude lands subject thereto from selection by the State under the Statehood Act of July 7, 1958 (72 Stat. 339), if such lands otherwise are available for selection. Every patent of public lands issued to the State of Alaska under the Statehood Act after the effective date of this Act, however, shall expressly reserve for the benefit of the Natives: (1) a royalty of 2 per centum upon the gross value

(as such gross value is determined for royalty purposes under any lease or other disposition by the State) of the minerals defined in subsection (a) hereof produced on or removed from such lands; (2) a right to receive 2 per centum of all revenues derived by the State from rentals and bonuses upon disposition of such minerals; and (3) a right to receive 2 per centum of all other revenues derived by the State from the sale, lease, permit or other disposition of such lands or the mineral and vegetative resources therein. Such royalty and other revenues shall be paid into the Fund and shall be distributed or withdrawn therefrom only in accordance with this Act. In the event of default by the State of Alaska in making such payments, and in addition to any other remedies provided by law, there shall be deducted annually and deposited in the Fund the amount of any underpayment, to be taken first from the share of mineral revenues from public lands in Alaska paid as Federal grants-in-aid to the State and, if such share is insufficient, from any other funds paid to the State of Alaska by the United States.

(e) (1) The provisions of this section requiring revenue sharing by the State and the United States are enacted pursuant to the authority reserved by the United States in section 4 of the Alaska Statehood Act to determine the disposition of lands used and claimed by Natives and as to

which the State was, by the Alaska Statehood Act, required to and did disclaim all right and title. Therefore:

(A) in the event that the State initiates litigation or becomes a party to litigation to contest in any manner the operation of this section all rights of land selection granted to the State by the Alaska Statehood Act shall be suspended as to any public lands which are determined by the Secretary as potentially valuable for mineral development, timber, or other commercial purposes, and no selections shall be made, no tentative approvals shall be granted, and no patents shall be issued for such lands during the pendency of such litigation; and

(B) in the event that the State or any other party initiates litigation to contest in any manner the operation of this section are judicially determined to be inapplicable to the State, such suspension and prohibition on the granting of tentative approvals and issuance of patents shall continue for as long as may be necessary, but not in excess of two years, to allow the regional corporations an opportunity to select out of public lands the mineral estate of five million acres of land in noncontiguous blocks of four townships. Each regional corporation shall have the right to select an amount of land in proportion to the size of that region. The Secre-

tary upon application therefor filed by a regional corporation shall issue to that corporation, without payment, a patent to the mineral estate in the lands selected, subject to all valid and existing rights. Where, prior to such patent, a lease, contract, or permit has been issued for the utilization of the mineral resources covered under such patent, 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 such patent, the regional corporation shall succeed and become entitled to any and all interests of the State or the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the minerals patented. The administration of such lease, contract, or permit shall continue to be by the State or the United States. In the event that 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 State or the United States which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, con-

tract, or permit which is included in the patent and the denominator is the total acreage contained in such lease, contract, or permit.

(2) Any civil action commenced by the State or any other parties to contest in any manner the purpose and the substantive operation of this section shall be barred unless the complaint is filed within one year of the date of enactment of this Act. The purpose of this limitation on suits is to insure that, after the expiration of a reasonable period of time, the right, title, and interest of the United States, the Natives, and the State to share in revenues will vest with certainty and finality and may be relied upon by all other parties in their dealings with the State, the Natives, and the United States.

(3) In the event that rights of land selection granted to the State by the Alaska Statehood Act should ever be suspended pursuant to the provisions of subsection (e) hereof, the State's right of land selection pursuant to section 6 of the Alaska Statehood Act, Act of 1958 (72 Stat. 341, 77 Stat. 223) shall be extended for a period of time equal to the period of time as the selection right was suspended pursuant to the provisions of subsection (e) (1) (A).

REVOCATION OF RESERVATIONS; EXCEPTIONS

SEC. 15. (a) Notwithstanding any other provisions of law, and except where inconsistent with the provisions of

this Act, the various reserves set aside by legislation or by Executive or secretarial order for Native use or for the administration of Native affairs, including reserves created under the Act of May 31, 1938 (52 Stat. 593), are hereby revoked, subject to any valid existing rights: *Provided,* That lands within any reserve which is revoked pursuant to this subsection shall be deemed to be public lands as of the effective date of this Act and subject to withdrawal in accordance with section 10 hereof.

(b) (1) Notwithstanding any other provisions of law or of this Act, and in lieu of any right to selection and conveyance of lands pursuant to sections 10–12, inclusive, each Native village may vote, in accordance with the procedures established under section 11(b), to acquire title to the reserve or reserves set aside for its use or benefit prior to the effective date of this Act.

(2) Lands within the various reserves described in subsection (a) shall remain withdrawn from selection by the State and all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, until the Native village for which it was set aside decides whether to acquire title thereto pursuant to this subsection or sections 10–12, inclusive, and, in the event of an affirmative decision to invoke this subsection, until the Secretary issues a patent in accordance with such decision: *Provided,*

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That the Secretary shall hold the lands and interests in lands to which each village may be entitled in trust until such village organizes as a corporation or otherwise qualifies to own real property. A village shall acquire the same rights, title and interest in lands under this subsection as other Native villages acquire pursuant to sections 10–12, inclusive.

(c) Notwithstanding any other provisions of law or of this Act, and in lieu of any right to the withdrawal, selection and conveyance of lands pursuant to sections 10–12, inclusive, the Native village of Tyonek may vote, in accordance with the procedures established under section 11 (b), to acquire title to the Moquawkie Reserve set aside by Executive order of February 27, 1915. In the event Tyonek decides to acquire title to the Moquawkie Reserve in accordance with this subsection: (1) the Secretary shall issue a patent to such Native village to all lands and interests in lands (including oil, gas, and other minerals) within such Reserve, subject to valid existing rights; and (2) the Native village of Tyonek and its members shall be entitled to share in the compensation paid pursuant to section 5 hereof, but shall not be entitled to any other benefits accorded the Natives of Alaska under this Act.

(d) In the event the tract to which a Native village acquires title pursuant to subsections (b) or (c) hereof is smaller than the area of land to which the village otherwise

would be entitled under sections 10–12 of this Act, such village may select and obtain a conveyance of additional lands pursuant to such sections in an amount sufficient, with lands acquired under this section, to equal its entitlement.

(e) The Annette Islands Reserve established by the Act of March 3, 1891 (26 Stat. 1101), is hereby granted to the Native village of Metlakatla, and such village shall have no right to the withdrawal, selection or conveyance of lands pursuant to sections 10–12, inclusive. The Native village of Metlakatla and any persons who qualify for enrollment as Alaska Natives solely because of their Tsimshian Indian blood shall not be entitled to share in the compensation paid pursuant to section 5(a) hereof, but shall be entitled to all other benefits accorded the Natives of Alaska under this Act. In addition to the rights conferred under section 16, Metlakatla and its members shall have the right for a period of fifty years to fish for commercial purposes within the Annette Islands Reserve in accordance with such rules and regulations as the Secretary may prescribe.

(f) Nothing in this Act shall repeal, modify or otherwise affect the right of the Secretary to establish a townsite on Saint Paul Island or the right of Natives of the Pribilof Islands to acquire title to tracts therein pursuant to the Act of November 2, 1966 (80 Stat. 1094).

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PROTECTION OF SUBSISTENCE RESOURCES

SEC. 16. (a) Notwithstanding any provision of Federal or State law to the contrary, 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 to which any Native village or regional corporation acquires title pursuant to sections 10–12, inclusive, or section 15 hereof, and also on public lands of the United States, including lands selected by the State under the Statehood Act of July 7, 1958 (72 Stat. 339), for a period of one hundred years after the effective date of this Act, subject in the case of public lands to such reasonable restrictions as the Secretary or the head of the State or Federal agency having jurisdiction over such lands may impose as hereinafter provided; *Provided*, That such subsistence right shall terminate with respect to land patented to third parties on the date of the patent or twenty-five years after the effective date of this Act, whichever later occurs.

(b) (1) Prior to conveyance of the surface estate therein by the United States, Natives of Alaska may hunt, fish, trap, gather fuel, and pick berries or other natural food products for subsistence purposes on public lands in Alaska. These uses are hereinafter in this subsection referred to as "subsistence uses". In determining whether to withdraw, reserve, lease, or otherwise permit use or occupancy of such land, the

head of the agency exercising such authority shall consider, along with other relevant factors, the subsistence needs of the Natives affected, the availability of other lands for the purposes sought to be achieved, alternatives to the achievement of those objectives which would eliminate or reduce the requirement for taking lands needed for subsistence uses, and the necessity for the proposed withdrawal, reservation, lease, or other proposed use or occupancy having due regard to the subsistence needs of the Natives affected. No withdrawal, reservation, lease, permit, or other use or occupancy of such lands authorized or conferred under the laws of the United States shall limit subsistence uses except to the extent that, after notice and opportunity for hearing in the general vicinity of the area involved, it is determined on the record by the head of the agency having jurisdiction that a limitation on the exercise of subsistence uses is necessary for the reasonable accomplishment of the purposes thereof and that such purposes can be accomplished without unreasonably impairing the ability of the Natives involved to satisfy their subsistence needs.

(2) Commencing twenty-five years after the date of the enactment of this Act, subsistence uses shall no longer be effective as to any public lands which the Secretary finds on the record after notice and opportunity for hearing have not been substantially used for subsistence purposes for the five

preceding years. The Secretary may from time to time restore subsistence uses as to any public lands in Alaska in the event he determines that there is again a substantial need therefor, in which event the subsistence use shall be governed by the provisions of this subsection.

(c) For a period of twenty-five years after the effective date of this Act, the Secretary, upon petition by any individual residing in Alaska or by the Department of Fish and Game of the State of Alaska, shall, after a public hearing, and under such rules and regulations as he may prescribe, determine whether or not an emergency exists with respect to the depletion of subsistence biotic resources in any given area of the State and may thereupon delimit and declare that such area will be closed to entry for hunting, fishing, or trapping, except by residents of such area, subject to the provisions of any treaty concerning such resources. The closing authorized by this section shall not be for a period of more than five years, but may be extended by the Secretary after hearing, and a published finding that the emergency continues to exist. Any person knowingly hunting, fishing, or trapping in such area, except a resident thereof, may, upon conviction, be required to forfeit any gear, vehicle, boat, or aircraft used in connection with such violation, and shall, upon conviction, be subject to a fine of not more than $1,000, or to imprisonment for not more than a year, or both.

ATTORNEYS' FEES AND EXPENSES

SEC. 17. There are authorized to be appropriated to the Secretary such sums as may be necessary to pay—

(a) all reasonable attorneys' fees and out-of-pocket expenses incurred by or on behalf of any Native, Native village or other Native tribe, band or group under a contract approved by the Secretary in the actual prosecution of a claim pending before any court or the Indian Claims Commission which is dismissed pursuant to this Act: *Provided,* That 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, by the Secretary on a quantum meruit basis; and

(b) all reasonable attorneys' fees and out-of-pocket expenses incurred by or on behalf of any Native village, tribe, band, group or association, including the Alaska Federation of Natives, for legal representation with respect to the scope and preparation of this Act and previously proposed legislation to settle claims against the United States or the State based upon aboriginal right, title, use or occupancy of lands by the Natives in Alaska, or with respect to litigation (excepting the cases covered under subsection (a) hereof) involving the validity of or otherwise affecting such claims: *Provided,* That the

amount of such fees and reimbursable expenses shall be subject to approval of the Secretary: *And provided further,* That services by the attorneys for which compensation previously has been paid shall not be subject to further compensation.

TAXATION

SEC. 18. (a) The compensation paid to the Natives of Alaska pursuant to section 5 (a) of this Act, and any interest earned with respect thereto while such funds are deposited in the Fund or are invested by the Secretary pursuant to section 5 (d), shall not be subject to any form of Federal or State taxation either (1) at the time of receipt, or (2) upon distribution to any Native corporation or individual Native, whether directly by a per capita payment or indirectly through such corporation or corporations. For purposes of this subsection, the first dividend payments or other cash distributions made by any Native corporation shall be deemed to be distributions out of its share of funds derived from section 5 (a), including interest, until such share has been fully distributed.

(b) The compensation paid to the Natives pursuant to section 5 (b) of this Act, and any interest earned with respect thereto while such funds are deposited in the Fund, shall not be subject to any form of Federal or State taxation either (1) at the time of receipt, or (2) upon distribution

to any Native corporation or individual Native, whether directly by a per capita payment or indirectly through such corporation or corporations, for a period of twenty years after the effective date of this Act. For purposes of this subsection, the first dividend payments or other cash distributions made by any Native corporation, after the distribution of compensation paid pursuant to section 5(a) in accordance with subsection (a) hereof, shall be deemed to be distributions out of its share of funds derived from section 5(b), including interest, until such share has been fully distributed. After the expiration of the foregoing twenty-year period, the compensation paid to the Natives pursuant to section 5(b), and any interest with respect thereto while such funds are deposited in the Fund, shall not be subject to Federal or State income taxation at the time of receipt, but shall be subject to such taxation upon distribution to any Native or Native corporation on the same basis as like income is taxed when received by a non-Native individual or corporation.

(c) Lands to which a Native village acquires title pursuant to sections 10–12, inclusive, or section 15 hereof, lands to which a regional corporation acquires title pursuant to section 12, and mineral rights to which any Native corporation acquires title pursuant to sections 12 or 15 hereof, shall be exempt from State and local real property taxes for a

period of fifty years after the effective date of this Act: *Provided*, That municipal taxes or assessments may be imposed upon individually owned real property within its jurisdiction by any Native village incorporated as a governmental unit under the laws of the State of Alaska: *And provided further*, That easements, rights-of-way, leaseholds and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalities, 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.

(d) Lands to which a Native village acquires title pursuant to sections 10–12, inclusive, or section 15 of this Act, and lands to which a regional corporation acquires title pursuant to section 12, shall, so long as the fee therein remains not subject to State or local taxes on real estate, continue to be regarded as public lands for the purpose of computing the Federal share of any highway project pursuant to title 23 of the United States Code, as amended and supplemented, and so long as there are also no substantial revenues from such lands, continue to receive forest fire protection services from the United States at no cost.

REVIEW BY CONGRESS

SEC. 19. On or before March 1 of each year during the

twenty years following the effective date of this Act, the Commission and the Secretary, respectively, shall submit reports to Congress concerning the operation and implementation of this Act during the previous calendar year. Within ninety days after the end of each five-year period following enactment of this Act, the Commission and the Secretary also shall submit to Congress, through the President, a joint report on the status of the Natives and their organizations, a summary of actions taken under this Act, and their respective recommendations as may be appropriate for extension, amendment or clarification of any provisions of this Act. This joint report and the Commission's annual report shall include as an appendix all statements, memorandums, reports and other written comments presented to the Commission for forwarding to Congress by any Native village, corporation or association.

APPROPRIATIONS

SEC. 20. There is authorized to be appropriated to the Commission and the Secretary, respectively, such sums as may be necessary to carry out the functions and responsibilities that they are required to perform under the provisions of this Act. Such sums shall remain available until expended.

PUBLICATION

SEC. 21. The Commission and the Secretary are authorized to issue and publish in the Federal Register, pursuant

to the Administrative Procedures Act (5 U.S.C. 500 and following), such rules and regulations as may be necessary to carry out the purposes of this Act.

SAVINGS CLAUSE

SEC. 22. Except as specifically provided for in this Act, nothing in this Act shall be construed as repealing any other provision of Federal law applicable to Alaska. To the extent that a conflict may exist between any provision of this Act and any other Federal laws applicable to Alaska, the provisions of this Act shall govern.

[From the Congressional Record, Feb. 9, 1971]

Fair Settlement of the Alaska Native Claims

Mr. Harris. Mr. President, one of the most important responsibilities of the 92d Congress will be the passage of legislation to finally settle the Alaska Native land claims. Late in the 91st Congress the Senate passed S. 1830, a bill providing a settlement of this issue, but the House of Representatives did not take action before final adjournment.

The fact the House did not act on S. 1830 was pleasing to many. S. 1830 clearly was not a fair and equitable settlement of the Alaska Native land claims. I and others believe that when the Senate considers this matter again, it will be more responsive to the needs and desires of the Indians, Eskimos, and Aleuts of Alaska, who are being dispossessed of so much of their land claims.

I have noted that the distinguished junior Senator from Washington (Mr. Jackson) has introduced a bill to provide for the settlement of the Alaska Native land claims, S. 35, cosponsored by our colleagues from Alaska (Mr. Gravel and Mr. Stevens), which is identical to S. 1830. I hope that as the Senate Interior Committee considers S. 35 and other legislation which may be before the committee providing for settlement of the claims, that it will give serious consideration to the issues raised last year on the Senate floor by myself and others as to the fairness and equity of S. 1830.

Tht most important issue of course is the amount of land that will be provided to the Natives. S. 35 would permit the Indians, Eskimos, and Aleuts of Alaska to retain only 10 million acres. Last year I offered an amendment to increase the acreage to be given the Natives under the terms of S. 1830 from 10 million to 40 million, but unfortunately the amendment failed to pass the Senate.

During the debate last year on S. 1830, there was some uncertainty as to how much land the Alaskan Natives wanted and needed. This year, there is no doubt about the fact that the Alaskan Natives want and need much more than 10 million acres.

The board of directors of the Alaskan Federation of Natives, meeting in Juneau in December, reached the conclusion that a fair settlement would include confirmation "of title to 60 million acres of land in the Native villages and regions over which the Native people have asserted dominion through use and occupancy from time immemorial."

The importance of a fair and equitable land settlement for the Alaskan Natives is truly great. Mrs. Margaret Nick Cooke, secretary, Alaskan Federation of Natives, expressed the significance of the land beautifully, stating:

"If we lose the land, we lose our people."

Dr. Alexander Leighton, professor of social psychiatry, head of the department of behavioral sciences, Harvard School of Public Health, wrote of the importance of an adequate land base for the Alaskan Native people, stating:

"In short, the shift of the Alaskan Natives from a hunting economy and culture must come about through their will and self-determination, and it must follow a period during which resources for preparing themselves have been put at their disposal through education and technical training, and when preparations have been made in the larger society for their economic and social acceptance.

"Without a secure and adequate land base for their present subsistence needs and for future commercial development, the Alaskan Natives will come into the society of the United States at the lowest economic level. This is one aspect of repeating the unfortunate history of other Indian groups. It will constitute a major failure in cultural change."

The Alaskan Federation of Natives considered going as high as 100 million acres in their demands, but finally agreed upon the 60-million-acre figure. A 40-million-acre figure was felt to be inadequate because of the needs of such regions as the Arctic Slope.

It is unchallenged that the Natives are now using a minimum of 60 million acres, which is less than 17 percent of the lands to which they have a valid legal claim. We know that the native people need vast areas of land if they are to continue their traditional way of life. The Tundra Times in an editorial recognized the importance of the land to Natives, stating:

"Land is precious. Land is revered by Alaska's native people. They would like a good share of what they always had. Giving up too much of it would be a tragedy."

I advocate that the Senate approve a 60-million-acre settlement.

The provision in S. 35 establishing a five-member Commission appointed by the President that would, among other things, have the duty of preparing the final membership role of the Natives, will again be in question this year. Last year, I offered an amendment to require three, rather than just two, Natives to be on the Commission. As I said during the debate last year:

"The spirit of this amendment is in keeping with the objectives of this bill, to vest in the Native people the power to determine and control their own destiny and affairs.

"Indeed, Mr. President, this amendment recognizes the importance of Native self-determination in implementing the provisions of the act and is in keeping with the worthy objectives for Indians and Natives which were expressed by the President in his July 8 message on Indian affiars."

The matter of terminating the services of the Bureau of Indian Affairs will also be in question again this year. Subsection 4(b) of the bill provides for the phasing out or termination of certain rights which the Natives of Alaska are entitled to under the present law. The question of termination of services is a choice that should be left with the Natives and not be mandated by Congress.

There are other matters in S. 35 that conflict with what the Natives consider to be fair and equitable. Moneys to be received from mineral production, establishment and management of regional corporations, and other important matters must be given careful consideration and the needs of the Natives must be made known to all Senators before final consideration of the settlement bill.

I am in the process of preparing legislation which reflects the position of the Alaskan Federation of Natives. This legislation will, in my opinion, be more responsive to the true needs of the Natives and will give Congress the opportunity to avoid some of the disastrous mistakes we have made throughout the history of this Nation in destroying the cultures of our native people. It is imperative for the Senate to heed the warning that is being expressed by many of the Native people—"take our land, take our life."

Mr. President, I ask unanimous consent that a summary of the bill I intend to introduce be printed at this point in the RECORD.

(There being no objection, the summary was ordered to be printed in the Record, as follows:)

SUMMARY OF BILLS

1. Enactment clause.
2. Declaration of policy.
3. Definitions.
4. Regions:

(a) For purposes of this Act, the State shall be divided by the Secretary within six months after the effective date of this Act 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 should approximate the area described as follows in the Federal Field Committee Report and covered by the operations of the following existing Native Associations:

(1) Arctic Slope: Arctic Slope Region (Arctic Slope Native Association);
(2) Northwest: Bering Strait Region (Northwest Alaska Native Association);
(3) Bering Strait: Bering Strait Region, Bering Sea Region (Bering Strait Association);
(4) Southwest: Southwest Coastal Lowland Region (Association of Village Council Presidents);
(5) Bristol Bay: Bristol Bay Region (Bristol Bay Native Association);
(6) Interior: Upper Yukon-Porcupine Region, Koyuk-Lower Yukon Region Tanana Region; Upper Kuskokwim Region (Tanana Chief's Conference);
(7) Aleutian: Aleutian Region (Aleut League);
(8) Kodiak: Kodiak Region (Kodiak Area Native Association);
(9) *Cook Inlet:* Cook Inlet Region (Kenai Peninsula Native Association, Kenaitze Indian Association);
(10) *Copper River:*Copper River Region (Copper River Native Association);
(11) *Gulf of Alaska:* Gulf of Alaska Region (Chugach Native Association);
(12) *Southeast:* Southeast Region (Tlingit-Haida Central Council).

(b) Existing Native villages located within each region should be listed by region in the bill.

5. Alaska Native Commission:

(a) An Alaska Native Commission composed of five members to be appointed by the President with the advice and consent of the Senate should be established.

(b) Of the Commission's five-man membership, as least three of the members

appointed by the President should be Natives, and not more than three members of the Commission should be members of the same political party.

(c) The Commission's duties should include:

(1) the issuance of rules and regulations for preparing a final membership roll of Natives;

(2) the determination of eligibility for inclusion on such roll, and of protests with respect thereto; and

(3) the preparation of final membership roll of all Natives living on the Act's effective date within five years of such date.

(d) Upon completion of its duties under the Act,the Commission should cease to exist.

6. Regional Corporations:

(a) A regional corporate structure should be established to administer the settlement proceeds and to receive title to that land located within the various regions that is not allocated to the villages.

(b) The corporate charter for each regional corporation should provide that the corporation shall be devoted to promoting the health, welfare, education and economic and social well-being of its members and their descendents, and shall be authorized by its articles of incorporation, among other purposes, to construct, operate and maintain public works and community facilities, to engage in medical, educational, housing and charitable programs, to make loans and grants consistent with its corporate purposes, to foster industrial and economic development, to lease and manage real property, to distribute lands, interests in land, and funds to the Native villages located within its region, and to members and their descendants.

(c) Within six months of the Act's effective date, the Secretary shall prepare an initial enrollment of Natives on a regional basis for purposes of determining who are eligible to be members of the regional corporations.

7. Other Native Corporations:

(a) Native villages would be permitted to organize at their option as IRA corporations for the purpose of receiving (1) title to a specified amount of the surface estate of land contiguous to the village (see Section 8) and (2) a proportionate share based upon the Native population within a particular region of the monetary proceeds of the settlement (see Section 9).

(b) However the village is organized, the entity's use of monetary proceeds would be subject to the same oversight as are the regional corporations.

8. Land Allocation:

(a) The twelve Native regions would have confirmed to each of the regional corporations a proportionate share of 60 million acres in fee based on each region's land area as it bears to the twelve region total. This approach not only causes the settlement to relate directly to the land claimed by identifiable Native groups, but also simplifies the land allocation process by not having to rely on the Native enrollment which may require the entire five year period from the Act's effective date to complete.

(b) Regional percentages are rough approximations and subject to verification and are set forth below solely for illustrative purposes.

Region	Region's acreage [in millions]	Percentage
(1) Arctic Slope	56.5	15
(2) Northwest	28.2	8
(3) Bering Strait	9.9	3
(4) Southwest	31.1	8
(5) Bristol Bay	17.0	5
(6) Interior	136.7	30
(7) Aleutian	13.9	5
(8) Kodiak	8.5	3
(9) Cook Inlet	17.5	5
(10) Cooper River	16.5	5
(11) Gulf of Alaska	12.5	5
(12) Southeast	27.0	8
Total	375.3	100

(c) On the basis of the foregoing table, each region would receive proportionate shares of the 60 million acres as follows:

Region	Percentage	Acres [In millions]
(1) Arctic Slope	15	9.0
(2) Northwest	8	4.8
(3) Bering Strait	3	1.8
(4) Southwest	8	4.8
(5) Bristol Bay	5	3.0
(6) Interior	30	18.0
(7) Aleutian	5	3.0
(8) Kodiak	3	1.8
(9) Cook Inlet	5	3.0
(10) Copper River	5	3.0
(11) Gulf of Alaska	5	3.0
(12) Southeast	8	4.8
Total	100	60.0

(d) Each regional corporation should hold title to land allocated to its region. Land selections should be limited to public land within each region with up to four townships (92,160 acres) being made contiguous to the villages within such region. The remaining acreage allocable to each region should be selected in non-contiguous tracts from public lands within the region. For purposes of land selection, public lands are defined as all federal lands and interests in Alaska, *except:* (1) land within the National Park System and (2) land selections of the State of Alaska which have been patented prior to January 17, 1969, under Section 6(g) of the Alaska Statehood Act as amended (72 Stat. 341, 77 Stat. 223).

(e) Regional corporations should have authority to convey to villages the surface estate to land upon which a village is situated and a reasonable amount for expansion if requested to do so by the village governing body. Title to the leaseable minerals, locatable minerals and renewable surface resources and to that portion of the surface estate not granted to villages, would remain with the regional corporation.

(f) To permit the greatest flexibility in land selection, the regional corporation should be allowed a period of five years from receipt of the initial $8 million payment (see Section 7) to make their selections. During this period, the State of Alaska should be permitted to go ahead with selections under the Statehood Act, but tentative approval could not be given prior to the expiration of the five year period unless an affirmative showing is made that such approval would not conflict under any circumstances with possible regional corporation selections. No attempted appropriation under the public land laws, such as a homestead entry or mineral lease application, would be permitted during the five year period of Native and State selections. In the event the regional corporations do not select their full entitlement during the five year period, a second five year period should be allowed the regional corporations affected to make the remainder of their land selections. The State of Alaska, however, should be permitted to select its own land during the second five year period without being subject to a prior Native selection right. Additionally, Native selection rights during this latter period should take subject to any valid existing rights that may have arisen after expiration of the first five year period but prior to the Native selection.

(g) The entire yield from the land (i.e. all revenues resulting from the disposition of leaseable and locatable minerals, mineral materials, and renewable surface resources such as timber) should be shared between regions on the following basis: Fifty per cent of the yield as defined above should be retained by the region of origin. The remaining fifty per cent should be distributed to the other eleven regional corporations on a population proportion basis.

(h) The Secretary of the Interior should also issue to individual Natives patents to the surface estate of five and forty-acre tracts where Native applicants are able to establish a subsistence use, and up to sixty-acre tracts based on historic use and occupancy by individual Natives, to the surface estate of up to 160 acres for the primary residence of Natives, and to the surface estate of up to 2,560 acres for reindeer management.

9. Allocation of Monetary Proceeds:

(a) The two primary sources of cash compensation to fund the settlement should be:

(1) $500 million in federally appropriated funds, and

(2) a 2% share in perpetuity of all revenues derived from the public lands [for definition, see Section 8(d)] through the disposition of locatable and leasable minerals, mineral materials, and renewable surface resources.

10. Existing Native Reserves:

(a) The land in all reserves in Alaska set aside by legislation or by executive or secretarial order should be retained by the Natives and not be made available for State selection or other disposition, either of the surface or subsurface estate.

(b) The Annette Islands Reserve established by the Act of March 3, 1891 (26 Stat. 1101), and the tribal members thereof should be excluded from the terms of the Act.

11. Protection of Subsistence Resources:

(a) Native subsistence use of public lands in Alaska should be protected. In determining whether to withdraw, reserve, lease or otherwise permit the use or occupancy of land that is being used by Natives for subsistence purposes, the Secretary of the Interior should be required to consider in consultation with the Natives concerned, alternatives that would eliminate or reduce the requirement for taking lands needed for subsistence uses.

(b) Subsistence uses should not be limited except to the extent that, after notice and opportunity for hearing in the general vicinity of the area involved, it is determined on the record by the head of the agency having jurisdiction that a limitation on the exercise of subsistence uses is necessary and can be accomplished without unreasonably inpairing the ability of the Natives involved to satisfy their subsistence needs.

(c) For a period of twenty-five years after the Act's effective date, the Secretary, upon petition by any Alaska Native, should be required to determine whether an emergency exists with respect to the depletion of subsistence biotic resources and if so, to delimit or close the area for hunting, fishing or trapping purposes.

12. Taxation:

(a) No portion of the monetary proceeds of the settlement [Section 9(a)] should be taxable, either to the regional corporations or to the villages or individual Natives.

(b) Lands confirmed in the regional corporations and villages should not be subject to State or local real property taxes for a period of fifty years from the Act's effective date.

13. Attorneys Fees and Expenses:

Reasonable attorneys' fees and necessary out-of-pocket expenses earned the incurred by persons rendering services to Natives and Native villages, associations, tribes, bands or groups in connection with the settlement of Alaska Native land claims, should be paid out of the settlement proceeds on a quantum merit basis.

14. Appropriations:

Sufficient funds should be appropriated to the Secretary of the Interior and to the Alaska Native Commission to carry out the duties required of them under the Act.

15. Publications:

The Secretary of the Interior should issue and publish in the Federal Register, pursuant to the Administrative Procedures Act (5 U.S.C. 500 *et seq.*), such regulations as may be necessary to carry out the purposes of the Act.

Mr. HARRIS. Mr. President, I take this opportunity to commend the distinguished Senator from Massachusetts (Mr. KENNEDY) for his very skilled and determined interest in the matter of the settlement of the claims of the native peoples of Alaska. He has been there, viewed the problems at first hand, and personally heard for himself the views of those Alaskan natives who live there and whose interests are most at stake in this legislation. I am glad to be associated with him and with other Senators in helping to bring about, to the degree that we can, an equitable settlement of this age-old problem.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the distinguished Senator from Oklahoma has brought to the attention of the Senate one of the most important and significant

issues which will come before this body during the next few months, an issue which was debated briefly during the final days of the last session of Congress. I refer to the Alaska Native claim legislation.

I intend to join the distinguished Senator from Oklahoma in introducing legislation which I believe is essential if we are to provide for the Alaska Natives a land opportunity and a fairness and justice which I think these people, who have lived in that part of this country for many years, are richly due.

The Senator from Oklahoma has again eloquently stated the case for a just and equitable congressional settlement of the Alaska claims dispute. He has continued to show great dedication and commitment for the causes of the American Indian and Alaska Native.

The single most important element of a Native claim settlement is land. Over a year ago, I emphasized in a speech on the floor of the Senate what I regarded as the central feature in any fair settlement: the amount of land which will be confirmed in Native ownership. I join with the Senator from Oklahoma today in urging that the determination by the Alaska Natives of what they need to sustain themselves and secure themselves for the future be respected. We know that they are claiming over 300 million acres. We know that they are using between 80 and 100 million acres. We know that they are now asking for a settlement involving 60 million acres. We are dealing with Native land; we should respect Native wishes concerning that land.

In 1885, Helen Hunt Jackson, surveying the past hundred years of relations between American Indians and the Government of the United States, observed that we had generally mistreated Indians, had seldom kept our agreements with them, and could only look back on our efforts to deal with Indians as reflecting a dishonor on our Government. Her book was entitled "A Century of Dishonor."

It has been over a century now since the United States acquired Alaska from Russia. At that time, and in the Organic Act of 1884, the United States recognized Native rights to the land and Congress provided that the Natives—

"Shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them."

Congress postponed for future legislative action the matter of formally recognizing Native title to those lands. It is 1971, and Congress has yet to take action.

In approaching settlement of the land claims issue now, Congress will write the closing chapter of our century long relationship with the Alaska Natives. An Eskimo leader, Alaska State Senator William Hensley, framed the issue this way:

We are testing the American political. system . . . We know the history of our country in dealing with the American Indian and we want to see a final chapter not written in blood or in deception or in injustice.

Last session, the Senate passed S. 1830, reintroduced this Congress as S. 35, that would grant Alaska's 60,000 Natives—20 percent of the State's population—title to 10 million acres of land. This is less than 3 percent of the lands to which they have a recognizable legal claim. As payment for extinguishing the rest of their claims, the Senate bill offered cash compensation amounting to $1 billion in payments deferred over a number of years. Referring to the passage of the Senate bill last summer, the newsletter "Indian Affairs" observed:

"On July 15 the U.S. Senate took an historic step toward solution of the century-old question of Alaska Native land rights—and it stumbled."

It stumbled, Mr. President, because the Senate bill would have allowed the Natives to keep only about one-tenth of the land they presently use for income and subsistence, and would have substituted an unlivable annual cash income for their right to subsist with some cash income by fishing, hunting, gathering berries, and trapping on the lands that the Senate bill would strip from them.

It stumbled because it refused to guarantee that Natives would control the five member commission charged with allocating and distributing the settlement.

It stumbled because it required termination of Federal services without any guarantee that those services would be picked up by the State or the Native villages or development corporation within the allotted time. It stumbled by not providing full mineral interests for the Natives in all of the lands it reserved for their use.

In short, Mr. President, the bill passed last session would have been a fiasco and an economic disaster for the Natives. Its economic impact would have been similar to that referred to by President Hayes in 1876, when he said of the Indian inhabitants of North America:

"The purchase money paid to them in some cases for what they called their own has still left them poor."

A billion dollar cash settlement may sound like a lot to many people. but then $24 sounded like a lot for the Indians who sold Manhattan Island. Alaska Natives will not make that same mistake. Over a billion dollars have already been paid by oil companies in Alaska for the privilege of exploring small areas of the State for oil. Considering the natural resources beneath the tundra—beneath much of the land now claimed by the Natives—$1 billion will seem little more than the beads, hand axes, trinkets, and blankets of the past. This cash settlement means little to Natives who will lose land rich in minerals. But more importantly money cannot compensate a people for giving up the land upon which their lives and culture depend.

The Natives of Alaska, unfortunately, have been at the bottom of the list of Americans when it comes to education, housing, health, employment. But they are proud, and their pride in great part stems from their relationship to their land. If we take away their land, we not only take away the only chance for long-range material advancement, but we deprive them of their culture and their identity. As Mr. Alfred Ketzler, an Athabascan Indian from Alaska, put it:

"What is probably one of the most important things to us is that we have a deep instinctive feeling of helplessness as a people as long as we are cut off from the land. We are its children; we have emotional ties to it that we can never forget, even down into generations that no longer live in the old way. It is a basic part of our identity—it makes us feel who we are, and without it, we have been cut off and bewildered."

Mr. President, an Alaska claims settlement is not a welfare bill. It does not reflect generosity on the part of Congress in giving something to the Native people of Alaska. It is merely a compromise by both the United States and the Alaska Natives, in recognition that the legislative process is better suited to settling the claims dispute than the judicial process. The Alaska Natives are not a conquered people. They have never signed treaties. They have refused to sell lands. We must remember that it is Congress who is asking the Natives to give up a large part of their land. They are not asking us for money; they do not want to sell their land; they do not want to give up the land. If Natives do not receive what they now feel is the minimum necessary for subsistence and economic security—60 million acres of land—then we will not have merely driven a hard bargain. We will have won another Indian war. We will have completed a second century of dishonor.

Next week, Senator HARRIS and I will be introducing a bill to reflect the position of the Alaska Federation of Natives on the claims issue. This bill should be used as a benchmark for measuring the fairness and justice of Congress action in settling the Native claims dispute.

The CHAIRMAN. The next witness is the Secretary of the Interior, Mr. Rogers C. B. Morton.

Mr. Secretary, we are delighted to welcome you to the committee once again; that is, the first time since your confirmation; and we are pleased that you have a statement that you wish to make at this time, and you may proceed in your own way.

STATEMENT OF HON. ROGERS C. B. MORTON, SECRETARY OF THE INTERIOR; ACCOMPANIED BY ASSISTANT SECRETARY HARRISON LOESCH, AND FRANK BRACKEN, DIRECTOR OF LEGISLATION

Secretary MORTON. Thank you, Mr. Chairman.

Mr. Chairman and members of the Senate Interior and Insular Affairs Committee, first, Mr. Chairman, I have with me Assistant Secretary Loesch, who is knowledgeable in this area; and our Director of Legislation, Mr. Frank Bracken, who has also done a great deal of work in this area.

I am pleased to appear here to testify today on the settlement of the Alaska Native land claims. It is significant that this committee has scheduled these hearings so promptly in the new Congress, and clearly shows the importance which you place on the settlement of this important issue.

Certainly all of us who are involved in this matter are seeking to arrive at the same objective—a fair, equitable, and final solution to the land claims of the Alaska Natives. I know of the many long and tedious hours which the members of this committee spent in the last Congress in seeking a solution to the Native land claims problem. You are to be congratulated for your outstanding efforts in this regard. The bill before us today, S. 35, is identical to S. 1830 which passed the Senate in the last Congress.

Over a year and a half ago, this administration submitted to the Congress its recommended settlement for the Alaska Native land claims problem. This represented a bold step forward and evidenced a clear and dedicated effort on the part of this administration to arrive at a fair and equitable settlement for the Alaska Natives.

Since that time, this administration has made other significant moves which have represented a bold departure from the past in an attempt to help solve the important Indian problems in this country.

In the last few months the leadership of the Alaska Federation of Natives has changed, and with this change has come some modification of their position with respect to the settlement of the Alaska land claims.

Also, we now have a new administration in the State of Alaska, and it is our understanding that this also has brought about a modification of the State's position on this problem.

More recently, Chairman Aspinall and Congressman Haley have introduced a bill on the House side which offers an alternative solution to the settlement of the Alaska Native land claims.

The administration has been in close contact with the leadership of the Alaska Federation of Natives, and I have personally met with the new president of the Federation and his attorneys. I feel that all of the proposed solutions represent a good faith effort to arrive at a just solution.

The settlement of the Alaska Native land claims is one of the most important and far-reaching issues which I will deal with as Secretary of the Interior. The terms of the settlement and the method for implementing these terms will have a significant impact not only on the State of Alaska but also on the entire Nation.

The sheer size of the monetary and land settlement is of such magnitude that if handled properly it can be a tremendous step forward for the State. However, if not handled properly, the adverse impact can be virtually permanent.

We are dealing here with the future of a group of people, a future which will affect not only the lives of those living now but also the future lives of their children and their children's children. We are also dealing with the future of a great State.

After reviewing the administration's proposal submitted to the last Congress, I believe that it represents a just settlement of the Native claims issue. I feel, however, that the land portion of the administration's proposal should be amended to provide that each Native village would get fee simple title to the public lands which it occupies plus fee simple title to additional public lands adjacent to the village site of not more than three times the acreage of the village site.

Villages located in Petroleum Reserve No. 4 would receive surface and locatable mineral interests only. I also feel that all income, including bonuses, rentals, and royalties received from the disposition of

leasable minerals patented to the Native villages should be paid into the Alaska Native Development Corporation.

Furthermore, the Secretary should issue a subsistence use permit for up to 40 million acres covering such lands as the Secretary, in his judgment, determines are needed for the subsistence of the residents of the villages. The Secretary should be authorized to close any area subject to such subsistence use permit when he concludes that the health, welfare, or livelihood of the residents of a village are threatened by depletion of the subsistence resources.

The administration intends to submit a revised Alaska Native claims bill promptly.

In closing I would like once again to commend you, Mr. Chairman, and the other members of this committee for the outstanding leadership which you have shown in attempting to arrive at a solution to this important problem. The solidarity of your efforts shown in the last Congress represent democracy at its best.

I am prepared to answer any questions which you might have.

The CHAIRMAN. I have two or three questions, Mr. Secretary.

In my opening statement, I discussed a proposed amendment to the pending measure, S. 35, to deal with the management of the proposed transportation corridor, and to establish a joint Federal-State Land Use Planning Commission.

Would you want to comment on this? I am aware that you had no knowledge of this proposal. I have been kicking it around in my own mind for some time, and I am just throwing it out as a suggestion, not as any final idea. Would you care to comment on it at this time?

Secretary MORTON. Well, first, Mr. Chairman, I want to in no way here preempt a decision that might be made as to the development of such a corridor.

As you know, concurrently with these hearings, public hearings are being held. We are about to conclude the Washington portion of those public hearings. They will forthwith be held in Alaska, dealing with the whole matter of the corridor, the whole matter of the pipeline.

There are still many unanswered questions concerning this; so to deal with the management of the corridor, as your question directs itself, we must be careful not to conclude that this corridor is actually ever going to exist. This will be determined, and determined on the criteria that is developed not only in the hearings, but of other studies as well.

But to deal with the management of such a corridor, if it did exist, I think, is a very important thing. We do have or would have a situation there that I think would require very careful management.

It would seem to me that to withdraw this corridor from a joint management concept, or a land-use planning concept, that should be developed for the whole State of Alaska, would be a very dangerous thing.

The very fact that this corridor is proposed, in my opinion, increases the pressure on all of us to develop a land-use plan for Alaska; and this land use-plan certainly should include detailed management concepts for any land withdrawn, such as this proposal for a transportation corridor.

The CHAIRMAN. Well, thank you, Mr. Secretary. We will be in touch with you further regarding this matter.

What I have tried to do here this morning was just to throw out a rough suggestion, in order that there can be the continuing consideration of this corridor, in the event that a decision is made to go ahead with a pipeline. We will have to cross that bridge when we get to it.

Now we are talking about, under various proposals, a lot of land here. It runs up to many millions of acres, as part of the possible settlement.

I think it is important that the committee have some idea regarding the plans of the Department for legislation on new parks, recreation areas, and wilderness areas in Alaska.

You may not be in a position this morning to comment on this, but if you could supply it for the record, I believe it is vital that we know what the long term plans are, in connection with any decision that we make on land selection for the Natives. I am sure you would agree with that.

Secretary MORTON. I agree a hundred percent, Mr. Chairman, and I feel very strongly that such plans, and such classifications of land as we see them, should be a part of the record of this hearing, and we certainly would want to do that.

(The information referred to was not received in time for inclusion in the record.)

I would like to add that here again, we have got to make sure that the equity that finally results from whatever this, however this claim is settled, does have in it a basic component that reflects the interest of all of the American people. And Alaska, because of its size, because of its nature, I believe, is one of the great areas that we can develop in the highest order of conservation, through the selection of park areas, wilderness areas, and other set-asides, which would preserve the integrity of its flora and fauna, which actually are shared not only by the people of Alaska, the Natives, but also by all the American people.

The CHAIRMAN. Well, I think that is a very sensible statement. You know, the problem that we face, in connection with this particular matter, is the problem that we are running into every day, and that is the conflict between trying to meet and fulfill our environmental and conservation requirements in the long term, and reconcile it in this case with a just, fair and honorable settlement for the Natives. And that's no easy task, and as you so well stated, this has to be looked at from the standpoint of the public interest, which includes all the American people. And we just can't willy-nilly turn over huge land allotments, without regard to the rights of other citizens.

We at the same time want to do justice to the Natives, and in doing justice, we do not want to do injustice to the rest of our population, and this is no mean task. And that is why I think one item that we really need is the long-term planning concepts the Department has in mind, regarding parks, recreation, wilderness areas, and we will be pleased to have that, so that we can make some sensible choices here, and may I urge—and I know you will—provide the departmental bill as soon as possible, so that we can move in a timely manner.

Thank you.

Secretary Morton. I think we can get it up next week, Mr. Chairman.

The CHAIRMAN. And also, I think we might want to have for the record, on page 3 of your statement, the amount of acreage involved

in connection with your suggestion that the proposal be amended, that is, the administration proposal, amended to provide that each Native village would get a fee simple title to the public land which it occupies, plus fee simple title to additional public land adjacent to the village site, of not more than three times the acreage of the village site.

I think if you would supply that for the record, so that we would have some concept as to total amount of acreage involved.

(The information referred to was not supplied in time for inclusion in the record.)

Senator Jordan.

Senator JORDAN. Thank you, Mr. Chairman.

Mr. Secretary, carrying on with the line of questions that the Chairman asked, the area that would go to the Natives in fee would be considerably smaller than the 60 million acres that has been suggested by the witness that preceded you, would it not?

Secretary MORTON. It would be considerably smaller, I think. I unfortunately haven't been able to multiply these selections out, to come up with an accurate answer to that, Senator Jordan, but it would be somewhat smaller, but I don't think a great deal smaller.

Senator JORDAN. I think it would be. Yes, I think it might be as small as 20 percent of the 60 million acres, if my arithemtic serves me correctly.

I call your attention to another statement you make on page 3, "And the Secretary should issue a subsistence use permit for up to 40 million acres, covering such lands as the Secretary in his judgment determines are needed for the subsistence of the residents of the villages."

This is following pretty much the concept of permits or special use permits that are employed in all other public lands States of the West, is it not, Mr. Secretary?

Secretary MORTON. The answer to that is in the affirmative. Yes, it is.

Senator JORDAN. Yes. Well, this has been my feeling about the settlement all the while. Rather than dedicating a vast acreage in fee to the Natives of Alaska, the system that we have used in the other public lands States and which has proven its merits over the years could be used here. Under this system, use permits are issued to those who have deeded lands that are commensurable to the Native villages, and in that way, some degree of control can be maintained by the Federal Government against abuse of the lands, or if some areas are overused, other permit areas might be substituted for them, thereby maintaining a viable economy for the Natives, without fee transfer of title and with adequate management of large areas of fragile land surface.

Secretary MORTON. I would agree very much with that. I think there are some other points, too, Senator Jordan, that are important to think about.

The management of that land, and the practices that are used in the subsistence practices, or the subsistence, rather, efforts of the Natives on that land, will have a direct bearing on the success of their operations. How good the hunting is, if you will.

Senator JORDAN. Yes.

Secretary MORTON. And the opportunity here to work with the Natives for their very best results seems to me to be better preserved

by a program like this than just handing the land over, without any guarantees of the flexibility and the types of management that would make that land most productive for their use.

Senator JORDAN. I like the flexibility of it, because I think it can better adapt to changing conditions, and can make the Natives more self-sufficient.

The CHAIRMAN. Senator Anderson.

Senator ANDERSON. Thank you, Mr. Chairman.

You have some public lands States that have already been developed for oil, and Alaska is now being developed. Would you feel that the same rules should apply to those States?

Secretary MORTON. I think the rules should apply inasfar as they can. I think that simplicity and standardization over the long pull, Senator Anderson, will be in the best interests of the whole country, and therefore, I think to have one set of rules for Alaska, and another set of rules for Arizona, or Oklahoma, or any other State, downstream, will give us some national problems, that I do not think are in the best interests of either the Natives of Alaska, or the nonnatives.

Senator ANDERSON. Well, this would give it a right in perpetuity to these States, yet the same situation would exist with other oil lands, and would get the perpetuity. Shouldn't they revise that question a little bit?

Secretary MORTON. I am sorry, Senator Anderson, I didn't quite get the last part of your question, sir.

Senator ANDERSON. Mr. Secretary, I realize the fact that I have had a speech problem, and there is no question about that. I merely was saying that there is about $150 or $175 million that has been paid in in royalties to these other States, and I think that estimate is pointed to the question of what might happen in this State, and I do hope that you will look very carefully at that situation, because it would involve $150 or $175 million in my State of New Mexico.

We would like to have it, and just that it has been a problem to do it; we have had a problem that we couldn't possibly develop this area of the United States.

The CHAIRMAN. Mr. Secretary, this pertains to the 2-percent override revenue sharing. Senator Anderson and I, at the time of Alaska's statehood, offered an amendment which increased the acreage allowed to Alaska for selection. We did grant to the State of Alaska, for all practical purposes, all of the income from mineral revenues derived from public lands. The United States resumed the amount necessary to take care of the administration of the program—about 10 percent—and I believe you have that in mind.

The CHAIRMAN. Senator Hansen. Excuse me.

Senator HANSEN. Mr. Secretary, I think if I understood you correctly, you only a few months ago expressed your support for uniformity in the application of the mineral laws. Did I understand you correctly, as far as the States are concerned?

Secretary MORTON. I would hope that we could achieve uniformity. Sometimes you don't get it, but we ought to aim at it.

Senator HANSEN. I am aware, too, that you were a very distinguished member of the House Interior Committee, among whose responsibilities was that of reviewing the public laws, along with the comparable committee in the Senate.

Would it be your feeling that if these laws are changed, the public land laws, including the mineral leasing laws, and all of the other body of laws, that the application of these changes should be nationwide, should apply to all of the States, and not to one State or another?

Secretary MORTON. Yes. This is my feeling, Senator Hansen.

Senator HANSEN. I have no further questions, Mr. Chairman.

The CHAIRMAN. Senator Gravel.

Senator GRAVEL. Thank you very much, Mr. Chairman.

Mr. Secretary, I want to commend you on your forthright position in this whole matter. I don't think that we will have two knottier problems, than the pipeline and the solution of the land claims.

One question I would like to ask. You talk in terms of the Federal commitment being the same as last year. Am I to infer that we would also have support from the administration for the $500 million appropriation as we had last year?

I had heard rumors that the Bureau of the Budget was sort of balking at the $500 million appropriation. As you recall, the bill last year had $500 million appropriation and $500 million guaranteed from the 2 percent. Could you enlighten us on the $500 million to be appropriated?

Secretary MORTON. I hopefully can answer that in the affirmative, that we would support it, but the bill that we are drafting, or have now nearly completed, and should have here next week, has not yet cleared the OMB, and I believe that it will, but I think it would be very difficult for me to preempt that, and I think we had better take a look at the bill, and then I think it will speak for itself, as far as our support of the $500 million is concerned.

Senator GRAVEL. Very good. Then we should still hold our breath until we get a dollar figure.

Secretary MORTON. I don't think you are going to have to hold it very long.

Senator GRAVEL. Thank you. And I am sure that in the counsels of the administration, that you are pushing for our cause in that regard.

Secretary MORTON. I would add that we are very anxious that this issue be put to rest, and that the moral obligation be discharged, and I think from looking at the action that the Senate took, and the action proposed by the House, that we are all in the same ball park.

Senator GRAVEL. Thank you.

The other items, of course, are relative to the oil discoveries on the North Slope. I can understand your position, in not being more definitive, since you are the Secretary of the Interior, and it is your office that is holding the hearings presently, but I would urge just a statement here as to your interest in the possibility of opening up Pet. 4.

I understand that this area is considered sort of sacrosanct by the Government. I see no reason for it being held in such a position. The Navy partakes of the national reserve, and to my knowledge doesn't own any refineries, so really, this reserve should be placed within the national inventory. Assuming we can solve our problems, in transporting the oil from the Prudhoe Bay to market, adding a new reserve on the line could very well lower the cost of oil to the American public, and of course, change the entire economics as they presently exist.

I would hope that the Interior Department, as time goes on will look to this possibility and the static that we would receive in opposition to legislation that would allow us to lease Pet. 4, and that would

pay very handsomely for any amount of money that would go to the Native cause from the Federal Treasury. I would hope that the administration would have an open mind in this regard.

Secretary MORTON. I think one of the things that this whole question addresses itself to is the need for a national energy policy, and a national energy policy should not only direct itself to resource exploration and development, to take care of the energy needs, but also should direct itself to the whole matter of reserve.

And I can assure you that in my role as to the Interior Department, that we think that these decisions, as far as opening up reserves are concerned, should be coordinated with a national energy policy. And I am doing everything I can to stimulate and develop, with the help of all the agencies involved, a policy that we can really have confidence in, as a national policy for the utilization of our fuels, and other sources of energy. And I think your remarks direct themselves very well to that problem.

Senator GRAVEL. Thank you, Mr. Secretary.

The CHAIRMAN. I might add, Mr. Secretary, that as you know, we intend to go into this matter of a national energy policy in committee. We will hold hearings on February 25 on a proposal that a number of us have joined in, calling for a study in connection with a national energy policy, and we will look forward to working with you and the Department, as you indicated during your confirmation hearing. I agree with you: We must set some goals, objectives, and policies regarding a national energy policy, and relate these things, in part, to what we are talking about here this morning.

Senator Hatfield?

Senator HATFIELD. Mr. Secretary, I would like to pursue some of the line of questioning I asked of the previous witness.

On page 3 of your testimony, on the flexibility of your proposal here, particularly in delineating between the lands which the Natives would have fee simple title and those which would then have a permit for subsistence purposes.

First of all, do you have an estimate of the number of acres involved that you would grant the fee simple title to, which would be those areas that were occupied and plus the adjacent lands?

Secretary MORTON. I think a good figure to use is about a million acres.

Senator HATFIELD. About a million acres.

Secondly, I understand that the situation would vary from time to time as to your permits, but would your permits be issued to individual families or to a village?

Secretary MORTON. I think this would have to be determined. I personally am not in a position to answer that question without a lot of further study, because the whole idea is to give the Alaskan Natives a guarantee of the subsistence opportunity that exists in these lands, and whether we do that on a village basis, or whether we do that on a family basis, I think, would have to be the result of a lot of study, and a plan which would have to be gone over by all of the interested parties.

So I would hate to close the door on any options that would exist in that policy. The thing we are aiming at, though, Senator Hatfield, is a guarantee for subsistence. That is the concern. The subsistence

that is derived from these lands is derived not from a culture in the lands, but is derived from the national resources that are there—game, and so forth, and fish.

And it seems to me that, by working together with the Native interests, and yet maintaining the flexibility and management prerogatives that are necessary to conserve those resources, we provide them with the very best guarantees for this subsistence opportunity, and for the subsistence itself.

So I really think we would be premature if we decided on exactly in whose name and how many permits it took to do that job.

Senator HATFIELD. Would you be willing to submit to the committee for its consideration some of the criteria which you would be using, both as to the present standards of living standards, and that which might be an increase in living standards, based upon the whole subsistence program?

Secretary MORTON. I think we can do that, and do that quite well, though it is going to take a great deal of study, and a great deal of selection and classification in individual areas, in order to determine precisely the nature of that criterion.

I think one of the things that we are doing here, that we should be careful about, is getting into the numbers game. The total number of acres necessarily are not reflective of the amount of subsistence that can be taken from the land.

There are about a third of the number of acres in Alaska, for example, that would have very little or no opportunity for subsistence. the high mountains. And this reduces the total acreage down to two-thirds, and then when you look at that, you again have to be very selective, in determining what lands, and exactly where the Native can garner a living.

So it is going to be a tremendous task, in my opiuion—and must be done; I don't shirk that—but it is going to be a tremendous task to determine what lands actually are in the very best interest of the Native Alaskans, in their problem of getting a subsistence from them.

So we are about that work, and hopefully, we can give you some figures and some criteria, and some information, that is not speculative, but based on fact, and we will attempt to do that.

Senator HATFIELD. Wouldn't you agree, Mr. Secretary, that in addition to that, the factors which you have mentioned last to be flexible enough to adjust to seasonal variations that may occur, as to subsistence?

In other words, the herds and other such seasonal variation that comes in, in Native life, or in wildlife?

Secretary MORTON. Certainly, and then there are a lot of changes in the ecosystems that exist in Alaska that are due to national phenomena, that might really be of great importance as far as the value of these lands for subsistence purposes is concerned.

And we do have to take in the seasonal consideration and the other changes that happen over which we have no control.

Senator HATFIELD. Mr. Secretary, one last question: Projecting ahead that we have arrived at some kind of a bill we can enact, do you foresee in the future a continuation or a termination of BIA benefits and services to the Alaska Natives?

Secretary MORTON. I think this has got to be based on need, Senator Hatfield. I think one of the things we don't want to do is,

we don't want to create a parallel or an overlapping and interlocking system of agencies which absorb a great deal of money and resources because of their very existence.

It would seem to me that there is a job to be done, in terms of education, in terms of providing the services that these people need and deserve, and to say that one agency has to phase out, just because we have passed a bill or because we have made a settlement, seems to me to be a little bit arbitrary.

I feel that we have to constantly analyze the needs for the services performed by the agencies, the existing agencies, and as those needs are dissipated, through development, or through capability of the Alaskan Native people to provide these services for themselves, then I think in the interest of the whole Nation, the type of thing that the BIA is doing should be phased out. There is not a need for it.

Senator HATFIELD. You would prefer to see this remain flexible, then, rather than being required through legislation that it either be terminated or continued, that there ought to be some flexibility here, determined by you and your staff, as you work with these.

Secretary MORTON. Yes; I do. I think there should be—these people's daily lives are what we are dealing with here, and we want to resolve the moral obligation, but we don't want to give them a short-term hardship. I think this is such a big thing, you have got to see how it goes, before you can just say, "Well, arbitrarily, on such and such a date, we are going to terminate this and that."

Senator HATFIELD. I have nothing further.

Senator BURDICK (presiding). Mr. Secretary, I would like to explore the same area a little further.

Where you say you would like to decide this area around the sites in fee, and you say, "Furthermore, the Secretary is to issue a subsistence use permit up to 40 million acres." Isn't that an acknowledgment or recognition by you that 40 million acres is needed for subsistence?

Secretary MORTON. It is today, Senator Burdick. But as the Alaskan Native site changes, their economy changes from a subsistence type economy of the kind that they need today in order to meet their struggle for existence, this could well change.

And these lands do belong to all of the American people, and I believe that we should guarantee their subsistence of the Natives, but at the same time, I don't believe that we should give them something under the guise of subsistence that may be a decade from now, they wouldn't need for subsistence, that could be developed in another way that would be more helpful to them in the long run.

This again points to the very point that what we do not have before us, in order to really deal with this problem the way it should be dealt with, and that is a real, viable land use plan for the State of Alaska, and if we had a good land use plan, and if we were further downstream, in the evaluation and classification of these areas, as they affect the national interest, I think we could do a better job in meeting our obligation to solve the Native claims.

And I think that this gives us the opportunity to do that and also gives the Native a guarantee of subsistence.

Senator BURDICK. In other words, in the future, you may want to alter that figure of 40 million.

Secretary MORTON. You well may. And you may well have to change the configuration of it. As brought out by Senator Hatfield.

Once you give them the land, then that's the ball game. You may find that you have to give some areas more land, and some areas need less land, because of the nature of the resources that are on that land.

If there is no game and no way to make a living on a million acres of land, and there is a good opportunity on a hundred thousand acres of land 20 miles away, it would be much to their interest to have the hundred thousand acres, rather than the million.

Senator BURDICK. The point I am getting to is that a certain number of acres are needed for subsistence, and is there any great difference between a fee ownership and a perpetual use permit?

Secretary MORTON. I think the mineral aspect of it is one of the differences, and one of the other differences is when once it is owned in fee, you don't have any flexibility. They may have selected the wrong land, even though the figure is astronomical.

And I think it is not the number of acres that gives them the living or the subsistence, it is what's on them, and that is a very fluid and changing thing.

Senator BURDICK. In other words, you wouldn't want any number of acres welded into the bill.

Secretary MORTON. Well, I think to make sure that the sense of protection is there, that under the permit concept, it would be good to have a ceiling figure, and 40 million acres has been selected by us as being sufficient, providing it is properly allocated within that total figure.

I think without having any figure in it, it wouldn't save their own feeling about having been fairly dealt with, and we certainly want to make sure that they are in themselves confident that they have had a fair deal.

Senator BURDICK. Getting back to this fee land for a minute, what is the tax character of it? What will it be?

Secretary MORTON. Well, the tax character, I guess we are dealing here with a State issue, and obviously if this land remains in the Federal domain, it would remain as it is, but if it is the part of the land that is given to them in fee, the tax character of that would be governed by the State of Alaska.

Senator BURDICK. That's what I thought. In other words, this isn't going to be in the frame of the ordinary reservation. This will be straight fee ownership. There will be no trustee arrangements, or anything of that nature.

Secretary MORTON. The land?

Senator BURDICK. Of the fee land.

Secretary MORTON. That is correct, yes.

Senator BURDICK. That's all. Thank you very much.

Senator Stevens?

Senator STEVENS. Thank you.

Mr. Secretary, I really want to commend you and Mr. Loesch and those at the White House who have opened up these series of communications with Don Wright and the new leadership of the AFN. I think that the result of Mr. Wright's meetings with you and with the White House may lead to a greater flexibility in the administration's attitude from previous years, and I commend you for that flexibility.

It appears to me that the outline you have presented to us in your statement draws rather heavily on the land provisions from the House bill, and the money provisions from the Senate bill, and I think you are playing your usual role of trying to smooth out some difficulties between the two Houses.

Let me ask just a couple of questions.

Your land use plan, and I believe the President referred to a land use plan, asking for money for Alaska specifically for a land use plan, do you have any period of years on that, roughly? And let me tell you why I am asking the question.

One of the provisions in the bill the Senate passed last year that I had real reservations about, but my colleagues are rather persuasive, at times, was the provision of the 5-year freeze that was in this bill that we passed, to freeze all Federal lands in Alaska for 5 years, to prevent, I believe, was the feeling, a sort of land rush to Alaska, after the settlement of the Native land claims, and the lifting of the freeze that presently prevails.

Now, as I see it, if you have a land use plan that could go forward, and we could delineate the areas that the Federal Government is going to need, and the bill specifically delineates the land that the Natives need, your land use plan may eliminate the feeling of others of the necessity for this freeze, and I would be very interested in what could occur, because I think it is one of the provisions the non-native people of Alaska really have serious questions about.

Is it possible we can move ahead in the framework of less than 5 years for this land-use plan?

Secretary MORTON. The bill, of course—the land-use bill—would shorten that time considerably, as you know. And this would involve the cooperation of the State, and if we can develop that cooperation, and can move the bill through the Congress, I see no reason why that period of time couldn't be drastically reduced.

Senator STEVENS. Secondly, I spent a considerable period of time, on my recent trip to Alaska, listening to the proposals of Alaska conservation groups for new parks, new wilderness areas, and wildlife areas.

I think that there is a substantial feeling in Alaska itself that there are some areas that ought to be protected and given the stature of national parks or monuments or national refuges. Has any one asked you if you could delineate your conservation objectives? Did you have in mind, would you consider the withdrawal now of those areas that are potential? It is possible, in effect, that we could protect the conservation areas, and let Alaskans and Native and non-native alike go ahead with the use of the rest of the land in less than 5 years?

Secretary MORTON. Well, we have fairly well delineated those areas or defined those areas that we are talking about here, and off the top of my head, Senator Stevens, I don't know of any reason why we couldn't move toward the withdrawal of those lands, and the establisment of those sites as parks, wilderness areas, and the like, which of course, then, would become part of a total land-use plan, and I certainly see no reason why this can't be done, in far less time than 5 years.

I think maybe that Assistant Secretary Loesch, who has been working with this on a day-to-day basis, perhaps, can add some information to that question, that might very well give us a better time frame.

Mr. LOESCH. Mr. Secretary, Mr. Chairman, Senator Stevens, I might say that between the Bureau of Outdoor Recreation and the Park Service in the Department, a number of areas have been identified that we feel may have potential.

I think talks are going on right now between these bureaus and some of the interested conservation organizations. Additionally, of course we have lost a little of our flexibility with the expiration of the Classification and Multiple-Use Act, but we still have the weapons to withdraw for the purpose you outline.

And I think we have already agreed to furnish for the record a list of the areas that we do have under consideration.

Now does that answer your question?

Senator STEVENS. Well, yes. I would hope that after you locate those areas, you would withdraw them temporarily, pending action by the Congress on establishing the parks and other areas.

I assume most of them need an act of Congress for permanent protection, but then that would free the rest of the land, so there wouldn't be any basis for a claim of need for the 5-year freeze.

Mr. LOESCH. That is correct. It would free it both for use in settlement of the Alaskan land claims, the State's selection rights, and so forth.

Senator STEVENS. My memory is that about 1 percent of Alaska is in private ownership, and about 6 percent of it in States ownership now. That may have gone forward; roughly, that is right, and the balance, some 92, 93 percent, is still in Federal ownership, and the problem is that the Native and non-Native alike has no access to land as long as the freeze continues, and once the freeze is over, if there is a 5-year moratorium, then the passage of the bill means nothing to the non-Native community or to the Native who wants to leave the village area.

Mr. LOESCH. I understand.

Senator STEVENS. This, I think, is one of the great problems of the bill.

Mr. Secretary, my last question has to do with the royalty provision of the bill, or the revenue-sharing provision of the bill. I note that you have not commented specifically on that, and we understand the problem of your bill being at that, with the Bureau of the Budget. I think the question would be, if we can't fund, under the OMB's position we have never had approval of that portion of the Government for funding any portion of the settlement with future revenues, on a revenue-sharing basis, would you agree to explore with the Bureau of the Budget where the excess, if we go over $500 million, where we think it ought to come from?

Now the Senate passed a bill which embraced a billion dollars, $500 million in Treasury revenues, and $500 million in future revenues from development of Alaska resources.

Assuming that is the goal, and as I understand, the House bill also envisions a billion dollars, I would think that the responsibility for OMB would be to come up with an alternate source of revenue that Congress seems to agree is the goal for the financial cash settlement here, and I wonder if you would be courageous enough to take on that exploration of finding out where we feel we could get the extra $500 million from.

Secretary MORTON. Senator Stevens, it is not so much a matter of courage; I don't mind exploring anything; but I think what I am trying to do right now is get the bill that we think is a fair bill through as a first step, and let me get that job done before I scare anybody to death and see if I can't then come back at you after that, with some thoughts and ideas that we may have, leading up to such an exploration.

Senator STEVENS. Thank you, Mr. Secretary.

I think the most important statement, if you will pardon me for belittling all the rest, is the statement you made that we are all in the same ball park.

I have that great feeling after seeing Mr. Aspinall and Mr. Haley's bill in the House side and knowing the bill that we have fought for here, and the AFN bill as presented by Senator Harris, we are all in the same ball park in terms of goals of establishing the land base and the capital base, and I think we are starting off this year in a much better position than we have ever started off before. I am quite hopeful we will get this bill before June.

Secretary MORTON. Well, I am hopeful, too. It has been hanging over us for a long time, Senator Stevens, and I think we—I just felt that there is going to be enough effort put by the whole Congress against it this year to come up with a proposal that we can all live with.

I think one of the things that I did not mention in my statement, and I am sure that in the course of its deliberations, this committee has taken a great deal of cognizance of, and that is the whole question of what this settlement looks like 25 years from now.

How fair is it to the Alaskan Native, unborn today, or reaching, say, his beginning years a quarter of a century from now?

And what does it do to the political structure of the State of Alaska?

This is a very important thing. Alaska has a great future, and it is the State of the future—undoubtedly, because of its size, its resources, its beauty, and all the rest.

And I am hopeful that this committee, and all others who are studying this problem, are not thinking of this only on a short-term basis, in order to get a job done under the pressure which we are under today, because we are talking about big money, whether you are talking about half a billion dollars, or whether you are talking about a billion dollars, and we are talking about big land.

We are talking about something that can become very important in the political and in the socioeconomic profile of the State. And it is very important, I think, that you and others, Senator Gravel and others, who have a broad and deep understanding of all of Alaska's problems, think in these terms.

I just hope that we, in our time, don't create something in Alaska that will not permit an orderly and equitable development of the State, not only for the Native Alaskan, but also for all Alaskans, and for all Americans.

Senator STEVENS. I thank you for that. I don't have any other questions.

I would say this: I agree with your goals a hundred percent, but at the same time, I would hope that the Administration would recognize what these young people are saying from the Native community. There is a great attachment to land as something that goes on into the future, and I would say that the land provisions are more important to the Alaskan Native people than the cash provisions.

And as we proceed and you look down that stretch of time to the young man who is not born yet, who will be 25 or entering his manhood, I think that if he comes into his manhood with a real fester on his soul because he thinks he was cheated, I think we will have a bad settlement.

Somewhere here, there is a balance between what you have to do as the trustee for all the people of public lands, and what you have to do as the trustee of the rights of the Native people born and yet unborn.

I hope that we can find the flexibility to deal with that land issue that must be found—not only here on this side, but in the House side and in the administration.

Secretary MORTON. We are seeking that now, Senator, I assure you.

Senator BURDICK. Senator Bellmon.

Senator BELLMON. Thank you, Mr. Chairman.

Secretary Morton, I would like to also commend you and the administration for the prompt attention you have given this extremely important and pressing problem. I hope that we will be able to resolve the matter again quickly, and, because I feel that there is a sense of urgency about this whole situation that involves the future development of all of the State of Alaska.

But I have a couple of questions I would like to ask.

In your statement on page 3, you mention that you feel that each Native village should get fee simple title to public lands which it occupies, plus fee simple title to adjacent public land, to the additional public lands adjacent to the village site, and not more than three times the acreage of the village.

How do you determine the limits of the village?

Secretary MORTON. This is a very, very good question. If there are two houses in the village, a mile apart, versus four houses in a village that are a hundred yards apart, you have got a different size village, and this is one of the reasons for establishing some sort of entity, some sort of body, that can make this determination, because I don't think you can determine it in a formula; I think it has to be determined by someone familiar with the ground, and familiar with the configuration, and familiar with the whole village itself.

So this is a determination that will have to be made, and there must be provision for making that determination in the legislation. It will have to be made by someone, on a village-by-village basis.

Senator BELLMON. Mr. Secretary, I have only visited three or four Alaskan villages, but they don't have clearly defined city limits, the way we like to think our municipalities have here in the lower 48, as they like to call us.

But it would seem to me that the approach taken by the Senate Interior Committee last time, which allowed one township of land for each 400 population or less, is a very reasonable approach to this whole problem.

Have you decided against this?

Secretary MORTON. Well, it is, if the township and quality of land on the townships are all equal. You couldn't take any measure to it, but the facts are that the quality is not the same. Some of this land, from a subsistence point of view, and other point of view, is more valuable than others, and you get into the argument between space and quality.

And for this reason, we have taken this approach. It may not solve all the things that Senator Stevens had in mind, in his comment about the value of land itself, but I think you are just arbitrarily saying that the village should have 20,000 acres, plus another finite amount, and I think whether there are 800 people, or whether there are 700 people, really isn't the answer, I don't think, to complete equity, and we think that this can be achieved through the subsistence program.

Senator BELLMON. I believe the members of the committee felt that the fact that these villages are there, and the fact that up to the present time, the villages have been able to subsist on the land resources that are adjacent to the village, meant that probably the land quality would be desirable enough for the villages to have use for a tenantship of land, and they would continue as they have in the past.

Secretary MORTON. I have some reservations about that approach. I have some strong feelings that that approach is more of an expedient approach, rather than a long-term equitable solution.

And that is why I hang in there, on the concept that we have put forward here.

Senator BELLMON. Mr. Secretary, I would like to make one other comment. It is more a comment than a question. I come, of course, from the State of Oklahoma, where our Indian population has probably come more near to being assimilated, or at least, to joining in the total community activities, than is true in States where Indian lands were set aside into reservations, and the Indians have largely been kept separate from the larger society.

Is it your thought in Alaska that we should strive to keep the Indians segregated or separated, or strive for assimilation?

Senator MORTON. I think we should strive for self-determination. I think it is almost unrealistic to believe, that Indians or Natives whose education is improved, through the development of better schools, whose economic opportunity is improved by job opportunities that exist, are not going to want to participate more broadly in a general society and in the general economy.

And I am afraid that perhaps through the ownership of large blocks of land, and through other types of pressures that would develop, it could very well be that the Indian or the Native would tend to isolate himself, and would not become more a part of our economy and social structure.

And I don't want to do anything to shake the security of those who are living on special lands, such as reservations. But our whole education system, and our whole system of help and assistance, through the many programs that the Federal Government has, and State governments have, are all aimed at providing the opportunity for people who have not had the chance, but would seek the chance, to become part of the society.

Who knows what our culture will look like a hundred years hence? But I think it will be a far more monolithic culture. There will be a greater sameness about the culture, simply because of our education system, than it is today, and I am hopeful that in the process of self-determination, the Native Alaskan and the Indians, and all other minority groups, seek to set for themselves the highest kind of standards, in their way of life.

Senator BELLMON. Mr. Secretary, I certainly agree with your ambition to make it possible for our Indian and Native citizens to choose their own course of action, and to live the kinds of lives that they want, and hope that we will be able to accomplish that.

Again I would like to compliment you for your prompt attention to this serious problem, and say that I hope to work with you and work out a settlement that is in the best interests of all concerned.

That's all.

Senator BURDICK. Well, I would like to clear up just one more thing for the record.

Getting back to this use permit, this mechanics is to give you flexibility. Then that means that the use permit can be terminated most any time.

Secretary MORTON. Well, it certainly could be terminated by the Congress, I would think, at any time. I don't think an arbitrary action on the part of a Secretary or on the part of an administration would be likely to happen.

Senator BURDICK. You mean to say there would be congressional action every time we tried to change?

Secretary MORTON. I thought you meant terminate the whole program, Senator. Excuse me.

Senator BURDICK. The permit itself. Here is a permit A to an Indian group, to an Eskimo group out here by the mountainside, and couldn't you in your Department say, "Twelve months hence, that will be terminated."

Secretary MORTON. Not if the Congress wrote into the law that the permit as a whole is not to be terminated. I would hope that in the problem, or in the program, there wouldn't be such inflexibility that the interests of the Alaskan Natives were not protected.

I would not foresee that any action of that kind would be taken by a responsible Secretary of Interior, unless it were in the interest of the Natives. I think that he would be in violation of the law, and in the spirit of an act that sets such a permit program up.

Senator BURDICK. Wouldn't that permit be subject to the higher use application of the law that we have?

Secretary MORTON. That is also a very good question, and I frankly don't know the answer to that. It would depend, really, I think, on the language of this bill, and probably could very well necessitate the amendment of some other acts.

Senator BURDICK. Well, we will have to do some work on this permit, then, won't we?

Secretary MORTON. I think so. The whole thing requires a lot of work, and I think it is worth it. I think just dealing in space and acres is too easy a way out. I think it does require a great deal of work, but that is what we are for, and that is what the Bureau of Land Management is for. That is what our Government agencies are for, is to get that work done, and I certainly don't think we ought to shy away from it, and just be arbitrary in decisions that we make that that will just put x million acres in, and that's it. That could have a good effect, or 20 years hence, we can look back on that as being one of the worst decisions that was made.

Senator BURDICK. We have got this dilemma facing us—a permit that is indefinite in time, a permit in time is very similar to a quitclaim deed.

On the other hand, if you have one that is completely flexible, it can be terminated in 24 hours. So how should we handle it?

Secretary MORTON. Well, somewhere there has got to be some good faith, and I have frankly, maybe my good friend here, Secretary Loesch, who is a lawyer—a fine lawyer, and I am not—he may be able to give you an answer to that. From a legal framework, that would answer the question. I would be very happy to hear what he has to say about it.

I personally, just from a horsesense point of view, feel that the permit system can be made to protect the interests of the Natives.

Senator BURDICK. Secretary Loesch.

Mr. LOESCH. Senator Burdick, I haven't really given that a great deal of thought up to now, but I would say that a permit for a particular term of a particular piece of land probably ought to be the starter of the thing.

Now if experience shows that the village involved—let's assume for a moment that it is going to be a village permit—really needed the permit on different land, or partially different land, for the following term, you might want to just change the boundaries.

They might need more, they might need less, they might need it south of the village instead of north of the village. It is this sort of flexibility that I think Secretary Morton is thinking of. And while it is not developed at this moment, I don't see any reason why we can't rapidly develop the machinery so that we could assure this committee that not only would the long-term concerns of the Native villages be covered, but the requisite flexibility was built in.

Senator BURDICK. Before we have our executive session, I hope you will give us some language that might develop some of this.

Mr. LOESCH. We will try to develop that. I think we will have our bill very shortly.

Secretary MORTON. Yes. We will have the bill next week, and I think that obvious issue will be covered in the bill, and not left dangling, and give us the opportunity to do that, because I think it is very important. I can understand why you are concerned about it.

Senator BURDICK. All right.

Senator Stevens?

Senator STEVENS. Thank you, Senator Burdick.

I only want to comment that I understand where the concept came from. It is built into the House bill pretty well, but we explored a similar situation here, a similar proposal here, for about 18 months, and rejected it, I think, for two basic reasons: One, after the permits are issued, the State is going to go ahead and select its land, and you are not going to have much flexibility, beyond the permit area, because the State must go ahead, the balance of the time that is available. They only have 25 years to select that land, as a State.

Of course, we could build into the State selections a reservation for future permit use, but that would create the situation that developed in Finland, as you know, where you had—you are familiar with a situation in Finland, where the Lapps have an overriding right to relocate their use areas, which has led to great consternation in terms of land use planning.

But secondly, and the foremost reason for this committee's going to the concept of a township based on population, one township for every 400 people, was the concept that I mentioned before, that—and

I say this in due respect, having served with two secretaries of Interior, and the predecessor being my very good friend, as you know, and I have great respect for you, and you don't think that the Alaskan Native people want to place their faith, you mentioned in good faith, but their faith forever in a Secretary of Interior, and the permit system leaves that discretion in place, and it is nothing personal about you or your predecessors, or those who are to come, but I think it is a failure of the system that leaves discretion in an area in Washington to determine what should happen in the tundra country of Alaska.

I really think the permit system can't work as far as the basic lands are concerned.

Now we did, as you know, go beyond the fee land, with a concept of subsistence use units requiring State cooperation in those areas, but that was for the term that the subsistence economy existed, but there was a central core area that was much larger than yours and you mentioned a million acres. Mr. Secretary, there are 178 villages and if there were just one township for each village you would have 5 million acres, roughly, so I think that your figure is quite low, that your proposal would cover. If it is three times the size of a village, it would cover at least a township for each village, so your proposal covers roughly 50 million acres, in my opinion, whereas our bill covered from 15 to 25 million acres last year.

Secretary MORTON. I realize that there is a difference in the acreage, and we have not multiplied it out. Maybe the figure is 5 million. We estimated quite roughly here that it would be about a million. It is a matter of concept, and also, we are very hopeful that a bill is passed that, and I realize the complexities of the legislation, because there is a very substantial difference in the House bill, as I have seen it, or at least, the one that I have seen, and I don't know of any other at this time, than what actually passed the Senate last year.

So I would hope, though, that when we do finish the bill, and we will hear in a few days, that you will give it your real careful study, and certainly I am not here to interfere with or sway beyond reason this committee or the Senate.

I conclude, though, on the question, by saying that I am hopeful that something comes out of the Congress that the President can sign.

Senator BURDICK. Well, thank you very much. You have been very helpful this morning.

Secretary MORTON. Thank you, sir.

Senator BURDICK. Thank you.

The meeting will be adjourned until 2 o'clock, at which time we will hear the Governor of Alaska

(Whereupon, at 12:07 p.m. the meeting recessed to 2 p.m. the same day.)

AFTER RECESS

(The committee reconvened at 2:04 p.m., Senator Mike Gravel presiding.)

Senator GRAVEL. The hearings will reconvene and come to order.

I would like to invite my good friend, and the Governor of Alaska, the Honorable W. A. Egan, to come forward and take the speaker's table, and bring up your assistants, also, Governor.

We are certainly happy to have you here, representing the State. Proceed as you wish, with your testimony.

STATEMENT OF HON. W. A. EGAN, GOVERNOR OF THE STATE OF ALASKA

Governor EGAN. Thank you, Senator Gravel, Senator Anderson.

Since the statehood bill itself, no legislation pending before the Congress of the United States has so absorbed the interest and emotions of Alaskans as the Native claims legislation being considered by this committee today. And rightfully so.

A just and equitable settlement of the Native claims is in many respects a great piece of unfinished business remaining from that time. It is not only that the aspirations for economic opportunity and social posture of the Native people of Alaska rest on the successful passage of claims legislation. It is not just that the uncertainty provoked by this unresolved question can cripple the economy of our State. More critically, justice suspended is causing strains in our State which for the first time are setting Alaskans one against another.

So today, I do not come before you as advocate for any group pleading some special interest in lands. Nor do I come before you as an impartial spectator to the exercise of federal responsibility.

I am here following the highest duty as Governor of Alaska at this time, to plead the case for a settlement now. Out State depends on your positive action.

It is only natural that a piece of legislation so vital to so many people in the State of Alaska should stimulate a variety of strongly held views. What may be just and reasonable to one man may appear inadequate to another or excessive to a third.

There is no precise position that the State administration can embrace as its own while still fairly representing the viewpoint of a majority of Alaskans. Nor is it necessary that the State decide one course only is the correct one and that other courses are wrong.

For in the final analysis, the State is not the judge. It is the Congress and the Congress alone which has the power to settle the Alaska native land claims. It is the Congress upon which the duty evolves to make the final judgment, what is just, fair, and equitable under all the circumstances of the case.

Though the Congress must decide, the State must participate in a claims settlement in a manner which can be helpful in producing a claims settlement. However, the form and extent of that participation cannot be such that the State's ability to provide essential public services or manage the State's resources is impaired.

Both chambers of the State legislature now in session have adopted resolutions favoring State participation in the settlement. The form of participation provided for in section 18 of S. 35, providing a 2-percent overriding royalty in dispositions of subsurface rights in oil and gas and related minerals is one form of participation which would be acceptable to the State.

However, the provision of paragraph (g) of section 18, which suspends the State's right of selection should litigation be initiated, works, in my opinion, in no one's interest. It leaves the application of a crippling penalty against the people of Alaska in the hands of any person who feels impelled to file a law suit.

It is also an open invitation to opponents of any settlement bill to impair its effects.

The State has endorsed and is prepared to defend in court the legality of the revenue-sharing provisions of this proposed congressional enactment. With such assurance, the concerns of the proponents of this subsection would seem to be satisfied as far as reasonably possible.

Participation by the State as provided in section 18 is premised on the assumption that the provisions of section 5 of the bill which calls for a Federal appropriation of $500 million to be paid out to the natives of Alaska over a 10-year period will not be diminished. I approve of the balance of Federal and State participation which S. 35 provides.

The provisions of a settlement bill which determine how much land is to be vested with Native ownership and how it is to be selected are perhaps the most difficult and controversial of the feature of each of the settlement bills which have been introduced.

With regard to those lands which have been withdrawn and were not subject to selection by the State of Alaska at the time of statehood, or Continental Shelf interests in minerals outside of State jurisdiction, the Congress has the right to make such disposition as it sees fit in recognizing the claims of the Native people.

We urge only that the Congress recognize that the historic claims of the Native people to Alaska lands does not exclude lands set aside by the United States for special purposes or reservations and their claim to such land should be given generous recognition in the form of the final settlement.

With regard to lands subject to State selection under the terms of the Statehood Act, the compact under which Alaska entered the Union, more difficult questions arise. It must be recognized that to the extent that broad grants or priority selection rights in land and subsurface rights are made to one group of Alaskans, the ability of the State of Alaska to provide for the general welfare of all Alaskans is that much diminished.

To the extent that control over the surface and subsurface use of land is relegated to others, the State's ability to usefully manage the lands and resources of Alaska is impaired. Nevertheless, it appears to me that the provisions in section 14 of S. 35 do represent a reasonable attempt to balance the State interest in priority land selection under the Alaska Statehood Act and the equities of the Native claim.

However, I do feel that the principle of balanced State and Federal contribution which is carried out through the matching of the 2-percent royalty against the $500 million up to $500 million of revenues from congressional appropriation over 10 years should also be reflected in the form of land settlement.

I strongly feel that the Native people should be allowed an additional right of selection from Federal reserve lands excepting parks so that total selection from Federal lands will be at least as much as the amount of high value land which the State is losing through the surrender of priority selection.

In addition to the fee lands granted to the Native people as a part of this settlement, we approve and concur in the setting aside of a substantial acreage for subsistence protection for so long as there are Alaskans who wish to pursue this way of life.

In the management and distribution of the settlement, the viewpoint of the Native people of Alaska themselves should be honored where at all possible. The State of Alaska stands ready to assist in any manner

which the Congress sees fit with regard to implementation of management provisions.

The provisions of section 17, regarding a special amendment to the Mineral Leasing Act, appear to be extraneous to the general subject of this bill and undesirable to the extent that Federal lands in Alaska are singled out for different treatment than lands generally without apparent justification.

In conclusion, I can only express satisfaction on behalf of myself and the people of Alaska that this committee has recognized the urgency of this measure by giving it such early consideration.

There is a wide range of alternative settlement arrangements which would be acceptable from the point of view of State interest. Your action in giving this bill consideration in the early days of the Congress is an important step toward the early enactment of a law which all Alaska waits for.

Thank you.

Senator GRAVEL. Thank you very much, Governor. That is a very fine statement.

I would like to just ask one question relative to the announcement of the chairman of the committee at the beginning of the hearings this morning. That is, what would be the State's view, or your personal view, about the proposal that he made about establishing a Federal corridor that would include access to the pipeline?

Governor EGAN. Senator Gravel, I would like to say on that that with respect to drawing together all of the various paragraphs that deal with that subject in Senator Jackson's statement this morning, that as you will recall, the Federal Land Law Review Commission recommended that legislation be established for a joint State-Federal Commission on Land Use Planning and Management.

Now in the statement to the legislature earlier this year, I informed the people of Alaska and the legislature that my staff was in the process of drafting just legislation that would accomplish this purpose. That legislation has now been drafted. It only awaits my return to the capital at Juneau for review by myself before submitting it to the legislature.

That legislation would establish a joint State-Federal Land Use Management and Planning Commission. The legislation would also require, of course, that comparable legislation be enacted by the Congress, which we assume was the intent of the Land Law Review Commission's recommendation in this regard. And I think that this probably, through the early establishment of the Land Use Management Commission, that perhaps this would be the better way to reach a determination wherein the State and Federal Governments could properly set up the type of land use that would be necessary, in line with Senator Jackson's suggestion.

Senator GRAVEL. I think, Governor, we could concurrently introduce legislation that would be tied to the land claims bill itself, that would cover this very, very well.

So we will watch, and I am sure you will keep us advised as to the progress of your legislation in the State legislature.

Senator Anderson.

Senator ANDERSON. Thank you, Senator, can you cite me what this reference was to the Land Law Review Commission?

Governor EGAN. It was section 15, Senator, in which the Land Law Review Commission recommended that such a commission be established, a joint State-Federal Land Use Management and Planning Commission, in order that we do at the earliest possible time begin to formulate an overall land use plan for Alaska that would encompass the Federal public lands as well as the State lands.

Senator ANDERSON. But you weren't trying to say that a certain request was made for this legislation?

Governor EGAN. Yes; I have had my staff draft such legislation in Juneau. I will be submitting that early next week to the Alaska Legislature. However, in order that the legislation could be implemented, the Congress would have to take similar action, as suggested by the Federal Land Law Review Commission.

Senator ANDERSON. I didn't recall very much of that material. You have had it a very long time, and the report. I didn't think it involved much that was suggested in this.

Governor EGAN. Yes; well, that recommendation was in the Land Law Review Commission report, Senator.

Senator GRAVEL. Thank you.

Senator Hansen.

Senator HANSEN. Thank you very much, Mr. Chairman. I have just two questions.

Governor, it is always a pleasure to see you. I am very much impressed with your statement.

On page 5, you endorse setting aside subsistence lands. Would it be your feeling that you would expect that these lands would be subject to taxation?

Governor EGAN. The subsistence lands? To those people who were using those lands for subsistence, and subsistence only, I would not envision that there would be any taxation involved. However, if it was determined that there was some activity, some development activity, within an overall land-use plan, that such development wouldn't be in conflict with the use of those lands for subsistence purposes, then if that activity that was profit-producing, it would undoubtedly be determined that that kind of an activity would be taxable.

Senator HANSEN. Not only from your statement here today, but more specifically and precisely from statements in the press that were attributed to you in the last day or so, I gather that it is your belief that it is terribly important to the people of your State and, indeed, to the State itself, that you get on with the job of developing your resources, including your mineral resources.

Am I right about that?

Governor EGAN. That is correct, Senator. And that would carry right over to our very definite, sincere interest and feelings toward the building up of the opportunities for employment and educational opportunities, and all other things for the needy people of Alaska.

Senator HANSEN. Well, then, on the top of page 6 of your statement, you say:

> The provisions of Section 7 regarding a special amendment to the Mineral Leasing Act appear to be extraneous to the general subject of this bill, and undesirable to the extent that federal lands in Alaska are singled out for a different treatment than lands generally without apparent justification.

I suspect you are referring there to the special provision in last year's bill that would have decreed that all mineral leases be issued on the basis of competitive bids. Am I right about that?

Governor EGAN. Yes; and this is not for me to get into the question as to whether or not the Congress of the United States should or should not enact legislation requiring competitive bidding on all mineral lease lands, Senator, but only that Alaska and Alaska alone would be singled out for this treatment.

I think that we happen to have a very definite and clear constitutional question arising. My fear would be that, as my recollection of the language attached to that entire section, that a declaration of unconstitutionality might carry with it other provisions of the bill.

Senator HANSEN. Well, it happens that I share your feelings about this. I think that even more apparent to us now than was the case a year ago is the fact that this Nation is facing a very critical energy shortage, and that that does several things.

No. 1, I think it urges us to take every means we can, expeditiously, to bring into being this pipeline, subject, of course, to our overriding concern that we shall not unnecessarily do damage to the ecological balance of that area, but that there is great need for getting a dependable source of energy, a source of supply down here, to the lower 48, that can help fill the breech, because we are failing to keep up with the increased consumption of energy in the lower 48.

So, on one hand, I say that I wish you well, and looking toward an early resolution of your environmental problems, that at the moment are holding up development on the pipeline, and then to make the further observation, and I would like your comment on this, in the lower 48, I think possible 85 percent of all of the new discoveries have been made by so-called "independents," people who have been used to leasing under the Minerals Leasing Act of 1920, by which they are not obliged to make competitive bids.

If they were forced into doing that, it is my feeling that we would slow the search for and discovery of petroleum resources. Do you share that feeling?

Governor EGAN. I certainly do, Senator. And I would like to say, too, that with respect to what you mentioned first, about the environmental safeguards, I would like this committee to know that in that respect, the State of Alaska has already enacted statutes that would require the State to take very strong action with regard to deliberate pollution, and in some cases, where the pollution damage wouldn't have been caused from deliberate intent.

But in addition to that, Senator Hansen, this year, earlier this year, a few weeks ago, I submitted to the Legislature of the State of Alaska a bill that would create a Department of Environmental Conservation. I think that the legislation I have submitted, could well be used as a model by the other States of the Union in creating that same kind of a department elsewhere, to make absolutely certain that in our development of the future, that we do have a wise development protective process functioning at all times, and that the environmental protections are there, that they have to be complied with, and the stipulations and requirements have to be complied with, and that we will not make the terrible mistakes that were made in practically every other State of the American Union.

And I am happy to report that it appears that that legislation is receiving responsive reaction in both houses of the Alaska Legislature, and I am highly confident that we will have, in fact, a Department of Environmental Conservation functioning within a very few weeks period of time.

Senator HANSEN. Well, I compliment you for that, Governor, and I would venture the opinion that other States may very well adopt some of the forward-looking ideas that you are offering to the people of your great State.

With respect to the value of competitive bids, in my State of Wyoming, having served as Governor of that State, as you know—we served, I think, starting out in about 1963, at the same time—it is the feeling of many people in Wyoming that if you consider the overall revenues that come to the State by virtue of the implementation of Federal leasing provisions which we now have, coupled with simultaneous drawings which we now have, that we do stimulate a great deal more interest in leasing, and in exploratory activities, all of which have a beneficial effect and impact upon the State's economy, on jobs, upon revenues, that really, it can be contended that we get more money, that the State receives more money by encouraging this widespread activity than would be the case if we were to go to a competitive bidding system.

Would you care to comment, if you have any feelings as to the situation in your State?

Governor EGAN. Well, I don't know if I could make any positive statement, Senator, that on the noncompetitive, in the noncompetitive leasing process, that more money would come from those leases to the State, but it hasn't been proven to my satisfaction that the regular leasing process, at least to some degree, fits into the picture, provided that it is on a permissive basis, and under their particular circumstances, regarding land in particular areas of any State that have minerals, where I think that in consultation with your expert geologists, and others who have tremendous familiarity in a field of that nature, where for a long time to come, it might be too restrictive to have all mineral leasing on a competitive bid basis.

However, I would like to point out, too, that we are not in Alaska bound and determined to put all of Alaska's lands that are in the hands of the State wildly and recklessly up to competitive bid or any other kind of lease sale.

I also presented to this legislature a proposal asking for $500,000 to strengthen our geological and geophysical section of our department of natural resources, so that we could come in next year, and maybe ask for more money, and do considerable geophysical works ourselves, and the State of Alaska would contract out to geophysical firms, and I understand this is different than has been done in any other State, but I think that we have the opportunity to again do something, while it is different, that is in the long range benefit of all the people, and have the geophysical firm do geophysical work on x number of tracts annually, create a backlog, and as we need to put lands up for competitive sale, that we draw on this backlog, and announce for all publicly what our total geophysical findings were on each tract, rather than leaving it up on a confidentiality basis, with respect to the oil companies themselves being the only ones who have the considerable geophysical information.

I think that in Alaska, over the next 20 years, when we get this program in process, that it could mean a billion or 2 billion dollars more into the State treasury over the next 20 years from competitive bid lease sales than would be the case under the normal system.

I also feel that this partially answers the continual argument you get from so-called independent operators, that they don't get a proper shake in the bidding process, and from John Q. Public, generally, because every citizen of Alaska, and every citizen of every other State in the Union, would have access to the geophysical information, a year or 9 months before we could put any lands up for competitive bid sale, but the geophysical readings, to the best of our ability to read them, would be, and they could go in there then, really knowing something about the likelihood of the volume of reserves of oil and gas on that particular tract.

You go in on an equal basis.

Senator HANSEN. I think what may not be generally understood by the public is that on all known geological structures, now, it is the policy of the Federal Government, through its various public land laws, and Mineral Leasing Act of 1920, to call for competitive bids.

That is, where there is a known geologic structure. And I am well aware, of course, of the fact that in the sale you had, in Alaska, I suspect a little more than a year ago, you received in excess of $900 million.

Governor EGAN. Yes.

Senator HANSEN. By offering these tracts to the public on a competitive lease basis. But isn't it also a fact that there were a few tracts that were offered for which you received no bids at all?

Governor EGAN. I think that was correct. I think there were a few tracts of that nature, that drew no bids at all. However, Senator, under those, I personally feel that too much land was placed for sale at that time, in that particular sale, knowing already that in the general area, huge discoveries had already been made. But that is something else again.

But now with respect to land, in Alaska—and again, I want to make clear that the fact that the policy of the State of Alaska is not to just put up lands for competitive bids or other lease sales for lease sales' sake. And this is nothing new in the policy of my administration, and my previous administration, in the first 8 years of statehood, that in the early 1960's, the then Secretary of the Interior, Mr. Udall, let it be known to us that the Department of the Interior wanted to put up about 7 million acres, as I remember it, north of the Brooks Range, on development lease or on a development proposal status.

Mr. Udall took the necessary steps to expand the then existent amount of land that any other company could hold on a development use contract, whatever you call that kind of a contract, because of the additional cost of operating in the area. But I took the position that we must go slower than that, that it would not be well to put up 7 million acres.

In other words, we did battle, in effect, with the Federal Government, saying that we didn't think that it was in the best interests of Alaska or the Federal Government, to put up all that 7 million acres of development use land, on development use contracts, and call for proposals all at once. And we were successful in causing the then Secretary of the Interior to change his mind, and put up that amount of land, in 1 million or 2 million acre allotment proposal sales.

But I just point this out, and I want to point out, too, Senator, if you might permit me, that here 2 or 3 months ago, I spoke before

about 400 geologists in Anchorage, and at that meeting, I spelled out my plans for creating this strong geophysical section in the Department of Natural Resources, that the State would contemplate contracting out to qualified geophysical firms.

Afterwards, during the question period, one man standing up against the wall in the back of the room said, "Well, the way you are talking about it, it will take another 1,000 years to develop all of the lands of Alaska."

And he said, "If you are just going to take a look at it on the matter of development as you need the resources, and can use the resources, that is probably what it will take."

And I just merely ask the question, "What's wrong with that? What's wrong with planning to utilize and be able to utilize the resources of the huge State of Alaska for the next 1,000 years, rather than trying to go through those resources and put all the lands out to commercial usages in a very short period of time?"

I point that out just to make it clear for the record the manner in which Alaska itself is approaching and proceeding in what it feels is its responsibilities to not only the people of Alaska, but to the people of the United States, and the utilization of the public lands.

Senator HANSEN. Just to clarify my thinking, and for what good may come from a clear understanding on two points, let me make this observation: First of all, I certainly have no suggestions to offer the State of Alaska as to what type of minerals policy you develop.

Secondly, I understand from your testimony that insofar as changes in Federal law go, as they might be applied to one State to the exclusion of the other 49, your recommendation is that the same laws applied uniformly should go everywhere, and that should include Alaska along with the other lower 48.

I guess there isn't any oil in Hawaii, but as I understand, your recommendation on page 6 is that whatever the Federal public land law is, you feel that that should apply to Alaska as well as to any other part of the United States.

Am I right about that?

Governor EGAN. Yes.

Senator HANSEN. Mr. Chairman, let me just conclude by saying that, if I recall correctly, I think it is only about one well out of every 50 that is drilled that turns out to be a commercial producer, and if you will stop to figure up the amount of money, the effort, the manpower, the machinery, everything that goes into it, I think that we must conclude that there is a pretty significant side benefit that flows from any land policy which encourages wide exploration and drilling activity, and I agree with the distinguished Governor of Alaska that we ought not to abandon that, and to apply a different system in your great State.

Thank you, Mr. Chairman.

Senator GRAVEL. Thank you very much.

My colleague, Senator Stevens?

Senator STEVENS. Do you have another question, Senator?

Senator ANDERSON. Well, I would like to know what your understanding is about this decision of the Manpower Commission. I was a member of that Commission, and I would be interested to know what you think is required.

Governor EGAN. Senator, it's recommendation No. 15. I am sorry.

Senator ANDERSON. Well, we always have trouble trying to apply these things to our own States and our own areas. You answered the questions on it, and I am not sure that all of us favor so many bids. We had some very close questions and arguments about it, for and against it. I wanted to be sure what you think Alaska should now do.

Governor EGAN. Thank you.

Senator GRAVEL. Senator Stevens.

Senator STEVENS. Governor, we both participated in the statehood battle, and we had the State land selections under the Statehood Act, and we are now going into an area of land grants to settle Indian land claims.

Don't you think it would be possible for the State to contract with the beneficiaries of this land claims settlement bill, with regard to setting up some sort of a priority schedule as to the lands that would be available to the Native people for use and the lands that the State could collect, setting up some sort of an exchange provision similar to the Forest Service exchange concepts, and the public land laws that apply in the lower 48, so that the decision that would be made with regard to how the State's selection rights and how the Native land grant under the bill that we pass, I hope, will be made by Alaskans?

Do you get my question? Isn't it possible that that could be settled at home, and not be made part of this bill?

Governor EGAN. In coming to an agreement between the Native organizations and the State, you mean, Senator Stevens, as to priority of selection?

Senator STEVENS. Right. And in the areas where the State has already selected, where the bill would purport to grant to a Village A, for instance, so many acres around that village and the State may have already selected a portion of those. Now we were shown that that as happened in some instances, and it is obviously going to take State action to relinquish that land and select alternative lands to make that land available.

Now isn't that possible to be solved at home, without putting it in this bill?

Governor EGAN. Now first off, Senator, I think that the land selection rights, priority rights, as they presently exist in S. 35, up to that much acreage of land that you are dealing with in S. 35, that it wouldn't seriously impair the State's capability; that provision, up to that point of land, wouldn't seriously impair the State's capability over the long years ahead to provide for the welfare of all of its citizens.

However, if you got into large acreages, now that's why my suggestion, Senator, that in increasing the acreage, and I think that it would be only fair that the committee in considering increasing the acreage going to the Natives, that they would consider conveying to the Natives, in my title lands, lands, additional lands from within the present Federal reserves, which would follow through on the shared participation concepts set forth in your provision on the 2 percent royalty override, up to $500 million.

I think that if even an additional amount of land, equal to the amount of land in S. 35 were granted to the Natives, out of presently reserved Federal lands, that that wouldn't create any additional difficulty in the priority provisions.

But if a considerable amount of additional lands were conveyed to the Natives from the State's right of selection, lands that the State would have the right to select, above and beyond what are presently conveyed in S. 35, then I think that it would be much better to write a different and a more inclusive, covering every eventuality with respect to setting up a formula for selection, by the Natives and by the State.

I think the State could, indeed, work out a formula with the Natives, yes.

As to how to proceed, whether the State should select 100,000 acres, and then the Natives select 100,000 acres, or whatever the formula would be.

In any event, we plan to work as closely as is humanly possible, in the State government, with the Native organizations in helping them get all of the activities that will be necessary after the claims settlement is accomplished by the Congress. We know that the State is going to have to work very closely, but if other than an additional sum of lands from the reserve lands that are now reserved by the United States in Alaska, above and beyond Alaska's capability to select, if other lands than those in any large amounts are granted, in S. 35, then I think that the Congress should consider another arrangement of priority selection here.

Senator STEVENS. Well, I am happy to hear you say that you think that if there is a circumstance that would require a priority schedule, a formula, rather, that it could be established between the State and the Native people.

I believe that is something that ought to be worked out at home, because I don't think we can sit here and conceive of the number of circumstances that such a priority formula must encompass.

Governor, I don't know if you have had an opportunity to see the map that has the location of villages and the location of Federal reserves, and the application of the terms of S. 35. There is such a map in the State offices. I saw it once. It is a very interesting thing, because S. 35 does in fact, by virtue of its formula, take a substantial portion of the land envisioned out of Federal reserves, but not the parks, and not the Forest Service lands. Those two areas are not covered, except by the particular provision for southeastern, but there were a great many areas that would come out of the reserves, including the Naval Petroleum No. 4 Reserve, and some of the vast special classification reserves that have been established, in which the State can't select lands.

Now I take it what you are saying is if we expand the amount of land, that continues the same formula, of making sure a portion of it comes out of the lands that have been set aside and are not available for State selection.

Governor EGAN. I don't think that the amount of lands in S. 35 comes out of reserve lands approaches the amount of valuable lands that would be taken from the State right of selection lands. Isn't that right, Senator?

Senator STEVENS. No, I am afraid that map is going to astonish you, Governor, when you see it. The provisions are, for instance, the 500,000 acres for the North Slope, obviously, come out of reserve, and one township for every 400 people at Point Barrow, you can figure that one out pretty fast. There is a considerable portion of S. 35 lands

that come out of some of the areas that are already preserved. They did not touch military lands or national parks or southeastern forest, but otherwise, it did, and it is a very interesting thing.

Governor EGAN. Yes.

Senator STEVENS. I have a couple of other questions. I know we will be glad to move on.

The State selection rights, of course, we are running under the gun on our 25-year period, and would you agree with me that if we can incorporate in this bill, and the State can come up with its Federal-State commission concept, that we could prevent a land rush in Alaska, and therefore, not need that 5-year provision that is in this bill, that came about as a result of recommendations from Alaska, incidentally?

Governor EGAN. I think we can, and I would certainly hope so. If we can get expeditious action, in getting such a commission action functioning.

Senator STEVENS. Now one of the things that led to the provision that Senator Hansen mentioned, and that you have mentioned, the competitive provision change in this bill—it is now S. 35—was the situation that occurred because the land freeze that was originally imposed by the former Secretary of Interior, back in 1967, Mr. Weinberg?

Mr. WEINBERG. For the informal one?

Senator STEVENS. The first one.

Mr. WEINBERG. That was about 1966 or 1967: yes.

Senator STEVENS. When that was first imposed, it is my understanding that the instruction was that applications for oil and gas leases would still be accepted by the Bureau of Land Management, in order to determine the priority of those lease applications. And I think that the great interest in the competitive versus noncompetitive leasing procedures, as far as this bill is concerned, were really focused by the area that was south of the Prudhoe Bay area that was covered by leases filed in that period, before the formal and after the correction of the Secretary of the Interior, that no final patents would be issued.

Am I correct in assuming that the State would intend to continue its selection pattern south of Prudhoe Bay, and that this area of these leases would be covered by State selection and it would be a matter for the State to determine how to lease those lands anyway?

Governor EGAN. Well, that is a possibility, Senator, but we haven't made any determinations as to which lands we would select. But I think we must keep in mind, Senator Stevens, that we would have, after the expiration of the land freeze order on June 30, we will still have another 90 days.

It wouldn't be a matter of at the expiration date of the land freeze, we are not renewed before we could make these and other determinations. We would have a 90-day period there, in any event.

Senator STEVENS. Well, what I am trying to do, Governor, is try and see how many of these issues we can isolate, then, and leave the Federal bill to cover Federal issues, and have the State resolve those issues that are primarily concerned with the State citizens and their desire to deal with lands from the State would be selected by the State.

I think if you can give us a policy on that, that it might help us eliminate both the 5-year provision and the noncompetitive and the competitive leasing provision.

Governor EGAN. Senator, we will get to consult with our people in the Department of Natural Resources, and others on my staff, and we will get that information to you.

(The information referred to was not received in time to be included in the record.)

Senator STEVENS. I have one last question. I understand you have to leave, Governor.

We have had a series of suggestions here concerning what lands should be available for consideration as far as the grants to the Native people are concerned, and they go from on the one hand, the position presented by Senator Harris' bill, which would cover any lands not patented to State or individuals, to on the other extreme, those lands for which the State has made application or an individual has made application which has not been tentatively approved.

Now we adopted the position in the last Congress, and S. 35, as I understand it, that lands that have gone to patent, as far as State or an individual is concerned, would not be subject to these grants to the Native people, nor would tentatively approved lands be subject as far as the land grants, but as far as future revenues were concerned, the revenue-sharing provisions would apply to those lands which were tentatively approved.

I know this is getting particular, but you have indicated here a willingness to accept the provisions of the old S. 1830 or S. 35 now, as far as the land provisions and the revenue sharing is concerned.

Do I take that to mean that you are willing, the State is willing, to accept the fact that the revenue-sharing provisions would apply to the Prudhoe Bay lands in the future, as to all future revenues from Prudhoe Bay, as well as any other lands that the State selects in the future?

Governor EGAN. It has been my understanding all along that under the provision of S. 35, that that was intended, 2 percent of all the revenues that are received in future, from the time of the passage, if this bill takes effect, from then on; yes; until the amount of money has been reached.

Senator STEVENS. But in order to protect the State's title to the Prudhoe Bay field, the tentatively approved lands would not be available for grants to the Native people to settle the land.

Governor EGAN. That is the position we take; yes. And I might say, too, Senator Gravel and Senator Stevens, that I plan to submit legislation to the legislature to provide that a preference right to occupants of tentative approved lands, who may have lost, really, their right, who otherwise would have been qualified to get needy Federal allotment of 160 acres in that area, but only because of the tentative approved lands, that they were not, would not be entitled to them.

We are sending legislation to the legislature that would seek to convey to those people, under those particular circumstances, who otherwise would occupy the lands, that would otherwise have been qualified for a Native allotment, other than that they hadn't applied prior to the time of the tentative approval, that they would receive title.

Now it is also my understanding that this could affect as much, at its maximum, the most firm projection we can get is that on the maximum side, that we would be talking about a maximum of 200,000 acres. It might not be that much.

Senator STEVENS. You are talking about the lands that have actually been used on a traditional basis?

Governor EGAN. Yes.

Senator STEVENS. Recognizing an Indian allotment formerly of up to 160 acres for that use, within State selection areas.

Governor EGAN. Yes.

Senator STEVENS. That is very good. I said that was the last question, but I have one other.

I indicated I have an amendment that is being drafted to convert a portion of the subsistence use units that S. 1830 would have created, now S. 35, into surface title up to 20 million acres, in the area adjoining the village lands that would be conveyed in fee under both of those bills, on a finding on a similar basis that the lands had actually been used over a period of years.

Now I am not asking you for your off-the-cuff comment, Governor, but I would appreciate it if you would study that and its application to the State's selection pattern, and let us know if you would have any objection to that. There are areas—Hooper Bay, Unalakleet, the tundra country—where beyond the area that we would have conveyed in fee, we envision subsistence use units, in which the people have asked for surface title. They asked me personally, as I have gone there, and I would like to try and convince the committee that we could go beyond the fee title area, out to a surface title area, in the subsistence use area, where there has been a continual pattern of use.

And I would very much like to have the State administration's viewpoint on that amendment.

Governor EGAN. We will give you our viewpoint on that, Senator.

Senator STEVENS. I want to commend you, Governor, on putting the State in a position where I believe the national administration is also, now, of flexibility, and giving the Congress the running room it needs to work out this bill. No one likes the word "compromise" in dealing with a settlement of this type, but it is obvious that with a difference between the House version and our bill, and the requests of the Native people, that something has to give somewhere; and I think you have given us that running room, and the support of the State in the general concept of a capital base, and a land base, for this settlement, that I believe we should be able to work it out within the time frame that we all would like to see it done.

I really do sincerely thank you for that position.

Senator GRAVEL. I share my colleague's view on that, and I want to associate myself with his remarks. I think you have handled a very delicate subject very ably; and I think it will not only redound to your own personal benefit, but first and foremost, to all Alaskan citizens.

Thank you very much, Governor.

Governor EGAN. Thank you, Senator.

Senator GRAVEL. Our next witness will be the representative of the Alaska Federation of Natives, Mr. Donald Wright.

Mr. Wright, would you bring forward any assistants you wish.

Governor, I understand you have a press conference that is waiting your appearance; and if you rush out there, you may still get them.

Thank you.

STATEMENT OF DONALD R. WRIGHT, PRESIDENT, ALASKA FEDERATION OF NATIVES; ACCOMPANIED BY EDWARD WEINBERG AND KENNETH BASS

Senator GRAVEL. Mr. Wright, would you introduce your colleagues, and proceed with your testimony as you wish.

Mr. WRIGHT. Mr. Chairman, I am here today representing the Alaska Federation of Natives. With me I have two persons from the Alaska Federation: Mr. Weinberg, from the office of Senator Kuchel; and Mr. Ken Bass, from the office of Ramsey Clark and Justice Goldberg.

Mr. Chairman, members of the committee, I am Donald Wright, the president of the Alaska Federation of Natives. I appreciate very much this opportunity to appear before you to express the views of the Alaska Natives on the land claims bill.

The former president of our federation, Mr. Emil Notti, has testified before this committee on previous occasions, as have other officers of our federation. Their testimony and the documents submitted in prior hearings are well known to this committee, as are the basic feelings of the Native people.

Last year this committee reported to the Senate a bill for the settlement of our land claims—S. 1830. Through the efforts of the chairman and other members of the committee, that bill passed by the Senate with certain amendments. The Alaska Natives appreciate deeply the time, effort, and consideration that went into the formulation and passage of that bill.

We are pleased to see that the committee recognizes that our land claims are just and valid ones and that fair and equitable compensation must be given for those claims. We are especially pleased that the committee recognizes the validity and the desirability of granting the Natives participating rights in mineral royalties derived from lands in Alaska.

MINERAL LEASING REVENUES DERIVED FROM LEASES IN ALASKA

Fiscal years	Total revenues	Payments to State of Alaska	Payments retained by United States
1970	$9,207,850	$8,287,065	$920,785
1969	9,028,784	8,125,095	902,879
1968	8,762,856	7,886,570	876,286
1967	8,485,438	7,636,895	848,543
1966	8,605,227	7,744,705	860,522
1965	7,492,801	6,743,521	749,280
1964	9,991,550	8,992,395	999,155
1963	9,384,586	8,446,127	938,459
1962	8,006,225	7,205,602	800,623
1961	3,950,464	3,555,417	395,047

In all candor, however, I am compelled to state that certain provisions of S. 1830—now introduced as S. 35—are in our view seriously defective. In the first place we, the rightful owners of Alaska, feel that the land provisions of S. 35 are completely inadequate. We have filed formal claims to approximately 340 million acres, or more than 90 percent of the lands in Alaska.

These claims are not frivolous. After extensive analysis, the Federal Field Commission concluded: "the Alaska Natives have a substantial claim upon all the lands of Alaska by virtue of their aboriginal occupancy . . . ."

The history of this claim and the valid legal basis for it have already been explored in depth by this committee, and I need not repeat that history at this point. The important point is that S. 35, which would grant approximately 10 to 11 million acres to the Natives, represents a settlement of less than 3 percent of the land which is rightfully ours. We, the Native people, cannot understand this decision.

In making our proposals to the Congress we have already compromised our claims to a substantial extent. The Alaska Federation of Natives, during long discussions over the past several years, has concluded that a just and equitable settlement of our claims would include a minimum of 60 million acres of land.

This figure itself represents less than 20 percent of the total land we actually own. To us this compromise is more than sufficient. Further reductions simply are not justified and are in no way just.

Our claim for 60 million acres is not founded simply on legal rights growing out of historic use and occupancy. We also have a strong and valid moral claim to these lands. The Alaska Native, perhaps more than any other people on this planet, is an intimate part of his land. Our lands may seem cruel, harsh, and desolate to those who have not lived there. But to the Alaska Native they are beautiful and bountiful lands. Through countless centuries we have learned to live with the harshness of the Alaska climate. We have learned to tame the wilderness, to make it ours and to live off the land.

This has been no small achievement, as evidenced by the fact that in spite of our success the average lifespan of the Alaska Native is around 35 years. No one who has not lived in our lands—among our people—can understand the deep emotional—indeed, religious—attachment that our people have to the land. The land is our life. To take almost all of it away from us, as S. 35 would do, is to deprive us of life itself.

Our people are a land people. Our survival, mentally and physically, depends on land. As the modern so-called civilization comes to Alaska, our people's way of life is being changed—sometimes against our will. Perhaps someday in the future our way of life will not require as much land as it does now.

But until that time we are, and will remain, a land people. Our position in support of 60 million acres reflects that need. That figure is a realistic one. The Alaska Governor's Task Force on Native Land Claims, in its 1968 report, recommended a grant in fee of 40 million acres to our people. A copy of that report is available and I request that it be included in the record of this hearing.

(The report referred to is in the appendix.)

Compared with that recommendation, or our own Federation's present position, it is clear that the land provisions of S. 35 are inadequate.

A second major objection we have to the provisions of S. 35 concerns the method of distributing the settlement proceeds. The Federation proposal in prior years and its position this year is that the proceeds should be distributed through a regional corporation structure.

At the present time our people have organized themselves on a regional basis. We have 12 regional associations, each encompassing defined land areas. Each region has been carefully organized by its people living in the villages or communities within that region. The criteria used in defining the regions include, but are not limited to:

ALASKA MAP SERVICE

ALASKA

SYSTEM OF RECTANGULAR SURVEYS

- FEDERAL WITHDRAWALS
- NATIVE VILLAGES - 50 ACRES PER PERSON
- NATIVE VILLAGES - 500 ACRES PER PERSON

STATE SELECTED LANDS

- STATE SELECTIONS
- FIELD SURVEY COMMENCED
- FIELD SURVEY COMPLETED
- FINAL RETURN SENT TO WASHINGTON
- FINAL RETURNS ACCEPTED
- 1965 - 1970
- 1971 - 1975
- 1976 - 1981

ARCTIC OCEAN
BEAUFORT SEA
CHUKCHI SEA
BERING SEA
PACIFIC OCEAN
GULF OF ALASKA
BRISTOL BAY
NORTON SOUND
ANADYR GULF
CHUKOTSK PENINSULA
ALEUTIAN ISLANDS
PRIBILOF ISLANDS
ST LAWRENCE ISLAND
ST MATTHEW
NUNIVAK
ARCTIC CIRCLE
NORTHWEST TERRITORIES
YUKON
YUKON
BRITISH COLUMBIA

ARCTIC SLOPE NATIVE ASSOCIATION
NW ALASKA NATIVE ASSOCIATION
BERING STRAIT NATIVE ASSOCIATION
ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS
BRISTOL BAY NATIVE ASSOCIATION
ALEUT LEAGUE
KODIAK AREA NATIVE ASSOC
TANANA CHIEFS CONFERENCE
COOK INLET REGION NATIVE ASSOC
CHUGACH NATIVE ASSOCIATION
COPPER R NATIVE ASSOC
TLINGIT HAIDA CENTRAL COUNCIL

PETROLEUM RES
WILDLIFE
INDIAN
RAMPART DAM
MILITARY
PARK
FOREST
MONUMENT

FAIRBANKS LAND DISTRICT
ANCHORAGE LAND DISTRICT

ALEUT LEAGUE WILDLIFE

57-613 O - 71 (Face p. 305)

1. Historic ties of the people among themselves.
2. Self-determination and the will of the people.
3. Language and dialect.
4. Religion.
5. Ethnic origin.
6. Type of subsistence living.
7. Economic potential for transition to a cash economy.

I have with me today a map showing the location and boundaries of each of these regions. I request that it also be included in the record of these hearings.

Senator GRAVEL. Without objection, it will be so included.

Mr. WRIGHT. Thank you, Mr. Chairman.

Mr. WRIGHT. These regions represent presently existing viable units of self-determination which can administer the settlement proceeds. The 12 regions are the actual organization of the Native people. The Alaska Federation of Natives represents a coming together of all the regions in order to unite our efforts and secure a just and equitable settlement of our land claims.

But the fact remains that the basic organizational structure of our Native people is a regional one. Alaska is an enormous land, larger than the States of Texas, California, and Montana (the next three largest States) combined.

I might add that geographically, it stretches from the west coast to the Pacific coast and from Texas to Montana.

Just as in other large States, our people frequently find that decisions on the regional level are more responsive to their needs than those made at a statewide level. The needs of the Natives in different regions are substantially different, and proper administration of the settlement funds requires that there be sufficient flexibility to meet those different needs. A regional corporate structure would provide that flexibility.

S. 35 proposes an entirely different corporate structure. In essence the funds would be administered at the statewide, rather than the regional level. I understand that part of the reason behind this decision is a concern that the Natives lack sufficient managerial skills to provide effective control of the settlement proceeds. This assumption is plainly wrong.

The people at the regional level are skilled, dedicated, and capable people. They know their needs, and because they know their needs they are more able to make intelligent decisions at that level than peopl- in some distant centralized State location.

Our separate regional organizations are strong. They have already organized themselves and are preparing now to administer the proceeds of this settlement. As one indication of the extent to which the regions are prepared to undertake this project, I would like to insert in the record a recent speech by John Borbridge, president of the Central Council of the Tlingit and Haida Indians. In his speech Mr. Borbridge describes in detail the steps his regional organization has taken to administer the proceeds of a $7 million land claims settlement for the Tlingit and Haida. He also describes in depth the evaluations and preliminary steps his council has taken in anticipation of the overall claims settlement. Similar steps, such as those taken by the Tyoneks, have been undertaken by other regional and village groups.

(The speech referred to is in the appendix.)

Our proposal for a regional distribution system is not based solely on a desire to administer the funds according to the way we are ourselves organized. We fear that attempts to distribute the settlement through a central statewide organization may be doomed to failure.

If all the funds are under the control of one or two statewide corporations, there will be substantial competing pressures from the various regional organizations—each attempting to get the most for its own particular group. This is a simple fact of life.

The regions know their needs, feel strongly about them, and are articulate spokesmen for their own people. There would be constant pressures on the statewide corporations from each of these regional organizations.

Faced with competing demands, there is a strong possibility that the statewide corporations would be paralyzed and thus readily susceptible to mismanagement, waste, or depletion of their assets. Regional corporations, on the other hand, would be immediately responsive to human needs and able to channel the funds in the most efficient directions.

This does not mean that regional corporations would rapidly spend all the funds in a reckless manner. Our people recognize the need for intelligent planning, capital investment, and long-term programs. The regional corporations are capable of such programs as evidenced by their efforts in behalf of this bill and the existing programs for the benefit of their people.

Our proposal for regional corporations is not only realistic and in accord with our present political organization, it is the most promising means of effectively distributing the settlement proceeds.

Other provisions of S. 35 are quite similar to the views of our Federation. We are most pleased to see that the committee supports a Federal appropriation of $500 million. The Federation supports an appropriation in this amount, but it must be paid over a 9-year period with interest, rather than the 12-year period provided in S. 35.

We are also heartened by the committee's conclusion last year, as reflected in S. 35, to provide for a sharing of mineral royalties and revenues with the natives. The Federation suggests, however, that a perpetual right to share in these funds is more consistent with providing a continued transition from a subsistence to a cash-base economy and the basic idea or compensating for lost land rights, than is a share limited by some dollar amount.

The position of the Alaska Federation of Natives on the major provisions of the settlement, as well as most of the details, remains virtually the same as it was in our prior appearances before this committee.

I would therefore refer you to our earlier testimony and submissions in elaboration of our views. There have been two major changes in the Federation's views over the past year, however. After reevaluation of the realistic needs of our people and consideration of what would be a just settlement—especially in light of the fact that the State of Alaska leased oil rights to 450,000 acres for almost $1 billion—we have concluded that land in the amount of 60 million acres should be granted to us.

As indicared, this represents less than 20 percent of what is in law ours. This view is a change from our prior position in favor of 40 million acres and is based on a thorough reevaluation of our needs.

Secondly, we have altered the means of allocating the land among the various regions. Presently, AFN supports a distribution of land to each of the regions based on the present size of those regions. In other words, each region would receive a share of the 60 million acres in proportion to the size of that region.

This decision was reached because we recognize that this settlement is basically a land settlement. Therefore it should compensate the regions on the basis of the lands they are losing and distribute land according to the size of those regions, rather than the population residing in each region, as was suggested in our prior submissions.

Thirdly, we suggest that the cash appropriations be distributed so that each region receives an initial appropriation of $8 million. This initial appropriation to each region on an equal basis would allow them to organize their corporations, intelligently exercise their land selection rights, and undertake all necessary steps to prepare for ultimate distribution of the rest of the settlement funds.

After this initial allocation on an equal basis to each region, the remaining funds would be distributed in proportion to the population residing in each region.

The AFN board of directors, composed of representatives from each of the regions, is presently engaged in a review of the method of distributing the cash settlement. We are meeting this weekend in Alaska to finalize our position. At the present time, we have prepared a tentative outline of the major elements of the claim settlement which we seek.

I have a copy of that outline here and would request that it also be included in the record.

Senator GRAVEL. Without objection.

(The outline referred to by Mr. Wright is in the appendix.)

Mr. WRIGHT. I would expect few, if any, changes from this outline at our forthcoming meeting.

AFN's position, as stated in this draft, is closely reflected in a bill introduced yesterday and sponsored by 10 Senators. This particular bill was prepared in consultation with our organization, and it reflects accurately our views on what would constitute a fair, just and equitable settlement.

This bill, S. 835, more closely reflects the views and opinions of the Native people of Alaska than does S. 35. At our meeting this weekend we will discuss these bills in detail. I will state at this time that the Alaska Federation of Natives strongly endorses the basic outlines of the settlement as proposed in S. 835 and encourages this committee to give that bill a close, thorough and serious consideration.

Again I wish to express the thanks of our people to this committee for the seriousness and dedication with which it has approached the land claims issue. The interest and preliminary responses of the committee indicate to us that our decision to trust the Congress and rely on its good judgment in handling our rightful claims was a sound one.

We do have substantial disagreement with certain specific proposals of S. 35, but we are in general agreement with the directions and implications that bill portends. We think we are entitled to a more generous settlement than is provided by the bill in its present form, and feel that the committee, on further thought and reflection, will agree with us that a more generous settlement is just.

We commend the committee and its chairman for your efforts in the past and look forward to your further considerations which will hopefully lead to a just and fair settlement like that we have proposed.

We feel the introduction yesterday of S. 835 indicates there is strong support among the Members of the Senate for a settlement in line with our views. Nor only is our proposal a just and fair one, it is one which has received the support of concerned individuals in this body. We are confident this committee will take those views into consideration during its deliberations.

I would like to make one more point in closing. The Alaska Natives concern over their land is not a recent development caused by the discovery of oil in Alaska. Twenty-three years ago our people were actively seeking settlement of our ancient claims. Then as in prior years settlement was postponed to a later date.

To more clearly show the full history of this issue I ask that a 1948 statement by Assistant Secretary of the Interior William E. Warne be inserted in the record.

Senator GRAVEL. Without objection, it will be inserted.

(The statement referred to is in the appendix.)

Mr. WRIGHT. I thank the committee for this opportunity to outline our position and hope that we might be of further assistance during the committee's deliberations in resolving this issue.

Our land claims have been an unresolved issue for over 104 years, and we have been before the Congress on numerous occasions. It now seems the time for settlement is ripe, and that a just and fair settlement is attainable. We wish to cooperate to the fullest possible degree in obtaining such a settlement.

Thank you.

Senator GRAVEL. Thank you.

Senator Stevens?

Senator STEVENS. Yes. I have to leave to go to the Floor, but Mr. Wright, isn't it possible that the corporate structure that is envisioned by S. 35, that regional corporations could be created as subsidiary corporations by the Native people, under Alaska State law, without any problem? That corporation has the complete right, under S. 35, the State right corporation, to provide for regional distribution of the monies that it will recieve. The entities that it envisions ultimately reveicing money is the village entity.

Why could you not determine the regional corporations that you have outlined in this map, under state law? Is there any feeling in your mind that there is a prohibition against that, in S. 35?

Mr. WRIGHT. We feel that the wish of the individual people in the individual regions should be reflected in the Federal legislation. Now, the form of the corporate structure could be under a State corporate setup. But the Alaskan Native people, in various regions, feel that they want recognition of their regions, by the Federal Government, in this legislation.

Senator STEVENS. Thank you.

Senator GRAVEL. Thank you, Senator Stevens.

I think your statement is very good, and very complete. I would like to only add that as your group counsels over this weekend, that you bring back to your consultations copies of not only the bill that was introduced today, but S. 35, the Aspinall bill, the House bill, and certainly the testimony that was given by the administration this

morning, in which the acres of land certainly denote a great disparity with the administration and the House being very close, the Senate being in the middle, and, the Native land claim being at one end of the spectrum. The rest is in the ball park. So I would hope that your deliberations at the AFN Board would take into consideration the present status, and that you list events that occurred here in Washington.

Mr. WRIGHT. I am sure, Mr. Chairman, that the Board of Directors will consider them very closely.

Senator GRAVEL. Very good.

Would either one of your colleagues care to add any statement?

Mr. BASS. Mr. Chairman, one comment, particularly in light of the statements by the administration here this morning. There was some general and rather vague discussion about how much land the administration was talking about, when it said town sites, village sites, and up to three times as much land.

We have done some of our own preliminary calculations, and as the Secretary indicated, the critical question, of course, is what is a village. How do you define it? Where would you draw the boundaries?

Well, we know Alaska, and our client lives there. They know the villages. The villages, we think, average—if you mean by "village" just those buildings that are located in the village, and the land immediately surrounding the buildings—they average maybe a hundred acres. There are 200 villages in the State of Alaska; 200 villages at a hundred acres, with up to three times as much land surrounding it, is 80,000 acres.

Talk about the administration's bill as being in the same ball park as our figure means we are talking about a ball park in which homeplate is located at Anchorage, second base is located at Barrow.

Senator GRAVEL. I think you misunderstood me. I said everything else was in the ball park except the land and that the land, between the Senate bill and the House bill, or rather, the House bill and the Administration's, were in the ball park, and I stated the Senate bill was a little further out, and the Native bill is way out there.

Mr. BASS. I am sorry I misunderstood the Senator, but I do not think we misunderstood the representation of the Administration this morning.

Senator GRAVEL. I understood it this morning also to mean that they were talking about sites and not about townsites.

Any other comment?

Thank you very much, gentlemen.

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

ALASKA FEDERATION OF NATIVES,
Anchorage, Alaska, February 20, 1971.

HON. RICHARD M. NIXON,
President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The Alaska Natives were shocked and outraged over the testimony of your Secretary of the Interior last Thursday on the Native Claims Settlement Act. It is now apparent that the administration's position on this issue will be totally inadequate.

Secretary Morton announced he will submit a bill confirming our title in about 80,000 acres of land. Last year the administration supported title to approximately 9 million acres. Last year the administration supported a Federal appropriation of $500 million. This year, Secretary Morton was uncertain when asked whether this amount would be proposed.

We cannot understand how this latest development is consistent with your stated desire to take "a new direction in Indian affairs in this country" which you proclaimed at the signing of the Taos-Blue Lake bill. We are especially disappointed since members of your staff had indicated there was a good chance that a much better bill would be proposed by the administration.

The Alaska Federation of Natives Board of Directors passed the enclosed resolution expressing our dismay at this development. We urge you to take appropriate action.

Respectfully,

DONALD R. WRIGHT,
President.

RESOLUTION—ALASKA FEDERATION OF NATIVES BOARD OF DIRECTORS

Whereas a just settlement of the Alaska Native Land Claims is of the utmost concern not only to the Native people of Alaska but to the Indian people throughout the whole United States, and

Whereas President Nixon's "enlightened" policy toward the Indian people of America was received with appreciation by the Native people in every state of the Union, and

Whereas the President's expressed genuine interest and substantial support for a solution to the Alaska Native Land Claims problem was proof of his announced policy, and

Whereas the recent testimony of Secretary Rogers C. B. Morton before the Senate Interior Committee is obvioulsy and glaringly inconsistent with and contrary to President Nixon's position toward the Native people of Alaska in the previous session of Congress and it leaves the Native people with a sense of gross betrayal of both the President and the Native people of the nation.

Therefore be it resolved, That the Alaska Federation of Natives Board of Directors expresses its dismay, shock, outrage and disapproval of this latest betrayal by the so-called "guardian" of the Native people.

ALASKA FEDERATION OF NATIVES,
ANCHORAGE, ALASKA, *February 16, 1971.*

DEAR SENATOR JACKSON: I am writing to you in my capacity as President of the Alaska Federation of Natives, to urge your co-sponsorship and energetic support for the Alaska Federation of Natives bill to provide a just and equitable settlement of Alaska Native Land Claims. I have enclosed a summary of the basic provisions of this legislation. The bill will be introduced this week by Senators Harris, Kennedy, Gravel, Hart, McGovern, Tunney and others. This is an issue of great moral and historical importance, and we would deeply appreciate your co-sponsorship and active support.

This bill represents the position of the AFN on the vital issues surrounding the land rights controversy, and reflects the fundamental needs of 60,000 Alaskan Eskimos, Indians and Aleuts. The most crucial aspect of this lengthy and complex legislation is its recognition of the supreme importance of land to the Natives—land which they have used, occupied, and cherished from time immemorial, and which the great majority of natives continue to depend upon for life-giving sustenance.

In contrast to other prosposals advanced for the settlement of Alaskan Native land claims, this bill embodies the principle of self-determination, the announced cornerstone of Administration policy on Indian Affairs. The settlement of Alaskan Native claims presents Congress with a great challenge, as well as a final opportunity to do justice to this nations "first American". I speak for all the Natives of Alaska in urging you to sponsor and support this historic legislation.

With every best wish.

Sincerely,

DONALD R. WRIGHT,
President.

(The summary referred to by Mr. Wright is in the appendix.)

ALASKA FEDERATION OF NATIVES,
Anchorage, Alaska, February 24, 1971.

Hon. ROGERS C. B. MORTON,
Secretary of the Interior,
Washington, D.C.

MY DEAR MR. SECRETARY: I and my fellow Alaska Natives were frankly shocked at your testimony last week before the Senate Interior Committee on the Native Land Claims Bill. In our opinion the legislation which you indicated you will submit is a serious retreat from last year's Administration position.

We feel that part of the explanation for this unfortunate occurrence is insufficient appreciation of the legal validity of our claims to Alaska as well as the depth of our feelings about the land.

In your testimony you stated that the Claims Bill "is one of the most important and far reaching issues which I will deal with as Secretary of the Interior." You also stated that "we certainly want to make sure that [the Alaska Natives] are in themselves confident that they have had a fair deal." In light of these statements we cannot understand the position you took at the hearings. The bill which you outlined has obviously been prepared hastily and without a full understanding of our rights. It is, in fact, not a "settlement of valid claims" but an expropriation of our lands under the cloak of "subsistence use permits."

Apparently, our recent meeting did not result in the full communication of views necessary for the Administration to formulate a "just and equitable position." I therefore request an opportunity to meet with you again as soon as possible in order to express our feelings more fully. I propose that a small delegation of Alaska Natives, unaccompanied by attorneys or other representatives of our interests, meet with you at your earliest convenience.

Respectfully,

DONALD R. WRIGHT,
President.

Senator GRAVEL. Our next witness will be Mr. Charles Edwardsen, speaking in behalf of the Arctic Slope Native Association.

STATEMENT OF CHARLES EDWARDSEN, JR., EXECUTIVE DIRECTOR, ARCTIC SLOPE NATIVE ASSOCIATION

Mr. EDWARDSEN. My name is Charles Edwardsen, Jr., and I am appearing here as the executive director of the Arctic Slope Native Association which is composed of the 5,000 Innupiat Eskimos of the Arctic Slope.

Attached to my statement is a legislative proposal in conceptual outline form which represents the position of the Arctic Slope Native Association for settlement of Alaska Native land rights. Also attached is a letter from Innova, Inc., a Seattle, Wash., consulting firm, which recommends the regional corporation approach.

In addition to these two documents, we also request to have entered in the hearing record immediately following my statement, a network prepared by Keith J. Anderson & Associates, a Bellevue, Wash., consulting firm which sets forth in graphic form S. 1830, as passed by the Senate last July. The committee's chief counsel has examined the chart, and we think it would be a useful addition to the hearing record. It will be furnished to the committee before the record is closed.

(The chart referred to could not be reproduced and was retained in the committee files.)

I had hoped it would not be necessary for me to testify before this committee today. I am compelled to do so, however, because of the failure of the Alaska Federation of Natives (AFN) to adequately represent the position of those native groups who have property interests in the major portion of Alaska's land.

I am speaking of the Arctic Slope Native Association, Tanana Chiefs Conference, Northwest Alaska Native Association, Chugach Native Association and the Native Village of Unalakleet. These groups, representing about 20 percent of the native population, have property rights to approximately 243 million of the State of Alaska's 375 million acres. Yet, at its January 22, 1971, meeting, the AFN board of directors voted down the position of these groups and imposed upon them a distribution formula of almost all the monetary proceeds of the settlement based on population.

How is it this was possible? The answer is simple. The AFN, formed 5 years ago solely for the purpose of lobbying for land rights legislation, is organized on the principle of population, not on the principle of land ownership. Until such time as AFN reorganizes its board of directors to give proper weight to the principal landowners, we must continue to speak out on this issue—an issue that will result in the extinguishment of our land titles, not those of urban-dwelling natives who have abandoned their land or groups having no direct connection with the land.

The Arctic Slope Native Association believes that Congress is considering a settlement of land title extinguishment, not social welfare or antipoverty legislation as some would have us believe. Why is Congress acting at all? The white man wants to take the oil from the Arctic Slope, and our unextinguished land titles are standing in the way.

We have supported the AFN in its goal of 60 million acres of fee land, $500 million in federally appropriated funds, and a perpetual 2 percent overriding royalty from mineral revenues, but have disagreed strenuously with AFN over distribution of the settlement proceeds. We believe the settlement must reflect, in our case, the extinguishment of original Indian title to 56.5 million acres on the Arctic Slope.

We are by nature a sharing people. This character trait has enabled us to survive for centuries in the harsh environment of the far north. As evidence of this, we were willing to share with the other Native regions 50 percent of the yield from our land. We were also willing to compromise our position by agreeing to a per capita distribution of the 2 percent royalty revenues, provided that the $500 million Federal appropriation was distributed on the basis of each region's proportional land claim area.

We sometimes use the word "claim" only because that is how the white man refers to it; what we are really talking about is substantial legal rights.

At its December 8, 1970, board meeting in Anchorage, the AFN adopted our recommendation that land confirmed to the Natives in the settlement should be allocated on the basis of each region's proportionate land area. The AFN also adopted our recommendation that the $500 million Federal appropriation be distributed on the same basis.

We compromised our position in two important respects: One, we would share 50 percent of the yield from our land with the other regions, and, two, distribution of the 2 percent royalty revenues would be on the basis of population. Less than 7 weeks later, however, the AFN reneged and changed its position back to the population matrix which to us is unacceptable.

This action on the part of AFN has left us with no alternative but to present to this committee our own recommendations for a settlement of Alaska Native land rights. Our proposal calls for $500 million and a 2 percent perpetual royalty as compensation for lands taken in the past and for lands taken in this settlement. Most importantly, for land means more to us than money, we believe Congress must confirm to Alaska's Natives fee title to 60 million acres.

We also urge Congress to recognize the principle of regional self-determination by allowing the Natives to form regional corporate structures to hold title to land and to administer the settlement cash proceeds. In all of these major goals—60 million acres, $500 million, 2 percent perpetual royalty, and regional corporations—we are in complete agreement with the AFN.

Since this is a settlement extinguishing property rights, it is our deep conviction that the settlement's land and money should be distributed on the basis of the quantum of land within each native region. This to us is the most fair allocation for it directly relates that which is received to that which is taken in exchange.

The only aspect of our proposal which may not be fair is that the factor of land value is not taken into consideration. The State of Alaska received $900 million from the oil companies for the right to explore 412,000 acres of our land. That to us establishes a measure of value and is precisely why we did not attempt to enjoin the September 1969 lease sale. Some may charge that we are rapacious because of significant oil discoveries that have been made on our land. We, however, are the ones who are being penetrated. We point out that we were once willing to share our resources with the rest of the Natives, but that is a position we can no longer advocate. We are confident that tremendous natural resources will be discovered and developed in other parts of Alaska. We do not ask for a share of that potential wealth because it is not ours. The Tlingits have their land, the Athapascans theirs, the Southern Eskimos theirs, and so on.

It is a simple, unalterable fact that Alaska's Natives are composed of separate ethnic groups having no ties other than a common native heritage. We on the Arctic slope have been there for thousands of years, exercising dominion over its 56.5 million acres. Now most of our land is about to be taken from us, and needless to say, we are distressed.

We often hear it expressed that in order for the Natives to achieve a fair settlement it is necessary for them to speak with one voice before Congress. Native unity is said to be a prerequisite to a settlement. We submit that this so-called requirement is nothing more than a convenience to be sought so that the Native land rights problem can be resolved by Congress with a minimum of fuss.

In light of this, we respectfully suggest that Congress may not be meeting its responsibilities or obligations to America's first citizens when it acts ignoring the sharp differences of opinion among the various Native groups. After all, Congress itself has historically reached no unanimity of opinion in attempting to resolve Indian and Native land right issues.

An examination of the minutes of recent AFN board meetings reveals that many Native groups have their own peculiar problems and views as to what would constitute a fair, just, and equitable settlement, The Eskimo village of Unalakleet, for instance, strongly

believes that it should have fee title confirmed to the 9 million acres over which its people have asserted dominion since time immemorial. I have already mentioned the position of those groups who oppose a totally per capita (population proportion) distribution. On the other side of this issue, the Tlingit-Haida Central Council representative announced at the January 22, 1971, AFN board meeting that:

> I, for one, wish to make one thing clear. The (Tlingit-Haida) Central Council has taken a position of distribution on a population basis. We have no intention of weakening AFN. We may choose to follow this channel—after conferring with AFN, we then lobby for this before the Congress. We shall continue to be a member of the AFN Board.

These examples are cited merely to establish that the Natives do not speak with one voice on every issue, nor should they be expected to do so. Congress has undertaken the resolution of Alaska Native land rights, and the burden is upon you gentlemen and your colleagues to hear all positions, and to then exercise your best judgment as to the constituent elements of a fair, just, and equitable settlement.

We thus far have looked to Congress for a just solution. But when we hear our land rights being disparaged by spokesmen both within and outside of Congress, we ask ourselves: Should the courts, who have historically been the best protectors of original Indian title, have an opportunity to consider this matter? We acknowledge that the 1955 Supreme Court decision in the *Tee-Hit-Ton* case presents a formidable obstacle to a successful resolution in that forum, but with our birthright at stake, it may be well worth the gamble.

In spite of what may be an alternative judicial remedy, we remain hopeful that Congress will do justice. We are appreciative of the efforts certain of this committee's members made on the floor of the Senate last year to improve the Senate Interior Committee bill insofar as the Arctic Slope Eskimos were concerned. Your willingness to recognize our need for a regional corporate structure was a significant step in the right direction. We only hope that other native groups who also feel strongly about regional self-determination will also be given the opportunity to so organize.

Although 500,000 acres contiguous to our villages was an important addition to what was otherwise a totally inadequate land grant in the committee's bill, it does not begin to be enough land to approach an amount that my people could accept as being fair. The land that is confirmed to us and the money we receive for the extinguishment of our property rights will enable the Alaska native to participate in the tools of capital ownership.

As one of America's great labor leaders once said:

> I come to you not as a supplicant, but as a free man upright.

Today we face another disappointment. We did not know the State of Alsaka was not put down on the type of acreages that it should have committed, and we also went back to the old subsistence hunting right, which the Secretary is going to give us.

We already have that, by the way. And I think it is grossly unfair for the Native people of Alaska to do the responsible job of Congress. And this irresponsibility has been well demonstrated for centuries.

And today I don't think any progress was made, but a big disappointment.

The only position that we heard from the State of Alaska was that they are against competitive leasing, and that State of Alaska is going to go ahead and make a mineral resource allocation plan.

And the other was, further erosion of our lands by the transportation corridor, which the chairman proposed.

And this continual erosion compounds the problem, the erosion, and rights of Alaskan Native people, either that we are going to work on the principalities of this case, or State of Alaska just might give the whole State to the oil companies.

And here, again, we have seen the failure of Congress, not willing to execute its rightful responsibility of resolving this problem.

Why is it so bad that one ethnic group can't have all of the rights to the land, and a white person can have all of those rights?

Why is Congress so fearful that Alaskan Native people may get into the capital formation of their own?

And it is this eleemosynary attitude that Congress has, is the decay of Congress itself, not executing the right of their own self-determination.

And today was a lost effort. We know that the Secretary of the Interior is not going to protect the Eskimos. He wants to keep them in his little hands. And with that attitude from the administration, where do we go to seek fair and equitable settlement? What is fair?

What is fair to Congress in their technicolor eyes may not be fair to the Alaskan Native people. And what they think is equitable, if they were the recipients of this claim, I am sure that they would be equally screaming that it is unfair and unjust settlement.

I thank you.

Senator GRAVEL. Thank you, Mr. Edwardsen.

Senator, do you have any questions?

Senator STEVENS. No. I am sorry that I had to go to the floor.

(The material referred to by Mr. Edwardsen is in the appendix.)

Senator GRAVEL. Our next witness is the representative of the AIO Action Council.

Who is that person?

Would you give your name?

STATEMENT OF TONY GENIA, ACCOMPANIED BY FRANK WILSON, REPRESENTING AIO ACTION COUNCIL

Mr. GENIA. Yes. I am Tony Genia, and I am here as representative of the American Indian Opportunity Action Council, and of Mrs. Fred R. Harris, its chairman.

Senator GRAVEL. Very good. Do you have a written statement?

Mr. GENIA. It is being distributed now; Yes.

Senator GRAVEL. Please proceed.

Would you introduce your colleague, also?

Mr. GENIA. This is Mr. Frank Wilson, who also works in the AIO Action Council.

Senator GRAVEL. Please proceed.

Mr. GENIA. Okay. Mr. Chairman and members of the committee, my name is Tony Genia, and I am here today representing the AIO Action Council and its chairman, Mrs. Fred R. Harris.

Rather than engage in a debate on the intricacies and legality of the Alaska claims, we would like to speak from a different perspective—about justice.

As a national advocate for Native Americans, we feel that it is our moral obligation to speak out on this issue and cite some of our own experience in dealing with the Government in claims matters.

Our people have too often seen what happens when Native Americans are deprived of an adequate land base. The traditional way of life is quickly lost with the encroachment on our age-old sanctuaries. Compensation is often quickly gone and our people are frequently left with little voice in what is taking place about them.

Land is life—especially for the Alaskan Natives.

Change is hard. It is hard for the Government to dig itself out from the years of regressive precedent in dealing with Native people. Broken promises and unkept treaties litter the path of American history.

It is hard for our people to adjust from out of our ancient past within the framework of the countless impositions placed upon us.

Too many treaties have been created by honorable men and later broken.

Senate bill S. 35 is a well motivated effort but, is sadly inadequate. It leaves the Alaskan Natives without an adequate land base and does not allow them to develop in their own time and in their own way.

Time has worked against us in Alaska. If this matter had been settled in 1867, the situation may well have been different. But it is not too late to do right.

At issue here is the creation or destruction of the future of Native people. We have waited patiently. We have heard the fine words that have gone before. We now await a just and equitable solution.

We wholeheartedly support the position of the Alaskan Federation of Natives. We support the Harris-Kennedy bill, and ask you to do justice.

We ask that the Alaska pipeline issue not be allowed to cloud judgment in the settlement of Alaska Native claims. Let it not be said that valid claims were unwisely extinguished because of expediency related to the Alaska pipeline. One piece of metal pipe cannot be worth the price paid by future generations of Alaska Natives.

We believe, with all due respect to the good intentions of its authors, that Senate bill S. 35 is fatally deficient. The Alaska Natives should be allowed to retain ownership to 60 million acres—not 10 million. There should be no unilateral trermination of Bureau of Indian Affairs services without the consent of Alaska Natives. And, the Alaska Natives should have a majority on the important new commission to be created.

The Alaska Native claims matter is the most important Indian issue in America today. People everywhere are watching what is done in respect to this vital issue.

We of the AIO Action Council believe that this Congress will deal fairly with the Alaska Natives. We hope that one day you may say to your children, "We acted honorably. We gave the Alaska Natives their future."

We are grateful for your concern and look to you for the accomplishment of justice in this case. Thank you.

Senator GRAVEL. Senator Stevens?

Senator STEVENS. I have no questions. Thank you very much.

Senator GRAVEL. Thank you for your interest in this case. Alaska is probably far away from where you live, but your sensitivity to our problems is deeply appreciated.

Thank you.

Mr. GENIA. Thank you.

Senator GRAVEL. The hearing record will stay open for 2 weeks to receive any additional testimony that anybody may wish to send in.

That will conclude our witnesses, and we will stand adjourned.

(Whereupon, at 3:35 p.m., the committee recessed, subject to the call of the Chair.)

57-613—71——21

ALASKA NATIVE LAND CLAIMS

TUESDAY, MARCH 16, 1971

UNITED STATES SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The committee met at 10 a.m. pursuant to call, in room 3110, New Senate Office Building, Senator Henry M. Jackson (chairman) presiding.

Present: Senators Jackson, Anderson, Metcalf, Gravel, Jordan of Idaho, Hansen, Stevens, and Bellmon.

Also present: Congressman Nick Begich.

Staff members present: Jerry T. Verkler, staff director, William J. Van Ness, chief counsel; and Thomas Nelson, assistant minority counsel.

The CHAIRMAN. The committee will come to order. This is an open session for the Senate Interior Committee to take testimony on pending measures to settle Alaska Native land claims. A bill to settle the longstanding land claims of Alaska Native people passed the Senate in the Ninety-first Congress but was not acted upon by the House of Representatives.

That measure has been reintroduced in this Congress and is now known as S. 35.

Another measure, S. 835, has been introducted by Senator Harris and others.

Most measures are presently pending before the committee.

The committee held a hearing on these measures on February 18. The meeting this morning is a continuation of that hearing.

I had hoped that the administration's position on these measures would be available to the committee in time for today's hearing. Because today it is not available the committee will have to consider having further hearings at a future date. The text of S. 35 and S. 835 will be included in the record at this point.

(The documents referred to have already be inserted.)

The CHAIRMAN. I have been informed that the Alaska Federation of Natives would like to defer their testimony until the administration's proposed bill has been submitted. I am also advised that Senator Harris of Oklahoma is attending the funeral of Mr. Whitney Young in New York and, of course, his testimony will have to be deferred until a later date.

In view of the fact that this committee is desirous of taking expeditious action on this measure I think it is just a matter of fairness to ascertain who is prepared to testify this morning and who is not.

We will have to determine later when we will meet again. We cannot fix a date if we don't know when these people are going to be heard or want to be heard. I will call the names.

The first witness is Senator Fred Harris. As the chairman indicated, he is attending the funeral of Whitney Young. His testimony will come later.

Donald R. Wright, president of the Alaska Federation of Natives. Is Mr. Wright here?

Mr. BAST. Mr. Chairman, Mr. Wright is not here yet. I am Kenneth Bast, counsel for AFN.

The CHAIRMAN. Representing the AFN, what is your position here so we know? I want to make a record on this because we are trying to move expeditiously and the committee is anxious to act.

Mr. BAST. As you indicated we would like to defer our testimony until the administration bill is submitted to the committee and possibly until there is testimony by the administration on the bill.

The CHAIRMAN. So you don't want to be heard this morning?

Mr. BAST. No, sir.

The CHAIRMAN. George Walters, representing the Seattle Chapter of the Alaska Federation of Natives, Mr. Gordon Culp, counsel.

Mr. CULP. Mr. Walters is not here. He has been meeting with the AFN yesterday and this morning. I apologize that I can't say with precision now when he would like to put in his testimony but as soon as I can talk to him after these meetings are concluded, I will let the committee know promptly.

The CHAIRMAN. But as of now he is not available for a morinng session?

Mr. CULP. That is right.

The CHAIRMAN. And you will confer with him and advise committee counsel when he will be available.

Joseph Upickson, president, Arctic Slope Native Association. Are you present?

Is anyone representing him?

(No response)

The CHAIRMAN. Let the record show that his name was called and he is not available and no one is representing him here, that is the Arctic Slope Native Association.

Mr. Leo Vocu, acting director, National Congress of American Indians. I am advised that Mr. Vocu has submitted a statement to the committee or to the staff of the committee and his statement will be included in the record at this point.

(The document referred to follows:)

STATEMENT OF LEO VOCU, ACTING DIRECTOR, NATIONAL CONGRESS OF AMERICAN INDIANS

Mr. Chairman, thank you for giving the National Congress of American Indians this opportunity to go on record in support of the Alaska Native claims bill S. 835 introduced by Senator Kennedy and Senator Harris.

The provisions of this legislation are in accord with a recent resolution adopted by NCAI. In that legislation and resolution the Alaska Natives take the position that 60 million acres of land in fee, $500 million and a 2 percent overriding royalty of land resource revenue in perpetuity is the only just compensation that can be made to them and to their descendants for the loss of the remaining 315 million acres of land. NCAI concurs.

There are those who say that the Alaskan Natives ask too much. They are obviously not descendants of the people who, a hundred years ago, were forced to sell—at 2 or 3 cents an acre—land which today sells for $30 and $40 an acre.

Furthermore, it is not the Alaskan Natives who attached a price tag to their land. As was demonstrated by the Taos Pueblo of New Mexico, the natives of this country have a special feeling for their land which money cannot buy.

Therefore, it seems only just that if the Alaskan Natives are forced to put a price tag on their land, they should be able to fill in the amount.

The CHAIRMAN. Mr. Kenneth T. Peterson, legislative representative, AFL–CIO.

(No response)

The CHAIRMAN. Let the record show that his name was called and he is not here. All of these people have an opportunity, I may say, to present their statements.

Hope Eastman, American Civil Liberties Union.

(No response)

The CHAIRMAN. Let the record show the name was called and there is no response.

Stewart Brandborg, executive director, of the Wilderness Society. Mr. Brandborg, will you come forward?

STATEMENT OF MR. STEWART BRANDBORG, EXECUTIVE DIRECTOR, THE WILDERNESS SOCIETY, ACCOMPANIED BY MR. HARRY CRANDELL AND MR. JAMES DEAN, THE WILDERNESS SOCIETY

Mr. BRANDBORG. Mr. Chairman, I am in a position to give my statement. My copies of the statement are en route here from my office. I have just returned to town and I am sorry to be delayed in bringing them to the committee.

The CHAIRMAN. Are you prepared to testify this morning?

Mr. BRANDBORG. Yes, I am.

The CHAIRMAN. Mr. James Dean?

Mr. BRANDBORG. Mr. Dean is with me.

The CHAIRMAN. But you will be testifying, Mr. Brandborg?

Iliodor Philemonof, president of the Aleut League, and Mr. Lester Miller, attorney.

Mr. PHILEMONOF. I would like to be excused at this time, my attorney is not here at this time.

The CHAIRMAN. Is your attorney in town?

Mr. PHILEMONOF. Yes, he is coming here this morning.

The CHAIRMAN. We will defer for a moment.

Mr. BRANDBORG. You have your own statement you can give to us and we will get the copies later.

The CHAIRMAN. We are delighted to have you with us this morning, Mr. Brandborg, and you may proceed in your own way. The copies will be available for the press later.

Mr. BRANDBORG. Thank you, Mr. Chairman.

I am joined today by Mr. James Dean, a colleague of mine who serves the Wilderness Society in a number of capacities. He has been concerned directly with the issues of the Alaska resource use over the past year and I hope to be joined in a few minutes by Mr. Harry Crandall, the director of Wilderness Reviews for the Wilderness Society, who is en route with additional copies of our statement.

I am Stewart M. Brandborg, executive director of the Wilderness Society. I appreciate very much the opportunity to appear before

you today in support of a final and just settlement by the United States of certain claims by Native Alaskans—perhaps the most neglected and needy group of Americans in the society today.

The Wilderness Society, a national conservation organization with a membership of over 70,000 persons is committed to the principles espoused by the bill under discussion today, a measure which will go a long way toward righting a wrong of longstanding and one in which full citizenship for Native Alaskan peoples finally will be achieved.

Mr. Chairman, since its founding in 1935, the Wilderness Society has had a strong bond of kinship with Native peoples of Alaska, and our roots are planted deep in Alaskan soil; founders of the Wilderness Society, and many of the society's governing council, past and present, were subjectively and professionally involved. Included among them were Robert Marshall, George Marshall, Dr. and Mrs. Olaus Murie, Dr. Robert Griggs, John Osseward, Celia Hunter, Sigurd Olson, and Lois Crisler, who spent many years exploring and living in the wilderness of Alaska among and with a wide variety of native groups.

This experience inspired a deep personal love for Alaska and its unexcelled wildlife and wilderness and its native peoples.

This bond has grown stronger with each passing year. Thus the Wilderness Society has not only become committed to the wise use and preservation of Alaska's wild lands and wild creatures for the benefit of future generations of mankind, but was committed long ago to support of Native peoples in their drive toward self-determination and social equality.

Insofar as the natives themselves seek to preserve their cultures—and we believe that is precisely the desire of those natives whose cultures have not already been torn asunder by the march of so called progress we see a clear need to preserve their lands in their natural wilderness condition.

This element of the Native claims issued happens to be the one in which the Wilderness Society can speak with some authority.

Our primary purpose for appearing before this committee is to point out how S. 35 can be strengthened to serve the Native peoples better and, at the same time, achieve the environmental goals of all Americans.

We believe S. 35 offers a splendid opportunity then for this committee to enact legislation which would not only obtain social justice for Native Alaskans, but set parameters by which wise use of Alaska's resources, including wilderness, can be achieved.

These resources in which all peoples of the United States, including the lower 48 share an equal interest, must be used wisely and in concern with Alaska's rigorous environment.

We believe that resource management goals can best be achieved by setting forth in this bill long-range land use policies which would chart the direction and from the basis of a comprehensive long-range land use and zoning plan for Alaska.

Unwilling as many might be to admit it, the fact is that the philosophy of manifest destiny, which justified the mistreatment of Native peoples and the hurried exploitation of natural resources a hundred years ago, is still with us whenever men see an opportunity to make a quick profit.

Yet our Nation simply cannot afford to revive and give official sanction to this discredited philosophy in the decisions it makes concerning the development of Alaska.

Given existing laws and the absence of legislation to the contrary, it is rather obvious that tremendous economic forces are posed, ready to lay waste to Alaska, in an unplanned, self-serving, and final manner, once the question of settlement of Native claims has been enacted into law.

The fact that Congress has before it legislation like S. 35 is a good sign that the patterns of the last century are being rejected. We in the Wilderness Society hope that the same will be true with respect to land use.

We simply cannot make the same mistakes of the last century with this when it comes to disposition of our last frontier. Surely history has taught us that a planned approach to resource utilization, planned by rational people with the national, as well as local, interest as their goal, is a mark of intelligence, stature, and civilized government.

In Alaska we have an opportunity to plan and set up the machinery for the protection and wise use of Alaskan natural resources within a framework of a comprehensive national land use policy.

Such a policy must set parameters of resource allocation and utilization as well as for the protection and preservation of Alaska's incomparable and irreplaceable wildlife, wilderness and national park, national wildlife refuge, scenic and human resources, and the blending of these resources to benefit all Americans.

Therefore, the Wilderness Society requests that S. 35 be amended in the following manner:

1. To assure the protection and achievement of the goals of Native peoples by inclusion of a provision requiring the development, within 5 years, of a long-range comprehensive land use plan for the entire State of Alaska. Such a provision would assure that the land selection rights of the native people be permitted to proceed within a framework enacted by the Congress of the United States. Establishment of land use planning policies, we believe, must determine acreage needs and land selection on the basis of long-range comprehensive land use policy and set parameters by which native needs and long-range national environmental considerations are joined into one action plan for the future.

2. To require that land needs of Native peoples be provided within the acreage limitation awarded the State of Alaska, upon gaining statehood. No other State in the history of the Union has come close to the 103 million acres granted to Alaska in the Statehood Act of 1958. There is absolutely no reason, in our view, then why the Natives' land needs should not come from that generous allotment. This legislation is the appropriate vehicle, we believe, to amend the State's enabling act on behalf of the State's Native population.

3. To guarantee that proper long-range planning be completed in a way that brings to bear all available technological resources, skills and knowledge not only utilizing an interdisciplinary and interagency approach, but assuring that the requirements of the National Environmental Policy Act are met fully.

These are the elements that we believe are essential to legislation that will truly advance the economic well-being of the Alaska Natives. In addition, we believe the legislation should assure that a comprehensive land use planning effort in Alaska contain the following elements. It should—

relate needs of Native Alaskans to national resource needs and resource availability;

make certain that land selection by Native Alaskans for subsistence and basic living requirement purposes could proceed, but title to land would be transferred to native groups only in accordance with the Alaska land use plan;

assure full participation of Native Alaskans throughout the planning process, including overview of plan implementation;

establish an Alaska Planning Commission, to be composed of nine members appointed by the President; four members of the Commission should be Alaska residents, three of whom must be Native Alaskans;

authorize the expenditure of $5 million per annum and not to exceed $25 million over a 5-year period to accomplish the planning task;

assure that the leadership and direction of the planning commission is of the highest professional order by vesting directional and policy setting responsibility in the Council on Environmental Quality;

authorize the Council on Environmental Quality and the Alaska Land Planning Commission to draw upon a broad spectrum of specialized procedures and skills within and without the Federal establishment, to develop a comprehensive land use plan for the State;

establish a time limit of 5 years for completion of a plan and report by the President of the United States to the Congress of his recommendations;

establish the authority and the means to inventory the resources of Alaska;

assure public participation in the planning process from its inception, including public hearings in Alaska and in Washington, D.C.;

defer final section of lands by the State of Alaska until such time as the Congress has reviewed and approved the plan;

require that selections of lands by the State of Alaska be in accordance with the plan, as approved by Congress;

place a moratorium on applicability of public land use laws in Alaska until a final decision is reached on land use by Congress and appropriate procedures and laws are established by it;

set severe penalties, within legal limits, for violation of the Alaska land use plan, as approved by Congress;

identify, reserve, and establish areas of special national significance as units of the national park and national wildlife refuge and national wilderness preservation systems; and

assure that lands already within the national park, national wildlife refuge, and national wilderness preservation systems would be not subject to selection.

Mr. Chairman, for the first time in the long history of our great country we have an opportunity to put to rest forever the manifest destiny psychosis which has guided our attitudes toward the land and its resources by planning the orderly preservation and utilization of our last remaining frontier.

We urge revision and amendment of S. 35 to achieve these ends.

The CHAIRMAN. Thank you, Mr. Brandborg. I gather that the gist of your position is that there are two main points as I understand it. Whatever land is to be awarded should come out of the overall 103 million acres which the State of Alaska has a right to select, is that correct?

Mr. BRANDBORG. Yes; that is correct.

The CHAIRMAN. The second point is that you feel that it would be wise to handle the entire land award on a basis consistent with a proper land use plan which would protect the entire environment and provide for adequate conservation safeguards.

I am not trying to oversimplify your position but is this basically what the society is concerned about?

Mr. BRANDBORG. Yes, it is, Mr. Chairman. I would ask that a resolution adopted by the governing council of the Wilderness Society in its last annual meeting in West Virginia, May 1970, be made a part of the record at this point, if that is possible.

The CHAIRMAN. Without objection, that will be included at the conclusion of your remarks.

Mr. BRANDBORG. The Wilderness Society says that we have a wealth and diversity of resources in Alaska, that we can preserve the magnificence of Alaska, its wilderness, its wildlife, its great parks and refuges while at the same time we can have appropriate and needed development of commodity resources.

But this will only come with careful planning and as we all know we are not really very proud of the planning efforts in the lower 48. It is our hope that we might in Alaska with a new start and with a leadership of this committee develop such a long-range planning effort which would put to use the technology, the know-how that we have in our great resources agencies.

The CHAIRMAN. We appreciate your statement and we will also welcome a supplemental statement after the administration's proposal is submitted to the committee.

The CHAIRMAN. Have you had a chance to analyze the other bill? You addressed yourself primarily to S. 35, the bill by Senator Harris and others, that is S. 835?

Mr. BRANDBORG. We have not in any depth analyzed that bill, Mr. Chairman. We hope to meet our obligations by giving the best testimony we can offer recognizing that the legislation on this matter is extremely complicated and that not all of the expertise we might choose to have is available to us. But in the coming weeks we hope to respond to the invitations of this committee and the House committee to study and examine in detail some of these questions which are embodied in this very important legislation.

The CHAIRMAN. I think it would be wise so when we are on the floor we will be able to respond properly to questions about impact on the environment, the problems of conservation in general.

The amendments that were brought up last time you will recall provide for a very large land addition which made it possible really to take lands right out of wildlife refuges and even out of parks, it was all inclusive.

I think they have some changes in the new bill but I think the committee would like to have the judgment of your society in this regard.

In connection with amendments that are going to come on the floor I think we ought to know what your position is and what your recommendations are. It would be very helpful.

Mr. BRANDBORG. We would like to offer those recommendations, Mr. Chairman. We go to the central theme of our statement that discussion of acreage and fulfilling the rightful land claims of the Natives are somewhat academic until we fully explore what comprehensive planning could assure the Natives of in terms of their long-range needs for wide open spaces.

We know that the Natives and the culture reflect the influence of wilderness as they have lived and survived through hundreds of years in the wilderness. We see that with careful planning between State, Federal and Native groups we might provide for many of those needs under a variety of arrangements which really can't be opened for us until we have a comprehensive land plan that is enforced and that is complied with by all of us.

The CHAIRMAN. I personally feel that it is important that we try to establish ground rules in connection with this bill and we are going to have this problem in connection with other matters, and Senator Metcalf has pointed this out on a number of occasions, a clash between trying to make land settlements for the Natives and its impact on important conservation areas in the United States.

This as you know, has become a matter of increasing concern to a lot of us. I do believe we have to face up to this problem because there has been a lot of loose talk about huge land awards, I am not referring to Alaska but outside of Alaska, which run head-on to other needs and requirements of the Republic generally involving our national parks and wilderness areas, as you know.

It seems to me that the committee has to approach these problems with that kind of future trouble in mind. I think your proposal here on the comprehensive land use plan is an important one because it is pretty hard to make an adjudication that does not take into consideration all possible use of the lands in the public interest after affecting all citizens without regard to race, creed, color, or ethnic origin.

This is a matter that we want to review very carefully.

Mr. BRANDBORG. That is very encouraging to me, Mr. Chairman, and to the society. We see that many of us on these very critical questions which you have just delineated have faced unanswerable dilemmas in the absence of basic plans to show us direction and to give real dimensions and new understanding to us as we confront these problems. In Alaska with the people of Alaska and with full involvement of the Native peoples in particular we are very hopeful we again can entertain and enter into such planning procedures.

We realize that up until now we have faced this same piecemeal process with thrusts from one sector after another for development in one way or another.

To let this proceed in the absence of a comprehensive land use plan or Alaska, is a commitment to the same kind of attrition of our resources which we have witnessed in the lower 48 and which we have witnessed throughout the world.

We feel that now is the time and we feel that this committee, in its wisdom, is in a position to provide the leadership for this type of comprehensive program.

The CHAIRMAN. Thank you very much. First let me say we are delighted to have Congressman Begich here this morning and we are pleased you could be here.

Idon't know whether you want to make a statement later. At the appropriate time we will be delighted to call on you.

Mr. Jordan.

Senator JORDAN. Thank you, Mr. Chairman. Mr. Brandborg, I think you have made a very fine statement here. I want to question you somewhat on the practicality of it. You suggest in the first recommendation that to assure the protection and achievement of the goals of Native peoples a provision should be included requiring the development within 5 years of a long-range comprehensive land use plan for the entire State of Alaska.

That is a pretty big order, Mr. Brandborg. How much of the area of Alaska is presently unsurveyed?

Mr. BRANDBORG. Senator Jordan, with modern technology for aerial survey I am quite sure that we have fairly good maps and general overview division that will serve well in directing this kind of a comprehensive land use study. I cannot tell you in terms of on-the-ground line survey what portion of the total acreage has been surveyed or has not been surveyed. I would hope that in the development of this type of program those very hard questions would come into focus at an early stage.

Senator JORDAN. Have you any idea how much manpower would be required to make that kind of a comprehensive land use plan for the entire State of Alaska?

Mr. BRANDBORG. I have, in that the Wilderness Society has called upon friends within the resources agencies for their estimates of money and manpower. These admittedly are generalized estimates but they are based on good competent people within agencies such as the Bureau of Land Planning and Management, the Forest Service, and so forth.

Senator JORDAN. Could you give the numbers to us now for the record?

Mr. BRANDBORG. I would not attempt to do that. I am aware that in connection with the environmental impact inquiries of the Department of Interior that we have recognized that teams of 50 men, a hundred men for the purpose of defining the impact of one oil pipeline from Prudhoe Bay to Valdez is totally inadequate, that really to get into the hard technical questions we are dealing in terms of a well-organized effort that could possibly involve hundreds of technically trained people in a whole wide range of professional areas.

Senator JORDAN. I should think it would require more than hundreds if the effort that has been put forth on research and study on the pipeline is indicative, and that is only one small area.

We are talking about a tremendous area when we talk about the entire State of Alaska. You are suggesting within 5 years to come up

with a comprehensive land use plan and a complete inventory of resources.

I would like from you some written statement of what your society calculates the manpower requirements to be, and the dollar requirement to be, to complete that study within 5 years.

Mr. BRANDBORG. Senator, I would be glad within the limits of our competence to provide estimates on those very particulars. I think that the Department of Interior and the resources agencies are the people that can best bring this information to your committee but we would be glad to play a part of that effort.

Our feeling is that if this job does require a great investment we should go into it with a full commitment because of the great resources that are involved here, not only the Natives have a great resource that is rightfully theirs, but all Americans share in Alaska.

It is a public resource. It's worth the planning investments that we could make in bringing about a land use plan for Alaska.

Senator JORDAN. I agree with you that the need is urgent but I am also aware of how long a time it takes to get a land use plan in any of the lower 48 States that have longer working seasons and relatively smaller areas to work over.

So I just want you to believe—to know that I believe that it is a prodigious effort and undertaking to come up with a land use plan for the entire State of Alaska with an inventory of all its resources within 5 years.

I understand you to say in answer to a question from the chairman, and in your statement, that the Native claims allocation should come out of the 103 million acres to be allocated to the State of Alaska as a condition in your statement, is that correct?

Mr. BRANDBORG. We suggest this; that is correct.

Senator JORDAN. You suggested further to defer the final selection of lands by the State of Alaska until such time as the Congress has reviewed and approved the plan. Now are you suggesting that the Natives can't make their selection until after the State has made its selection and that can't be until after the approval of the 5-year plan?

Mr. BRANDBORG. We are suggesting that the Natives proceed first in their selection process but we are firm that no State selection should proceed until the Alaska land use plan is completed and approved then by the Congress, that is right.

Senator JORDAN. But the Natives should be proceeding with the land selection process in this interim period, but that their final selection should be in accordance with the finalized Alaska land use plan as approved by the Congress, all contingent on the completion of this comprehensive land use plan for the entire State of Alaska?

Mr. BRANDBORG. Yes, sir. Senator.

Senator JORDAN. Thank you.

The CHAIRMAN. Senator Anderson.

Senator ANDERSON. I don't think I have any questions. I appreciate the testimony that has been given.

I am very glad to have Mr. Brandborg with us.

The CHAIRMAN. Senator Hansen.

Senator HANSEN. Mr. Chairman, I ask unanimous consent that a letter addressed to me from the Rocky Mountain Oil and Gas Association may be included in the record at this point.

The CHAIRMAN. Without objection, it is so ordered.

(The document referred to follows:)

ROCKY MOUNTAIN OIL AND GAS ASSOCIATION,
Casper, Wyo., March 9, 1971.

Hon. CLIFFORD P. HANSEN,
U.S. Senate, New Senate Office Building,
Washington, D.C.

DEAR SENATOR HANSEN: It is understood that S. 35, the Alaska Native Claims Settlement Bill, is scheduled for hearing next week. The Rocky Mountain Oil and Gas Association has long favored the solution of the Alaska native claim problem.

However, Section 17 of S. 35 would amend the Mineral Leasing Act of 1920, as amended, and the Mineral Leasing Act for Acquired Lands so as to provide that oil and gas (together with some other minerals) may be leased under such competitive bidding procedures as the Secretary of the Interior may prescribe, where there is competitive interest shown in a particular tract of land.

These leasing acts now provide that if the lands to be leased for oil and gas are within any known geological structure of a producing oil or gas field, they shall be leased by competitive bidding. All other lands are leased to the first qualified applicant without competitive bidding.

This Association has historically supported this non-competitive bidding system and believes that the long experience under that system of leasing, evidenced by the widespread development of oil and gas on the public lands, emphatically demonstrates its wisdom.

We respectfully urge that this bill is an inappropriate vehicle with which to institute such a drastic change in the mineral leasing procedure. The bill would establish a system for leasing in Alaska which would differ from the other 49 States. We feel that a uniform leasing system throughout the 50 States should be maintained.

The Public Land Law Review Commission reported its recommendations and findings in June, 1970. One of its recommendations does touch on the subject of competitive leasing wherever competitive interest can reasonably be expected. However, the Commission then went on to point out specific areas where it felt there should be competitive bidding saying that, "It appears to the Commission that competitive leasing would be appropriate (1) in the general area of producing wells, (2) for land covered by relinquished or forfeited leases or permits, or (3) where past activity and general knowledge suggest reasonably good prospect for success."

This recommendation of the Public Land Law Review Commission Report varies from the language of Section 17 in S. 35, and, furthermore, any such recommendation; to become effective, would have to be enacted by Congressional Act following the usual legislative processes of study and hearings.

We feel it would be ill-advised to amend the leasing acts without even taking into consideration the recommendations of the Public Land Law Review Commission. If modification of the leasing acts are necessary or advisable in order to change the present system of leasing Federal lands, it should be by a separate bill addressed directly to the amendment and subjected to public hearing.

For the foregoing reasons, the Rocky Mountain Oil and Gas Association feels strongly that Section 17 should be deleted from S. 35, and respectfully so recommends.

Sincerely yours,

ROBERT B. LAUGHLIN,
Executive Vice President.

Senator HANSEN. Mr. Chairman, I would like to defer, if I could, if it is not inappropriate, to Senator Stevens.

The CHAIRMAN. Senator Stevens.

Senator STEVENS. Mr. Brandborg, as I understand, you are suggesting that the Federal Government legislate a land use plan for the State of Alaska. Until this is done, this legislation should provide that all land use plans should be suspended and that the application should likewise be suspended in Alaska, is that right?

Mr. BRANDBORG. I would say this, Senator, that all land laws that involve State selection would be suspended until the completion of the plan. There are some land laws that I may not be familiar with in the context of your question but I believe essentially your observation is correct insofar as the interpretation of our statement is concerned.

Senator STEVENS. Have you made a similar recommendation concerning any other State of the Union—that is, that the Federal Government take over land planning?

Mr. BRANDBORG. No; we have never been faced with the kind of opportunities that we have today in Alaska for doing a good job with resource development. The other 48, 49 States are pretty well committed to some of the tragic errors of the past. But in Alaska where we have such a large public ownership we feel that we have a new opportunity that can only be answered through such comprehensive planning effort. We recognize that we have given generalized goals and that some of these will need to be developed in more specific form by this committee and others who will be involved in such process of developing a land use plan for the State of Alaska.

Senator STEVENS. You said in your statement that you would like to have us place a moratorium on the applicability of public land laws in Alaska until a final decision is reached on land use by Congress and until appropriate procedures and laws are established by it.

I don't know why Mr. Brandborg, you just don't ask this committee to repeal the Alaska Statehood Act. Don't you believe that Alaskans have any competence in formulating a plan for utilization of Alaskan lands?

Mr. BRANDBORG. I have great confidence in the competence of those Alaskans with whom I have been associated through the years and with whom many of the leaders of the Wilderness Society have been associated with through the years, particularly the Native peoples.

We recognize that competence and we see a responsible role to be played by the people in Alaska. We also recognize that since we are dealing with a vast public estate in which every American citizen shares ownership, that many of these decisions for the long-term future must be made by the Congress in its role will share its responsibility with the people in the lower 48 as well as with the people in Alaska.

Senator STEVENS. As I understand it, we are trying to substitute the judgment of Congress for the judgment of the court in determing the nature and extent of these claims and in trying to reach an equitable settlement of them for the Alaskan Native people.

Your suggestion is that we turn the Alaska Native land settlement bill into an Alaskan land use plan bill and put a moratorium on everything in Alaska until that land use plan is completed.

Have you any idea how long it would take to map the resources of our State?

I have been given a note indicating that the USGS says that, at the present rate, Alaska would not be geologically mapped down to 1 inch for 15 miles until the year 2025, 15 percent of the State of Alaska is now geologically mapped on an acceptable precision basis. Are we going to delay the claims of these Native people until we can geologically determine the contents of Alaska?

Are you suggesting that all land laws be suspended until that time?

Mr. BRANDBORG. Those land laws that represent great and sweeping commitment to ill-planned, ill-advised use without regard to the environment, without regard to the Natives, without regard to the people of the country, yes.

You speak of time limitations, Senator. We have a great technology in this country. At this point in our Nation's history we are facing a real challenge—what to do with the technical competent people we have and the industry and government who need employment. I have a great faith that we can come up with a master land plan for Alaska if we put to use the resources we have, the able techniques, the expertise, the land managers, the people who know human and social and political process and problems.

I think we can develop such a master plan for Alaska. The committee and the Congress may decide that there will be changes in the generalized presentation and proposals that the society offers here today.

This we recognize and accept. But basically we feel that a good job of planning Alaskan resources use can be accomplished within this general framework.

Senator STEVENS. We don't need more enemies for the Alaska Native Lands claim bill. Yet it seems to me that you misunderstand what we are trying to do in terms of talking about a just settlement of these claims.

I might mention to you that if we attempted to follow your suggestions, I think these claims would go to court. If this should happen no court could possibly go as far as we have under the bill we passed last year to impose restrictions on land use if the Native's claims are upheld in the courts.

Now we are simultaneously trying to balance the equities of the Native claims and resolve them in the best interests of all of the people of Alaska and the United States. And you have suggested a moratorium, which would force us into court and destroy your ability to have any impact whatsoever on the final solution.

I would urge that you reconsider your suggestions, particularly that which pertains to the Alaskan use plan. I don't believe that all the expertise concerning the future of Alaska is in Washington, D.C. You apparently do. Thank you, Mr. Chairman.

Mr. BRANDBORG. Senator, in response to that I would hope that the Wilderness Society would consider carefully your earnest recommendation as given to me at this time. I think up to this point we have looked at our hole card and we have come to the conclusion that any commitment to piecemeal development of Alaskan resources use plan for all of Alaska would be a tragic mistake.

In this instance since the people of the United States share in the ownership of the public lands of Alaska, we feel that our course is one that brings us here today to advocate the development of such a plan to make sure that we don't make the tragic mistakes that we see everywhere taking a terrific toll of our environment.

Senator STEVENS. We are indebted to you for being so concerned about our ability to prevent the mistakes you have made in the "south 48."

I really appreciate that concern, but again, I would like to remind you that if the Alaskan Native people win their case in court, and

they will most assuredly go to court before the year 2025, there won't be any public lands in Alaska. It will be all Native lands if they win the case.

We are trying to settle this matter justly. I think we could settle it justly if we use an intelligent approach and make suggestions which had some rational impact upon the total subject of settling the land claims.

You want to turn this into a land use bill and a land planning bill. I certainly hope my colleagues don't follow that path.

The CHAIRMAN. Senator Metcalf.

Senator METCALF. Thank you. With your permission I will yield to Senator Gravel.

The CHAIRMAN. Senator Gravel.

Senator GRAVEL. What is your evaluation since statehood of State activities in the use of land? I wonder if your organization has had a chance to evaluate State practices. As a person concerned with State land planning, have you made a determination as to the efficacy of past State action?

Mr. BRANDBORG. We have made partial evaluations as we have been confronted with proposals for quick development of Alaska oil and other resources. We have been, as you are aware, deeply involved in the question of the trans-Alaskan pipeline. We have recognized in some of the State agency work a high level of competence. We have recognized that the State has gone ahead with some planning procedures that we think are highly commendable.

We feel, however, that these efforts should be and must be greatly expanded to be in the amounts that is really required to do the job in Alaska.

We have a good start in some of the State planning efforts that we have seen in Alaska but it is only a very good beginning. Such planning efforts have to be expanded and broadened to the dimension that we are proposing in our statement here today.

We really don't take great exception to any planning efforts that have been offered. We say that they are simply too small and have been carried forward on too limited a basis to be truly effective.

We have all Alaska to deal with, a few hundred State employees, a few dozen Federal employees can be scattered over this vast expanse and lost, literally lost.

We need to intensify our efforts and quicken our efforts and indeed to take the issue to the people of the United States, all of the United States, each State. We do not wish to suggest that the people in Alaska are not competent, that they do not have an important stake. We have a great faith in people at the local level.

We think that the responsibility of local people in Alaska must be shared by local people in each of the other 49 States to face some of the important questions that we are confronted with in this instance.

Senator GRAVEL. I would be the first to agree with you that since most of the land is held by the Federal Government that actually it belongs to all of the people of this Nation. But I know my own feeling has been that the State has been very provident in the planning of its activities with respect to lands, in fact I feel a good deal more provident than has been the Federal Government.

When you speak of the effort you must realize we have been slowed in the selection process and this has impeded additional planning that could have been forthcoming from the State. So it has not been a lack

of resolve on the part of the State to do more planning, it has been the hiatus in the selection process between the State and the Federal Government occasioned by the land freeze that has taken place.

So we were on a good trajectory and we felt that by and large the Senate bill of last year provided for a good deal of planning activity.

I agree with you that we should stop the situation that exists in this country today and develop a plan. We have a lack of planning. It is evident in the energy fields, and it is evident in the morass that we have in our urban areas.

And I noticed in your remarks that you did dispense with the surveying problem as being just a mechanical detail. It is a horrendous detail, unbelievably so. The projections that I have seen without taking recourse to the figures that my colleague has taken is that it would take 20 or 50 years to do the surveying under the existing application.

I think you are apprised of the realities of going to the Appropriations Committee and seeking millions and millions and millions of dollars to get the job done. It is just not within the priority areas of the Nation as it's presently constituted with the inability of Government to discharge its duties to the people of the Nation.

So we could single out one area which would penalize only the Native community of Alaska and the balance of Alaska, and penalize them because the rest of the society has not matured to the level that you feel is required and with which I agree.

So we are caught in a situation where Alaska can be made the ideal except for the fact that people live there. We are trying to effect an ideal and our progress and our efforts only go to make us the greater butt of the balance of the battleground within the environmentalist camps and the total frustrations they face in the Nation today.

So I think you concept is justified.

Mr. Chairman, I would like to enter into the record an exchange of letters that I had with Sigurd Olson of your orgznization wherein last October I sought support for the Native land claims and that support was forthcoming.

I think these letters are very clear.

The CHAIRMAN. Without objection the correspondence will be included in the record at this point.

(The documents referred to follow:)

OCTOBER 21, 1970.

Mr. SIGURD F. OLSON,
President, The Wilderness Society,
Ely, Minn.

DEAR MR. OLSON: I write to you as a convert with the knowledge that your credentials in this field of conservation are eminently greater than mine. Belief is acquired for most of us, and much of mine comes from the effective advocacy of conservation spokesmen as well as the responsibilities of this office. Over time the conservationists have enunciated for the rest of us the magnitude of these problems. I came to realize that they were mine also; that the bell tolled for all. I had seen the dangers elsewhere and been drawn away from them to a contrastingly different Alaska. It is now clear to me that environmentally we are one nation, one continent, one world.

My letter is not intended, however, to discuss conservation or the environment but to enlist your support for our first conservationists with whom in fact you share common cause. They, the Native Alaskan Eskimos, Aleuts and Indians, but for having been the first conservationists on this continent would not be here

today. Their survival under inhospitable conditions is both a monument to their tenacity and to the basic principles of conservation. They were the first among us to recognize that dependence on the land and water, and the resources of each, requires good husbandry. Their presence in Alaska over many thousands of years constitutes an eloquent record of applied conservation that speaks for itself.

In this light it would seem not only appropriate but an honoring of fundamental doctrine that conservation groups take a positive position in support of Native Claims in the House of Representatives next month. Details of the several bills need not divide the parties for within the House there is sufficient diversity of opinion to insure all necessary safeguards. But on principle our first conservationists, and our debt to them for showing the way, should have prompt acknowledgement through expressions made to the Congress.

In past months well known conservation organizations joined with Native Alaskans in initiating injunction proceedings to preserve the Native position as to certain land claims pending their legislation settlement.

Such settlement now seems endangered as Native needs and entitlement have become confused with industrial considerations and with hastily conceived plans for transportation facilities through the Arctic. The two matters are, however, separate and distinct. They coincide only in time. The Native should not be penalized by the irony of that coincidence; nor should that coincidence free the United States of its longstanding commitment to recognize and settle claims the validity of which is not in question.

Various bills to settle Native land claims are now before the House of Representatives and hopefully will be taken up after the Congressional recess. The Senate acted affirmatively in July producing S. 1830 and passing it 7608. Thus, with proper support, Alaska Native land claims could be settled this year.

I would hope and urge that the Nation's conservation groups join with the Natives in this endeavor, as some have already in pending litigation. Whereas Native land claims have blanketed most of Alaska, their settlement through stated acreage grants will have a limiting effect. I ask your early consideration of this both in the cause of conservation and in the redemption of a national pledge made to Native Alaska almost a century ago.

Sincerely,

MIKE GRAVEL, *U.S. Senator.*

THE WILDERNESS SOCIETY,
Ely, Minn., October 31, 1970.

DEAR SENATOR GRAVEL: I appreciated your letter forwarded to me from the Office of The Wilderness Society in Washington and agree with you "that environmentally we are one nation, one continent, one world." In the light of what has happened to the global environment no other point of view is possible today.

The Wilderness Society feels about the *Native Claims* legislation as you do and I am happy to quote from a recent position paper the following:

"Full and fair Congressional settlement of Eskimo, Aleut, and Indian Land claims, hopefully with a generous supplemental settlement by the state."

We have in the light of the above taken positive action and will continue to work for the type *of settlement that will mean the most for the various native tribes.* For many years we have worked toward similar aims with respect to the American Indians and are well aware of their long and tragic history under the United States government. This must not happen again in Alaska and you can be sure that *we will further the best possible* legislation under this Congress, or if it should fail, most certainly early in the next.

I am confident that all of the major conservation organizations feel the same. There may be differences of opinion as to the various Native Claim bills, but basically the goal is the same. Many of us in the Society know Alaska and its problems and you can be assured of continued study and support of this particular issue and the many others that have to be solved.

Sincerely

SIGURD F. OLSON,
President.

Senator GRAVEL. I think we have a problem and that is we can focus the national and world policy using Alaska as the cutting edge. I think it is to be expected that the people of Alaska could not stand still for that. We in essence choose to develop the plans you speak of, and I think you will find no group that would put forth, comparatively

speaking, more money. In the development of the Native bill and the implementation of it you will see more planning moneys come about than would normally come about through the existent governmental processes.

So though your goals are laudable the vehicle may well be the vehicle of the Native land claims legislation, and the existing Statehood Act, rather than to go the other way which is to try and shake this country by the scruff of the neck and say you have got to do something, otherwise we will destroy the environment.

Shaking 300,000 people by the scruff of the neck is not going to have an impact on the 200 million people. We are attacking it the wrong way.

Mr. BRANDBORG. I certainly appreciate and I am sure the Wilderness Society and other environmental conservation groups appreciate the needs of people in Alaska and I think it is our obligation to see that the people of Alaska are not held in a suspended state without some economic and other relief during this period.

We emphasize this in respect to the Native claims. But on behalf of the society I have a deep respect for those sensitive areas that you refer to.

I would say that your elevation of this discussion in terms of saying that we face a national or worldwide issue is here most appropriate. This committee brought to the people of the United States the National Environmental Policy Act which has given us a bill of rights for the environment.

We are facing difficult days, we are facing confrontations with the polluters, with those who have sacrificed environment just as certainly as people identify with environmental issues and seek in a responsible mature way their solutions. This is a part of the process of our Government that most of us here welcome, that this committee in its wisdom has greatly catalyzed and I would hope that we could proceed without any oversight on the part of the Wilderness Society or Stewart Brandborg in respect to the Geological Survey as they are needed in Alaska.

I think our obligation in the Wilderness Society and speaking for conservationists generally is to go after the money to implement on a greatly accelerated scale then the planning process you speak of, including the geological mapping, if this is found to be necessary, in the depth and detail that has been carried on in the past.

I think our commitment in calling for land use takes us immediately to the practical task of getting the funds to set to priority for this important job that must be done in planning Alaska's land use.

I believe that the priorities in the country to which you referred have been badly out of alinement and I think just as surely as the National Environmental Policy Act, our new public land laws, the wilderness law and others bring us to increasing hard decisions we are going to have to set new priorities that are based on people, on the land, the water, the resources upon which we depend.

This adjustment is coming right now today, somewhat painfully but it will come. I think conversations must address themselves responsibly to the point you make in this context. I hope that we will.

The CHAIRMAN. Mr. Brandborg, I am going to ask that Senator Gravel preside for the balance of the session here. There is one other witness and that is Mr. Philemonof, who is president of his group, the Aleut League.

I think that is the only other witness. Are there any other witnesses that will want to be heard this morning?

Then when we are through we will just stand adjourned subject to the call of the Chair. I will ask Senator Gravel to preside.

Senator GRAVEL (presiding). Sir, I think your statement is well taken. I go back to the fact that it is my State and the people in it that become the cutting edge, or as you well stated the battle is engaged. Thank God it is engaged because up until now we have been too complacent.

And we have been too complacent. I am proud to say I was the coauthor of that legislation which you say has been your bill of rights. I think we should expand that beyond the governmental area into the private area.

But here again, and I think I mentioned it last year to representatives of your organization or other organizations, that this is a legislative committee, and not the appropriations committee where many of these agents that we speak of are dependent upon securing a just share of dollars.

The mapping of Alaska has been retarded by too few dollars. Obviously it would make great sense to assess all of our resources and put them out for use the way they should be. But that has not been the nature of things.

It is not the fualt of Alaskans it is the fault of people everywhere if we have not developed plans. In the last forest fire in Kenai, Alaska we lost more land in 1 day's burning than would occur in all of the pipeline right-of-way construction.

Probably in the course of a year we lost more in fires here than could occur with even a spill of the pipeline once it is built and if it were to break. So it shows us that our priorities are on visible issues. But as to getting the appropriations to increase fire protection both within the State and the Federal Government we have been derelict. I say "we" because it is myself as well as yourselves who were deficient in not seeking this money. I would hope that rather than using the State as the cutting edge to all the Nation's past ills we could continue the implementation of a planned program with respect to satisfying the Native Land and claims, a planned program for the acquisition of land under the existing Statehood Act. In this way we would not be really debilitating existing programs: instead we could join in concert in putting forth gigantic efforts.

I say gigantic national efforts to secure the funds on a priority basis for planning. At the local level local communities have recognized that planning is a vital function of the community. Nobody gets all shook up when you devote a goodly portion of the city council's budget to land planning so that they can come up with a plan of action, of zoning and what have you.

But when it comes to the Federal level this whole activity is somewhat lost in the maze of other national priorities which are a good deal less important. What we have got to do is the same thing federally and I would hope the society's organizations around the country which view this as an important task would vector in on this.

Let me stress again, winning this battle in Alaska would be only coercing 300,000 people when your task is to influence 200 million people.

Using us as the cutting edge is really in my mind going to be a tactical error in the long thrust of it.

I appreciate your comments and have been very sympathetic to them. Of course, I have a dual vantage point. I live within the Alaskan environment and see how we have made mistakes. But I think on comparison in my travels around the country that we have a greater degree and desire, and a greater discipline to do what other States have not done.

Maybe that discipline comes by the criticism of organizations like yourself. We do have that discipline I think to a greater degree than other areas have.

Mr. BRANDBORG. I very much appreciate your fine comments in reference to our testimony today, Senator. We certainly want to avoid the scruff of the neck approach. We do have a high regard for the good conservationists of Alaska, particularly the Natives, because of our history, our association with these people. It was because of these people that for the past 10 years we have sought to get increased appropriations for the Bureau of Land Management and the State of Alaska to meet the fire detection and suppression requirements of the State.

We have gone through the Appropriations Committees trying to get priority attention to this very vital need. Then we do not wish to hold the Natives up in their selection process. I would hope that in concert, as you put it, we could proceed to have the Natives go ahead in the study and the development of plans for selection but within the scope of a comprehensive plan. We are laying out a broad objective here today, we are aware that this committee and other Members of the Congress will need to fill in the gaps that we clearly recognize as we are aware you recognize them.

Senator GRAVEL. I think we have found a point of great agreement here and that is that the only impediment to progressing on with the plan that you speak of at the same rate of speed that we hope to effect a settlement of the claims and that we hope to effect the utilization and selection of the lands by government is of course the laggardly performance of the Federal Government in surveying the land for proper and efficient disposition. I could not agree more with you, if that is the correct interpretation of your statement, and I feel it is, that if the Federal Government had the resolve, if this Nation had the resolve to do the job properly, it would put forth in their appropriations to do the planning concurrent with the implementation of the Native land claims legislation as we see it within the time frames we project.

Certainly if we are in agreement on that I think we have come a long way and I think that is the direction this Nation should move in.

Mr. BRANDBORG. We believe that this Government is capable of doing a good job, we have the money, we can appropriate the money, we can involve responsible citizens of this country in backing the land use planning effort for Alaska.

We do not need to hold back in offering the technology the expertise that we must have in doing a competent job. But it does mean that we face some of the issues of priority.

Many in this committee have labored long, patiently, and with great success on behalf of resource issues. They have defended the public's interest in the resources of our Nation. But they have not been supported in getting implementation of the programs that would fulfill the needs of our resources.

I think we are at a turning point in our history where we can expect great acceleration of this effort. A loosening of the purse strings to do a good comprehensive job for Alaska and the people of Alaska, particularly the Natives.

I think we are ready to move in this direction and I think environmental groups, conservation groups would join hands in making every effort to bring this about with those in the Congress who would continue to provide the kind of leadership they have demonstrated in the past in facing the hard resource issues of our day.

Senator GRAVEL. I will join hands with you in assaulting the Treasury for appropriations and I would like to be notified when you do give testimony before the Appropriations Committees of the House or the Senate.

I think that has not received sufficient visibility. I think the visibility centers on Alaska, as evidenced by the pipeline issue. That does not go to the core of the problem, that is a peripheral problem, and we use the peripheral part of it to stir emotions and polarize opinions, not only in Alaska but in the Nation.

Congressman Begich, would you care to ask any questions?

Mr. BEGICH. Thank you, Mr. Chairman. I want to agree with our Senators, Gravel and Stevens with the major theme which I hope we don't lose track of when you say the organization wants to engage yourself in doing battle to bring this principal of awareness of conversations to the focal points of this Nation.

You say you have a big opportunity to do that in Alaska. At the same time I would welcome you to look to all of the other States with tremendous public lands in the West that you not single Alaska out.

If anything I think the theme of Senator Gravel's statement was that the work is being done in Alaska because many of us left the south 48 because of what we saw and what we have observed.

We went to a State where we can try to control our destiny. In the Alaska Legislature, if I may make this point Mr. Chairman to the benefits of the Senators who are here, we created a park within 7 minutes of downtown Anchorage equivalent to the size of Rhode Island.

We also added another part south of Mount McKinley 270,000 acres, we created another park in Kenai, we created another one in Haines, equivalent to almost the New England area. We are conservation minded for two reasons.

Senators Gravel and Stevens were saying so accurately, one, because of the discipline we obtained from the people who were there prior to our coming and that is the Native people. Without any public relations firms or teams or anything else they have been practicing conservation far better than you and I or anyone else.

Second is the observation of the south 48. There is a fear among many Alaskans and that we are now being given some expert advise by people who, for example, have polluted the skies of the south 49, who have made the Potomac River a sewer pipe, and Congress does control the District of Columbia, and Congress has proven they can't handle social pollution of the city, the highest crime rate in the Nation,

people in my own neighborhood in McLean are burning cardboard boxes and leaves and grass this weekend, we can't even do that in Anchorage.

So I would say join us and let us go ahead to prove to the south 49 that we can handle these problems that affect our environment, that we do have an interest in showing the south 48 that we can do it.

There are two reasons again, the fact we have Native people there who have shown us the way to proper conservation, and two, because we have fled from the south 48 to a State that has fresh air to sell some of you people. Don't engage yourself only now in Alaska.

I would urge you to engage yourself with the Western States that have some of the same problems that we have and with the Native land claims as their vehicle to really promote this program, to delay us along that process.

Believe me when they talk about the surveying problems they are fantastic, regardless of what technology has done the bureaucracy has not caught up with it.

I think we can accomplish them together. I think your general theme is one we can accept.

Senator GRAVEL. Thank you very much.

Senator Anderson you have a question?

Senator ANDERSON. Do you believe strongly all of these land increases must be retained in park ownership and in public land ownership?

The reason I ask is we had a survey in Alaska one time where some people tried to show me that the best place for cement was Mount McKinley National Park and we can't touch that, that is holy.

Those are the areas that are disappearing rapidly and many areas ought to be very carefully watched. I wonder if you think that is a good idea to keep that as well as some of the others?

Mr. BRANDBORG. Senator Anderson, we feel that the national park system is an important part of Alaska, that it undoubtedly will be added to hopefully with the participation and support of Alaskans.

But in addition to our national parks system we see a wide spectrum of State and Federal jurisdictions to fulfill the wide range of needs for managing public lands for other purposes. We have not referred to the lumber industry in Alaska, certainly it has an important role to fulfill, its work should be carried out within the context of a comprehensive plan.

We might say the same about the mining industry, certainly Alaska has rich mineral resources. We would hope that its role could be fulfilled within a comprehensive plan. We see a wide opportunity for government and private jurisdiction over land in Alaska.

On this occasion we are most anxious to proceed in a way that will be most helpful in bringing just settlements to the needy peoples of Alaska.

But that settlement we recognize with the needs must be in concert with some of these others basic land use issues which we face.

Senator ANDERSON. I appreciate that. We have had very fine relationships with these two Alaskan Senators, extremely fine and all the way through.

I think they recognize we could not always create every park boundary on the map. You can't always do that. Thank you.

Senator GRAVEL. Thank you, Senator. Thank you for the compliments.

Mr. STEVENS. I also appreciate your statement, Senator. Senator Anderson raises a very interesting point concerning your lands use plan. If this land use plan were to indicate that the highest and best use of a park area would be to utilize the limestone deposit, would your organization support removing that limestone deposit area from the national park?

Mr. BRANDBORG. Are we speaking of McKinley National Park?

Senator STEVENS. I am speaking in generalities. Do you want us to geologically map a State to determine what is the highest and best use of land and then make a map? Now if we happen to invade a sacrosanct area, no matter where it is, by finding some very rare mineral in the middle of a park, are you going to help us redistrict that park with your land use plan?

Mr. BRANDBORG. One of the great advantages of the land use plan, if we can bring it into being today, is that we will avoid the very issue that you are delineating. I think if we are speaking of Mount McKinley or any one of the other national park systems units in Alaska that the Wilderness Society and most other national conservation organizations must stand firm in their support of the dedication of these lands that have been especially set aside by the Congress for park system purposes, that we must defend a given unit from the type of intrusion that you outline. But ideally with the master plan for Alaska this conflict could be avoided in many cases. We would set new parks, we would establish new parks with the knowledge of what resources were incorporated in the boundaries that were being developed and we could avoid in some instances at least the type of confrontations that you describe.

We have real faith in the hard core conservation leadership in Alaska. It is their council that has gone into much of the thinking of the Wilderness Society as we plead here today for a comprehensive land use plan.

We don't have as much faith in those people who come to Alaska in the name of their well-motivated purposes to develop Alaska. They come quickly, they come with great basic financing and otherwise and they can have great influence on a great young State like Alaska.

They have a skill in affecting the decision of the State. We want the decision of Alaska to be truly those of the people of Alaska. We find that if we are leaving the decision to the oil industry in the case of the trans-Alaska pipeline that it is imperative for the public to speak out for the public in Alaska, for the public who shares in the ownership of Alaska and the other 49 States as well.

This is to go to Mr. Begich's pertinent comments where we have our great faith at this time. We see that people in Alaska and throughout the Nation are asserting their prerogatives under this system of government. They are becoming involved, they are worried about environment and in Alaska and in Montana and as you point out they should be increasingly worried about the rest of our Western States where we have similar or somewhat comparable public ownership opportunities.

Yes, the Wilderness Society and other conservation groups must be equally considerate in getting local people to face those opportunities. But we do after years of experience recognize that State

government can be overcome by those who come to the State for a special purpose.

We don't question that purpose, we respect people to earn money and to bring certain profit from given enterprises but we don't want that to become the dominant theme in Alaska or anywhere else when we sacrifice our environment and the long range needs of people.

Senator STEVENS. I assume your answer is "No."

Mr. Brandborg, you made the statement that Alaska had received such great consideration in attaining statehood. I would like to put in the record at this point the comparison of land grants in States. I am sure Mr. Brandborg is familiar with the fact that Alaska is seventh in terms of percentages of its land granted—that Florida, Minnesota, Michigan, Arkansas, Louisiana, and Wisconsin all have larger percentages of the State in terms of land grants.

In connection with this fact, and in view of your recommendation that we take this land for the settlement of land claims out of the State's land grant, were you speaking for the Alaska Wilderness Society, or suggesting that these recommendations came from the State of Alaska?

Mr. BRANDBORG. The Wilderness Society does not have State or local affiliates, per se. Some of the able conservationists in Alaska have offered constructive input to the Wilderness Society counsel and staff through the past several years and particularly in the more recent period of the last 2 years as we faced the question of the trans-Alaska pipeline.

Senator STEVENS. Just answer the question. In presenting the recommendation that the Native lands in this settlement bill come out of the land granted to the State under the statehood act, are you speaking for any Alaska group or are you speaking just for yourself and your national organization as such?

Mr. BRANDBORG. We make no inference that we speak for any entity other than the Wilderness Society, the national conservation organization which I have described

Senator STEVENS. Are you familiar with the contract clause of the Constitution dealing with the fact that a statehood act is a compact between the people of an area and the Federal Government, and that this represents a contract, as such?

Mr. BRANDBORG. I am not intimately familiar with that particular law.

Senator STEVENS. It is in the Constitution.

Mr. BRANDBORG. If you give this interpretation I would be disposed to respect it. I think we all recognize that a contract of this scope is a very significant thing. I think it is become increasingly a matter of record that people of the United States were not really aware of what took place in the Statehood Act and that this commitment was being made in 1960 for the grant to the State of Alaska.

I think many people are looking again at this particular grant to the State of Alaska as something which has come back in the 1960's that really may have been a holdover from an earlier period when statehood was granted to some of the frontier States in the 1800's.

Senator STEVENS. I had the impression that you were seeking to repeal the Statehood Act in effect. The compact that was made between the people of Alaska and the Federal Government is a firm contract, which cannot be altered by Congress without our consent.

I assure you that your recommendation in that regard is one for which you should seek legal advice. I for one would not participate in any legislation that would try to amend the Statehood Act without the consent of the people of Alaska.

Mr. BRANDBORG. I can understand that, Senator.

Senator STEVENS. Thank you, Mr. Chairman.

Senator GRAVEL. Thank you, sir.

(The Wilderness Society resolution referred to follows:)

WILDERNESS SOCIETY COUNCIL RESOLUTION FOR A COMPREHENSIVE CONSERVATION PLAN FOR ALASKA

WHEREAS oil extraction on Alaska's North Slope, the proposed trans-Alaska oil pipeline, road construction, and other development threaten imminent, grave and irreparable damage to the ecology, wilderness values, natural resources, recreational potential, and total environment of Alaska, and

WHEREAS a necessary experimental and ecological basis has not been established for meeting the problems arising from permafrost as a threat to the safety of an oil pipeline, and

WHEREAS the national interest in wise conservation of natural resources and protection of Alaska's environment requires adequate study, planning, and supervision by both the federal and state governments, and

WHEREAS the Department of the Interior has begun preparation of a master plan for the public domain lands of Northern Alaska, and the Department of Transportation has initiated the preparation of a rail-highway transportation corridor plan for the area between Fairbanks and the Arctic Ocean, neither plan nearing completion, and

WHEREAS the Secretary of the Interior has requested the recommendations of a special advisory committee on existing and potential national parks in Alaska but has not yet received these recommendations, and

WHEREAS Congress has not made any comprehensive review of the future of Alaska's resources and public domain lands in the light of the rapid development now being initiated or proposed, and in the light of the new National Environmental Policy Act, the Wilderness Act, and other relevant public land laws, and

WHEREAS the governor of Alaska is seeking authority from the state legislature to commence immediately the construction of an all-year, permanent highway from the Yukon River to the Arctic Ocean to serve as a haul road for construction of the proposed oil pipeline and to open up much of Alaska to development, and

WHEREAS the land freeze now protecting the bulk of the public domain lands in Alaska will expire on December 31, 1970, and has already been modified for the purpose of constructing the proposed oil pipeline system, even though no adequate land-use plans and controls have yet been instituted.

THEREFORE BE IT RESOLVED by the governing Council of The Wilderness Society that The Wilderness Society take all appropriate action to protect the public domain lands and the natural environment of Alaska. Specifically the Council urges:

1. That the President of the United States order immediate reinstatement of the land freeze as it applied until January 7, 1970, to the corridor proposed for an oil pipeline system bewteen Prudhoe Bay and Valdez.

2. That the President and Congress institute an immediate moratorium on all land disposal (except for native land claims), state land selections, highway construction, pipeline development, mineral exploration, land and resource development, and settlement in the area of Alaska north of the Porcupine-Yukon-Kuskokwim Line as defined by the Alaska Statehood Act. The moratorium should continue at least until December 31, 1972, and until the approval by Congress of a comprehensive plan for the conservation of public domain lands and waters in Northern Alaska and for the protection of the Northern Alaska environment. Present laws inconsistent with the purpose of this moratorium should be suspended.

3. That a comprehensive conservation plan for Alaska be prepared under the direction of the President and the Council on Environmental Quality, with full opportunity at hearings for all interested parties in Alaska. The plan should include comprehensive proposals for the establishment of additional national

parks, national recreation areas, national wildlife refuges and ranges; for the designation of wilderness areas; for the conservation of forests; for the protection of commercial and sport fisheries and other wildlife resources, including endangered species; for the preservation of outstanding scenic values; for the prevention of air, water, and soil pollution; and for the development and use of resources other than those specifically mentioned.

4. That full public hearings in Alaska, Washington, D.C., and elsewhere in the nation be conducted both in preparing the proposed comprehensive plan and as part of its consideration by Congress.

Senator GRAVEL. Is there a representative in the room from the Interior Department, is Bruce here?

Mr. BRUCE. Yes, I am.

Senator GRAVEL. I understand you are from the legislative council within the Department of the Interior?

Mr. BRUCE. That is right.

Senator GRAVEL. Can you give us any idea as to when the administration's bill will be forthcoming?

Mr. BRUCE. No, sir; we are presently in negotiations and communications with the administration, the budget, but we cannot at this time——

Senator GRAVEL. You are the administration, Mr. Bruce.

Mr. BRUCE. What I am saying is within the Department various branches of the administration, various departments, we are trying to work out the final details.

I cannot give you a time. We had hoped it would be last week, and we had hoped this week and we have just not finished the details. We are working and hope to do it as soon as possible.

Senator GRAVEL. Thank you.

Mr. Philemonof, the president of the Aleut League and his attorney. I see Mr. Miller is not here. Would you introduce your associates for the record?

Senator STEVENS. I would hope that those people who are representing the Native organizations and those people who are advising them, would not at this time put the administration in a position which the decisions on some of these problems have to be made under pressure.

I think everyone is aware of the fact that we have then asked the administration to review its position and to give us greater flexibility. That commitment was made by Secretary Morton when he was here.

Speaking for myself, I don't understand why the Native people who were scheduled to testify do not want to testify before the administration's report comes up. It seems to me that it would aid the administration in reaching its decision, if these viewpoints of the various Native organizations were expressed here today.

I would hope there will be some reconsideration on this matter. I am pleased to see the Aleut League is continuing with its presentation.

Congressman BEGICH. Mr. Chairman, for the information of the committee and I understand Senator Stevens that the Native groups did meet with the Vice President at 4 p.m. on Friday and they had extensive discussions with the various Interior people and the Vice President and that those discussions should bring forth very rapidly, we would hope, a position by the administration on the actual bill.

We in the Interior Committee of the House have also been waiting for a report on a bill that has been in for about 2 months and the chairman is getting kind of impatient.

Senator STEVENS. I think you can get the same position that was expressed by the last administration, repeatedly or the position that was expressed here last year.

We want to get a bill with the flexibility that it will enable it to be passed by both sides of the Congress this year. I don't think 2 month delay is necessary when the matter has been pending for 102 years.

I don't believe that the results of pressure in these circumstances are always the best.

Senator GRAVEL. We will now hear from Mr. Philemonof.

STATEMENT OF MR. ILIODOR PHILEMONOF, PRESIDENT, ALEUT LEAGUE, ACCOMPANIED BY MR. DONALD H. GREEN, ATTORNEY, AND MR. STEPHEN M. TRUITT, ATTORNEY

Senator GRAVEL. Would you give your residence and also introduce your two colleagues?

Mr. PHILEMONOF. My name is Iliodor Philemonof and my home address is in Anchorage, Alaska. On my right here is Donald H. Green, attorney, and Stephen M. Truitt, also an attorney.

Mr. Chairman, and members of the committee, I am Iliodor Philemonof, president of the Aleut League. With me here today is Mr. Stephen M. Truitt, attorney. I sincerely appreciate the opportunity to appear before you to express the views of the Aleut people.

The Aleut League is in agreement with the position taken by the Alaska Federation of Natives as follows: 60 million acres of land; $500 million; 2-percent overriding royalty in perpetuity; and 12 regional corporations with local control.

The Aleut League believes, however, that the provisions defining Natives in S. 35 and S. 835 need some modification to make those provisions more just. In addition, the Aleut League strongly desires to protect the water rights of the Aleuts.

It is on these two subjects that I wish to address my remarks.

Definition of "Native":

The Aleuts, more than any other Native people in Alaska, have a particular problem with operation of the bills' blood quantum definition of Native which would exclude a small number of Aleuts who are themselves recognized members of an Aleut community and whose ancestors have also been so recognized.

This problem results from the greater exposure of the Aleuts to non-Native populations going back over 200 years. This greater exposure has led to more frequent intermarriages between Aleuts and non-Natives and consequent dilution of blood quantum but frequently has not affected the individual Aleut's way of life and full membership in his Native community.

To do justice, we feel that these Aleuts should not be penalized and cut off from the benefits of this bill when they and their ancestors have been regarded by their own communities as Natives, treated by the State government and Federal Government as Natives, but who know that they are not one quarter Aleut blood.

Under the present wording of S. 35 some Aleuts fully recognized by their village as Natives and at least one of whose parents were similarly recognized nevertheless are excluded from the act's benefits by the definition of Native.

In order to remove this inequity and to allow these Aleuts to participate with other Natives under this proposed legislation, the following language should be deleted from S. 35:

At page 6, on lines 3 and 4: "in the absence of proof of a minimum blood quantum".

Unless this change is made, an Aleut who is aware that he is less than one quarter Aleut blood, would not be included as a member of an Aleut community within the alternative definition of Native, even though both he and at least one of his parents had been recognized as Aleuts by their Native community.

Deletion of this language as we have suggested above would remove this inequity from the bill.

WATER RIGHTS

The land of the Aleuts is a land of islands consisting of the Aleutian chain and the Pribiloff Islands. These are almost all small islands and the Aleuts living on these islands are largely dependent upon the sea surrounding them for their livelihood.

For this reason, the Aleuts are particularly concerned with the issue of water rights and shoreline rights.

We request the permission of the committee to submit a later statement on this subject to be included in the record of these hearings.

CONCLUSION

I thank the committee for this opportunity to express the views of the Aleut League. The Aleut League wishes to cooperate to the fullest degree possible in obtaining a fair and just settlement for the Alaska Native people.

Senator GRAVEL. Thank you. Did you have any additional statement you wanted to make or submit at a later time?

Mr. PHILEMONOF. No, I have not.

Senator GRAVEL. Senator Anderson.

Senator ANDERSON. No questions.

Senator GRAVEL. Senator Metcalf.

Senator METCALF. In spite of the fact that the witness has said he does not have any additional material I think that all of these witnesses should be given an opportunity to submit additional statements after an administration report on the bill comes out.

I am not one of those who is pressuring the administration to get a report as suggested by Senator Stevens but the administration is part of the legislative process. Certainly we should hear the Native views in such an important organization as the Aleut League.

So I am just going to ask a general unanimous consent request that all of these witnesses be permitted to file additional material before the close of these hearings and everybody will be given an opportunity to know when the hearings are going to be closed.

Senator GRAVEL. Without objection I am sure Senator Metcalf that was the intention of the chairman.

I am glad that you dotted the "i."

Senator GRAVEL. Senator Stevens.

Senator STEVENS. I think you have two very good suggestions. I note that S. 835, which I identify as the AFN bill, also uses the phrase, "In the absence of proof of a minimum blood quantum."

Have you discussed this phrase and your suggestions with the other Native organizations in the State? They apply equally to the chairman's bill, that which is cosponsored by Senator Gravel and myself and to the Harris bill which is the AFN bill.

Did you coordinate your position on this quantum point with the other organizations?

Mr. PHILEMONOF. No; we have not gone through the specifics with the other Native organizations.

Senator STEVENS. In view of the fact that from what I understand that phrase is incorporated in all of the bills we have considered, I suggest you do so. Senator Metcalf and I in particular would be very interested in the statement concerning the offshore rights on the Pribiloff Islands.

I think you have a very interesting problem there since it is so far out from the contiguous zone.

We would be very interested in your statement in that regard. I hope that you can provide us with that statement in time so we can consider it in the committee when we are marking up the bill.

You are familiar with these islands, I am sure. You have a very special problem and I am sure we would like to consider it further if you have any suggestions.

Mr. Chairman, I don't have any other comments. I again commend you for presenting your statement. I think you have some very good suggestions. Would it be sufficient to leave the decision solely to the individual village in order to determine membership, in your opinion?

Mr. PHILEMONOF. Yes; I think this would. I don't know if I really follow you.

Senator STEVENS. Your suggestion is that we take out the reference to the statement "in absence of proof of a minimum blood quantum." The section continues, "or was regarded as a Native by such village or other Native villages listed in this bill." If that section is deleted, the decision will be left solely to the villages as to whether or not a person is a Native within the provisions of the bill.

Mr. GREEN. Senator, I am Mr. Green, if I may respond to that. The concern we had specifically with that language is for example the person recognized in a village as an Aleut and who knows that he is ⅛th quantum Aleut blood. As we read this he would be excluded from coming under the alternative definition of the Native which we think, A, would be unjust, and B, would exclude for no rational reason people who have been recognized along with their ancestors as Aleuts.

Senator STEVENS. In other words if a person has one-quarter degree or more of blood quantum he would automatically be recognized. If one does not meet that requirement but is recognized by the village, then he would be included also, is that your position?

Mr. PHILEMONOF. Yes.

Mr. GREEN. Yes, sir.

Senator STEVENS. Thank you.

Senator METCALF. Mr. Chairman, I want to concur with Senator Stevens in expressing my interest and concern about the water rights in the offshare claims that you have. Both Senator Stevens and I have

participated at length in some hearings on general offshore claims as far as our Nation is concerned on its mineral resources and its outlying fishery resources and so forth.

We look forward to a presentation of both a general statement of claims and would appreciate specific recommendations for amendments of both S. 35 and S. 835 then so that we can draw our attention to the specific amendments that you want.

Senator STEVENS. I will under that; which is particularly germane because the Senator from Montana is the chairman of that Special Subcommittee on Oceanography, which, of course, affects your interests very much.

So I think you could have some substantial inputs not only relative to our own claims but also relative to national policy.

Thank you, sir.

The hearing will stand in recess to the call of the Chair.

(Subsequent to the hearing, the committee received the following statement from the American Mining Congress.)

AMERICAN MINING CONGRESS,
March 30, 1971.

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

DEAR MR. CHAIRMAN: The American Mining Congress, a national trade association whose membership is composed of U.S. companies that produce most of the nation's metals, coal, and industrial and agricultural minerals, wishes to bring to your attention its views on S. 35, the Alaska Native Claims Settlement Act of 1971.

Two of the provisions of S. 35 are of considerable concern to the American mining industry. The first, section 24(a)(1), would have the effect of terminating all exploration for locatable minerals in the State of Alaska for a period of up to five years following the date of enactment:

"Except as otherwise provided in this Act, all unreserved public lands in Alaska which have not been previously classified by the Secretary are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, for not to exceed five years. The Secretary of the Interior is hereby authorized, at his discretion, and after consulting with the State, to classify any lands withdrawn by this section and to open to mineral leasing entry, selection, or location for disposal in accordance with applicable public land laws, such lands as he determines are chiefly valuable for the purposes provided for by such laws."

An expeditious and equitable settlement of the Alaska native land claims is essential to the growth and progress of the State. Legislation to accomplish this purpose need not incorporate provisions which would halt mineral exploration which is vital not only to the economy of Alaska but also to the entire nation.

The second provision of concern is section 17 which authorizes the Secretary of the Interior to dispose of minerals included under the federal mineral leasing laws on Alaska public lands by competitive bid where there is competitive interest in the land to be leased. If enacted, section 17 would have the practical result of authorizing the disposition of leasable minerals only by competitive bidding. This constitutes a fundamental change in the Mineral Leasing Act. Such a practice would discourage development of mineral resources and discriminate against the small miner. The American Mining Congress has recommended amendment of the mineral leasing laws in order to establish legislative guidelines that will require classification of lands for issuance of prospecting permits except where workability and minability of a valuable mineral deposit is known.

The American Mining Congress believes that any studies made by the Department of the Interior when classifying lands in Alaska should include comprehensive mineral surveys. In its recent report to the President and Congress, the Public Land Law Review Commission stated:

"In connection with consideration of statutory exclusion of mineral activity from designated public land areas, Federal agencies should make mineral examinations which will provide reliable information concerning their mineralization. Too often in the past exclusions have been accomplished with little or no knowledge of mineral values. Since it is often essential to act promptly in deciding whether mineral activity should be excluded, we urge dispatch in making these mineral surveys before an urgent situation arises."

We appreciate the opportunity to bring these views to your attention.

Sincerely,

W. HOWARD GRAY,
Chairman, AMC Public Lands Committee.

(Whereupon, at 11:50 a.m., the Committee on Interior and Insular Affairs adjourned, subject to call of the Chair.)

APPENDIX

(Under authority previously granted, the following statements and communications were ordered printed:)

PROPOSAL FOR SETTLEMENT OF THE ALASKA NATIVE LAND CLAIMS

REPORT OF THE GOVERNOR'S TASK FORCE ON NATIVE LAND CLAIMS, JUNEAU, JANUARY 10–16, 1968

To: The Honorable Walter J. Hickel, Governor of Alaska.

Your Task Force proposes a four part settlement of the Native land claim question, consisting of

(a) A grant of 40 million acres of land in fee, or in trust, to village groups (compared to the 102.5 million acres given the State of Alaska under the Statehood Act, or the much larger area encompassed in the Native claims), allocated among the villages in proportion to the number of persons on their rolls.

(b) A grant of a 10% royalty interest in outer continental shelf revenues, along the lines proposed by Secretary Udall, in lieu of the right to compensation for lands reserved or disposed of to third parties, with an immediate advance payment of $20,000,000 by the Federal Government.

(c) A grant by the state of a 5% royalty interest in state selected lands, tidelands, and submerged lands, but excluding current revenue sources from the state lands (in order to avoid direct impact on the general fund) and commencing only upon lifting the land freeze and resumption of state selection.

(d) A terminable license to use the surface of lands under occupancy and use by Natives.

Principle objectives of the Task Force in developing our proposal include the avoidance of courts and litigation, the simplification of the administrative process, the early accomplishment of the settlement, the grant of present property interests, the avoidance of state and federal control, the need to avoid "freezing the villages in history", the spreading of the benefits from royalties widely, but recognizing private property concepts, and utilizing modern corporate forms for engaging in business enterprise by Native groups.

For convenience, the four parts will be called (a) township land grants, (b) offshore royalties, (c) state granted royalties, and (d) surface rights.

The details of the proposal, as worked out by the Task Force, are as follows:

Township Land Grants

1. Each village (of 25 persons or more) may select land from within its claim area (or area in which it has aboriginal occupancy). The amount of land is determined by the number of Natives on the village roll.

2. The selection process would be similar to that provided the state in the Statehood Act, and the time to select would be 25 years.

3. In order to accelerate the selection, the Secretary is to take a temporary roll, including on the roll those residents in the village and others who can be quickly included, such as those resident in other towns and cities. The roll should be as complete as possible, given the limited time it will be open for enrollment.

Upon completion of the temporary roll the village makes its initial selection, which shall be given priority against any state selection not patented or tentatively approved, in the reserved area. As to patented or temporarily approved lands, an exchange of lands procedure should be provided for. The state is then free to select any other land in the reserved area.

Upon completion of the permanent roll the village may select additional land for the net additions to its roll (or may reconvey some of its selction to the United States in the event the permanent roll totals less than the temporary roll).

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In order to provide for early lifting of the land freeze, the villages will nominate areas for preferential selection, based upon their estimated entitlement, and these areas will be withdrawn by the Secretary of the Interior. The areas withdrawn shall not exceed 40 million acres. The "land freeze" is then lifted as to other areas in the state, within six months of the passage of the Federal Act.

Your Task Force favors the continuation of the land freeze at this time, but we recognize the public interest in early resumption of state selections. We have spent many hours attempting to reconcile the opposing positions in a manner that would be fair to all. We have been unable to work out a method that could result in freeze lifting before the passage of the Federal Act, but we remain prepared to consider any such possible method. We have requested the Interior Department and your Attorney General to review this problem in hopes of working out a solution which would provide a lifting of the freeze even earlier than we here propose, which is six months after the adoption of the Federal Act.

4. If there are not sufficient lands in the claim area for selection, the village shall be entitled to in lieu selection, subject to the priority right of each village to township selection under its temporary roll. Because such lands will be selected primarily for economic value, any revenues from in lieu lands will be subject to a one-sixth (1/6) royalty to the local village and a one-sixth (1/6) royalty for the statewide Native corporation.

5. Village township lands shall not be subject to taxation as long as the land is owned by the incorporated tribal group, but revenues from the land will be taxable, and the corporation may make "in lieu of tax" payments to local governments. Private interests in these lands, such as leaseholds, will be taxable to the private owner.

6. In order to facilitate future development, the village-as-a-municipal-corporation shall be separated from the village-as-an-incorported-tribal-group. Among the differences between these concepts are the following: Whites may become resident members of the municipality; residence is not required for membership in the corporation; corporation membership in the course of time is to be translated into stock in a business corporation under Alaska law. A membership interest will be represented by 100 shares of stock which are not alienable by the first holder, except at death, and successor holders must be descendants of those on the original roll until 100 years have elapsed, when the shares shall be freely alienable, subject to any "close corportion" provisions in the articles and by-laws.

7. To avoid inflation of the rolls, a Native must be one-quarter blood to be to be enrolled. However, subject to a one-sixteenth statutory minimum, a corporation may extend benefits to those of lesser blood quanta.

8. The village shall have the option of whether to receive the grant in fee or in trust. If in trust, the village may choose the Secretary of the Interior as trustee, or subject to his concurrence in the appointment, may appoint any other person, including a regional or statewide Native corporation as trustee.

9. The village township land grant shall include all mineral rights.

10. The corporation, subject to limitation, may grant lands in fee to members, such as townsite lots, or to the local municipal corporation.

11. The village may elect to vest title to its lands in a regional corporation, either as trustee, or if all other member villages of the regional corporation do so, then in fee. The regional corporation may make the selection of lands. In this case the regional corporation may exercise the right to nominate and exercise preferential selection rights throughout the region. (Each village separately would otherwise be limited to its Native claim area.)

12. The village is encouraged to contract with the Alaska State Division of Lands for land management, with the village to retain policy control. The Division now has contracts with several boroughs for the management of borough lands.

13. Because many villages are on or are surrounded by reservations and withdrawn lands, the federal law must provide an effective means of obtaining some of these lands for township selection. Specifically, up to 100,000 acres of forest lands should be made available, subject to the approval of the Secretary of Agriculture. Also, villages should have a priority right of selection when reservations and withdrawals are canceled.

14. Villages on Indian reservations will obtain title to reservation lands, and the reservations will be terminated.

15. Native township grant lands will be considered federal lands for the purpose of allocating federal highway funds until such lands are in private ownership and are taxable.

16. Existing occupants of township grant lands will have preference rights in acquiring title thereto.

Offshore Royalties

1. The offshore royalty program as suggested by Secretary Udall is acceptable as a part of an over-all settlement.

2. This program, as redrafted by your Task Force, includes:

(*a*) A ten percent (10%) royalty as a present property interest for not less than twenty-five (25) years.

(*b*) The royalty will be distributed in proportion to the final rolls, to three classes of recipients.

(1) All villages (corporations)—75%

(2) All regional corporations—20%

(3) A statewide Native corporation—5%

(*c*) The United States is committed to develop the outer continental shelf.

3. The royalty should not be used for per capita distribution in cash, but should be available for family plan distribution, scholarships and other direct benefit to members until the corporation or regional corporation becomes a pure business corporation. There should be a limit on such distributions to avoid dissipation of the assets of the corporation.

4. The royalty shall not be a substitute for state or federal government programs now in being.

5. If Congress fails to enact the offshore royalty program, then a substitute will be provided, such as a program of compensation for lands reserved or disposed of to third persons.

If possible, such a substitute program should not involve a claims procedure in the Indian Claims Commission or the Court of Claims. However, if there is no other acceptable alternative, the following guidelines have been suggested:

(*a*) File in the Court of Claims.

(*l*) Each group may file its own claim.

(*c*) Each group may retain its own counsel.

(*d*) Valuation for compensation shall be determined by the times of taking, not 1867.

(*e*) As to reserved and withdrawn lands, the United States may release such areas within six months after filing of the claims case. If it does not do so, that shall be the date of taking.

6. As to the offshore royalty, $20,000,000 shall be provided by appropriation as an advance on royalties, to be repaid without interest from one-half of rhe actual royalties.

7. In computing the 25 year term, the following years are excluded:

(*a*) Any year in which no moneys are received.

(*b*) Any year in which less than $1,000,000 is received.

(*c*) Any year in which a portion of the proceeds goes to repay the advance royalty.

The eflect of these exclusions is to guarantee receipt of at least $65,000,000, assuming there are revenues.

8. The royalty continues after 25 years, until modified or terminated by Congress.

State Granted Royalties

1. The grant of royalties by the state to the Natives shall be by act of the Alaska Legislature granting a present property right in perpetuity.

2. The state act shall include the following:

(*a*) Paragraphs 3–4 under "Offshore Royalties" are applicable to this program also.

(*b*) The royalty shall include all proceeds received by the state from leases or other contracts on state selected lands executed after the effective date of the act, which would therefore exclude revenues from existing leaseholds and contracts and from lands finally disposed of to third parties before that before that date.

(*c*) The royalty rate shall be 5%.

(*d*) The royalty shall be distributed in the same manner as the outer continental shelf royalties.

(*e*) The royalty shall extend to tide and submerged lands granted the state in the Statehood Act.

(*f*) The royalty does not extend to proceeds received by the state from federal leases, e.g., the 90% share received under the Statehood Act.

Surface Rights

1. The existence of Native use and occupancy of lands should be recognized and may continue.

2. The surface use provisions of Secretary Udall's bill should be adapted to our proposal. The period should be lengthened to 100 years.

3. The right of surface use shall be terminable by act of the executive.

4. On the question of compensation for termination of surface rights, because of the desire to avoid litigation, compensation will not be necessary if a satisfactory overall settlement is reached.

Miscellaneous

1. The Alaska Native Claims Commission, as proposed by Secretary Udall's bill and by Attorney General Boyko, can be adapted to the settlement proposed as follows:

(*a*) It would be called the Alaska Native Commission.

(*b*) Established by Federal Act, it would settle overlapping claims for such purposes as determining which village is entitled to select township lands in the disputed area. The Commission would be given jurisdiction to hear other similar disputes.

(*c*) The Commission would be an advisor to the Governor on the utilization of state lands subject to state royalty and could be an advisor to the Secretary of the Interior as to utilization of the outer continental shelf.

(*d*) After each village makes its initial selection the Commission might be given the duty of determining what areas are thereby opened to state selection.

(*e*) The Commission would not be given the power to manage the property or property rights granted to the villages, regional corporations or the statewide corporation. The Commission would not have the power of selection. If there is compensation (instead of an offshore royalty) the Commission would not hear these cases as this appears to add a cumbersome and time-consuming additional step in the litigation.

(*f*) The Commission would be given limited rights of approval or veto power over the several classes of corporations, for limited periods of time.

(*g*) The Commission would meet in Alaska.

(*h*) The Governor and statewide Native groups may suggest persons for membership on the Commission.

(*i*) The state could vest certain powers in the Commission.

(*j*) The Commission would consist of seven members, appointed by President, with the advice and consent of the Senate, all of whom would be Alaskans of five years residence, and a majority of whom would be Natives.

2. Certain Alaska cases are pending before the Indian Claims Commission and one case is before the Court of Claims. Our recommendations concerning these are:

Any claimant in court or before the Indian Claims Commission should have the option of withdrawing its claim and participating in the settlement.

If the claimant chooses to proceed with its claim there is strong sentiment that the claimant should nevertheless have full benefits under the settlement. However, any judgment proceeds received would be deducted from the outer continental shelf revenues which the claimant would otherwise receive.

3. The question of whether a person may be enrolled on the rolls of more than one village was raised and it was decided that each Native may choose "his village" but may be enrolled only once.

4. The Metlahkatla Indians are excluded from any benefits.

5. The enrollment of the urban Native would be upon the rolls of "his" village.

6. Generally, it appears desirable to strengthen the regional associations (regional corporations) as better and more effective leadership may be available at this level. Merger of villages into the regional corporation will be provided for. No more than 20 regional corporations will be allowed, which will cover all of Alaska, except the Annette Island Reservation.

7. Generally, the Native corporations will be organized under the Alaska Business Corporations Act, modified to meet the peculiar nature of these corporations, but anticipating gradual conversion into an ordinary business corporation.

However, local corporations may, if they desire, organize or continue to operate as corporations under the Indian Reorganization Act. Many such corporations already exist in Alaska, and some village groups undoubtedly would prefer to remain in that business status.

CONCLUSION

We have devoted many days of serious effort to this project. Many ideas and possible solutions have been deliberated. The above program represents our best judgment in reconciling the numerous needs and interests which must be accommodated in any adequate solution to the problem.

At all times we have endeavored to find solutions which are compatible with the needs of the federal and state governments, as well as the Natives of Alaska. We are aware of the responsibility placed upon us. We feel that there is now a sound legislative format which can lead us safely out of the grave difficulties presented by the Native land claims problem.

We want to thank you for your concern and foresight in setting up this Task Force, so that we could participate directly in the process of policy making on a subject which affects the life of every Alaska Native. There has been failure in the past to recognize that the situation of the Alaska Native is a primary historic problem confronting the State of Alaska. It cannot be ignored without harm to the public interest of this State. A solution must be found now, as a lack of action will only bring a worse train of events in its wake.

We urge the adoption of this program as a proper and just solution on terms fair to all.

Respectfully,

WILLIE HENSLEY, *Chairman.*

ALASKA FEDERATION OF NATIVES' POSITION WITH RESPECT TO ALASKA NATIVE LAND CLAIMS

With the failure of the 91st Congress to enact legislation settling the issue of Alaska Native land claims with the prospect of new legislative proposals in the 92nd Congress to resolve this 103-year old problem, the Alaska Federation of Natives (AFN), composed of its constituent regional associations, wishes to restate its position setting forth the basic elements of a settlement that will be acceptable to all of Alaska's Eskimos, Indians and Aleuts. During several days of intensive deliberation in December and January, the AFN board of directors re-examined its approach to the land claims settlement, and adopted certain changes in its position as set forth below in a conceptual bill outline. A position restatement is necessary at this time in order to make known these modifications and to insure that all concerned parties are fully advised as to AFN's position outlining a recommended settlement.

AFN believes a settlement extinguishing the property rights of the Natives to substantially the entire State of Alaska must recognize that different groups of Alaska Natives have property rights in different lands aboriginally used and occupied by them. The settlement should reflect these differences and, short of a lengthy adjudicatory process in the courts to determine value, should be based primarily on the quantum of land within the exterior boundaries of each Native region. The basic elements of such a settlement should include:

A. Confirmation of title to sixty million acres of land in the Native villages and regions over which the Native people have asserted dominion through use and occupancy from time immemorial. Each of twelve recognized regions would receive a share of the land proportional to that region's total size in acres.

B. Payment of $500 million in federally appropriated funds and a 2 percent share in perpetuity of all revenues derived from the public land in Alaska as compensation for lands previously taken, and as compensation for the extinguishment of any and all property rights or claims against the United States, the State of Alaska and third parties, based upon aboriginal right, title, use and occupancy of lands in Alaska by any Native or Native group. The $500 million federal share would be distributed to twelve regional corporations. Each region would receive an initial share in the amount of $8 million. The balance of $404 million would be distributed to each region on a population basis so that each region's share is proportional to the total Native population in that region. The 2 percent overriding revenue share would be distributed to each region on a population basis.

C. Establishment of twelve regional corporations as the management group for the land and funds received in the settlement.

D. Creation of an Alaska Native Commission to assist in the administration of the Settlement Act.

A fair, just and equitable settlement of Alaska Native land claims is recommended in accordance with the framework for settlement outlined below.

1. Enactment clause.
2. Declaration of policy.
3. Definitions.
4. Regions:

(*a*) For purposes of this Act, the State shall be divided by the Secretary within six months after the effective date of this Act 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 should approximate the area described as follows in the Federal Field Committee Report and covered by the operations of the following existing Native Associations:

(1) Arctic slope.—Arctic Slope Region (Arctic Slope Native Association);

(2) Northwest.—Bering Strait Region (Northwest Alaska Native Association);

(3) Bering Strait.—Bering Strait Region, Bering Sea Region (Bering Strait Association);

(4) Southwest.—Southwest Coastal Lowland Region (Association of Village Council Presidents);

(5) Bristol Bay.—Bristol Bay Region (Bristol Bay Native Association);

(6) Interior.—Upper Yukon-Porcupine Region, Koyuk-Lower Yukon Region, Tanana Region, Upper Kuskokwim Region (Tanana Chief's Conference);

(7) Aleutian.—Aleutian Region (Aleut League);

(8) Kodiak.—Kodiak Region (Kodiak Area Native Association);

(9) Cook Inlet.—Cook Inlet Region (Kenai Peninsula Native Association, Kenaitze Indian Association);

(10) Copper River.—Copper River Region (Copper River Native Association);

(11) Gulf of Alaska.—Gulf of Alaska Region (Chugach Native Association);

(12) Southeast.—Southeast Region (Tlingit-Haida Central Council).

(*b*) Existing Native villages located within each region should be listed by region in the bill.

5. Alaska Native Commission:

(*a*) An Al ska Native Commission composed of five members to be appointed by the President with the advice and consent of the Senate should be established.

(*b*) Of the Commission's five-man membership, at least three of the members appointed by the President should be Natives, and not more than three members of the Commission should be members of the same political party.

(*c*) The Commission's duties should include:

(1) the issuance of rules and regulations for preparing a final membership roll of Natives;

(2) the determination of eligibility for inclusion on such roll, and of protests with respect thereto; and

(3) the preparation of final membership roll of all Natives living on the Act's effective date within five years of such date.

(d) Upon completion of its duties under the Act, the Commission should cease to exist.

6. Enrollment:

The Secretary of the Interior shall prepare a temporary census roll of Natives eligible for benefits under the Act. Eligible Natives shall be citizens of the United States who are Alaska Indians, Eskimos, or Aleuts of one-fourth degree or more Alaska Indian, Eskimo, or Aleut blood. The final census shall then be prepared, with provisions for protest and determination of disputed eligibility status.

7. Regional corporations:

(*a*) A regional corporate structure should be established to administer the settlement proceeds and to receive title to that land located within the various regions that is not allocated to the villages.

(*b*) The corporate charters for each regional corporation should provide that the corporation shall be devoted to promoting the health, welfare, education and economic and social well-being of its members and their descendants, and shall be authorized by its articles of incorporation, among other

purposes, to construct, operate and maintain public works and community facilities, to engage in medical, educational, housing and charitable programs, to make loans and grants consistent with its corporate purposes, to foster industrial and economic development, to lease and manage real property, to distribute lands, interests in land, and funds to the Native villages located within its region, and to members and their descendants.

8. Other Native corporations:

(*a*) Native villages would be permitted to organize under the laws of any state or the United States as corporations for the purpose of receiving (1) title to a specified amount of the surface estate of land contiguous to the village (see Section 8) and (2) a proportionate share of the monetary proceeds of the settlement as detailed in Section 9.

(*b*) However the village is organized, the entity's use of monetary proceeds would be subject to the same oversight as are the regional corporations.

9. Land allocation:

(*a*) The twelve Native regions would have confirmed to each of the regional corporations a proportionate share of 60 million acres in fee based on each region's land area as it bears to the twelve region total. This approach not only causes the settlement to relate directly to the land claimed by identifiable Native groups, but also simplifies the land allocation process by not having to rely on the Native enrollment which may require the entire five year period from the Act's effective date to complete.

(*b*) Each regional corporation should hold title to land allocated to its region. Land selections should be limited to public land within each region with up to four townships (92,160 acres) being made contiguous to the villages within such region. The remaining acreage allocable to each region should be selected in non-contiguous tracts from public lands within the region.

(*c*) Regional corporations should have authority to convey to villages the surface estate to land upon which a village is situated and a reasonable amount for expansion if requested to do so by the village governing body. Title to the leaseable minerals, locatable minerals and renewable surface resources and to that portion of the surface estate not granted to villages, would remain with the regional corporation.

(*d*) To permit the greatest flexibility in land selection, the regional corporation should be allowed a period of five years from receipt of the initial $8 million payment (see Section 10) to make their selections. During this period, the State of Alaska should be permitted to go ahead with selections under the Statehood Act, but tentative approval could not be given prior to the expiration of the five year period unless an affirmative showing is made that such approval would not conflict under any circumstances with possible regional corporation selections. No attempted appropriation under the public land laws, such as a homestead entry or mineral lease application, would be permitted during the five year period of Native and State selections. In the event the regional corporations do not select their full entitlement during the five year period, a second five year period should be allowed the regional corporations affected to make the remainder of their land selections. The State of Alaska, however, should be permitted to select its own land during the second five year period without being subject to a prior Native selection right. Additionally, Native selection rights during this latter period should take subject to any valid existing rights that may have arisen after expiration of the first five year period but prior to the Native selection.

(*e*) The entire yield from the land (i.e. all revenues resulting from the disposition of leaseable and locatable minerals, mineral materials, and renewable surface resources such as timber) should be shared between regions on the following basis: Fifty percent of the yield as defined above should be retained by the region of origin. The remaining fifty percent should be distributed to the other eleven regional corporations on a population proportion basis.

(*f*) Individual Natives should receive patents to the surface estate of up to five acres per individual and forty acres per group where Native applicants are able to establish a subsistence use, and up to sixty-acre tracts based on proof of historic use and occupancy of such larger tracts, to the surface estate of up to 160 acres for the primary residence of Natives, and to the surface estate of up to 2,560 acres for reindeer management.

10. Allocation of monetary proceeds:

(*a*) The two primary sources of cash compensation to fund the settlement should be:

(1) $500 million in federally appropriated funds, and

(2) a 2% share in perpetuity of all revenues derived from the public lands through the disposition of locatable and leaseable minerals, mineral materials, and renewable surface resources

(*b*) The cash proceeds from the $500 million federal appropriation should be distributed as follows:

(1) An initial payment of $8 million should be made to each regional corporation to assist such corporations to organize and become operational, and to allow them to exercise land selection rights with complete technical data on the resource potential.

(2) The balance of the $500 million federal appropriation should be payable over a nine year period with interest at 4% per annum, $54 million the second year, and $50 million each year thereafter. The remainder (i.e. $404 million) would be paid directly to the regional corporations on a population basis, i.e. each region's share would be proportional to the total Native population in that region.

(c) The cash proceeds from the 2% share in all revenues derived from the public lands should be distributed to each of the twelve regional corporations on a population proportion basis.

(d) Within each region, distribution of up to 75% of the settlement's monetary proceeds received by such region under Section 10(a) should be set aside for the villages of such region on a population proportion basis. In order to receive funds, villages should be required to submit plans to the regional corporation which would review the plan and approve it if determined to be in accordance with the purposes of the village corporate entity as set forth in its corporate charter. The remaining 25% of the settlement proceeds allocated to a particular regional corporation should be retained by that corporation for investment or other suitable uses consistent with its corporate charter.

(e) The sum of $500,000 should be set aside from the initial federal appropriation for the benefit of the Alaska Federation of Natives and the regional associations in that order of priority for the purpose of reimbursing these organizations for expenses incurred in presenting the land claims issue to Congress.

11. Existing Native reserves:

(*a*) The land in all reserves in Alaska set aside by legislation or by executive or secretarial order should be retained by the Natives and not be made available for State selection or other disposition, either of the surface or subsurface estate.

(*b*) The Annette Islands Reserve established by the Act of March 3, 1891, (26 Stat. 1101), and the tribal members thereof should be excluded from the terms of the Act.

12. Protection of subsistence resources:

(*a*) Native subsistence use of public lands in Alaska should be protected. In determining whether to withdraw, reserve, lease or otherwise permit the use or occupancy of land that is being used by Natives for subsistence purposes, the Secretary of the Interior should be required to consider in consultation with the Natives concerned, alternatives that would eliminate or reduce the requirement for taking lands needed for subsistence uses.

(*b*) Subsistence uses should not be limited except to the extent that, after notice and opportunity for hearing in the general vicinity of the area involved, it is determined on the record by the head of the agency having jurisdiction that a limitation on the exercise of subsistence uses is necessary and can be accomplished without unreasonably impairing the ability of the Natives involved to satisfy their subsistence needs.

(*c*) For a period of twenty-five years after the Act's effective date, the Secretary, upon petition by any Alaska Native, should be required to determine whether an emergency exists with respect to the depletion of subsistence biotic resources and if so, to delimit or close the area for hunting, fishing or trapping purposes.

13. Taxation:

(*a*) No portion of the monetary proceeds of the settlement [Section 10(a)] should be taxable, either to the regional corporations or to the villages or individuals Natives.

(*b*) Lands confirmed in the regional corporations and villages should not be subject to State or local real property taxes for a period of fifty years from the Act's effective date.

14. Attorney fees and expenses:

Reasonable attorneys' fees and necessary out-of-pocket expenses earned and incurred by persons rendering services to Natives and Native villages, associations, tribes, bands or groups in connection with the settlement of Alaska Native land claims, should be paid out of the settlement proceeds on a quantum merit basis.

15. Appropriations:

Sufficient funds should be appropriated to the Secretary of the Interior and to the Alaska Native Commission to carry out the duties reqiured of them under the Act.

16. Publications:

The Secretary of the Interior should issue and publish in the Federal Register, pursuant to the Administrative Procedures Act (5 U.S.C. 500 *et seq.*), such regulations as may be necessary to carry out the purposes of the Act.

17. Savings clause.

"ALASKA NATIVE LAND CLAIMS AND POST-SETTLEMENT PLANNING" BY JOHN BORBRIDGE, JR., CENTRAL COUNCIL OF THE TLINGIT AND HAIDA INDIANS OF ALASKA

Settlement of the Alaska Native land rights issue is without doubt the most important piece of unfinished business facing our State today. The obligation to do justice to the Alaska Natives and the need to provide for the orderly development of our State make this self-evident. In his inaugural address of January 9, Governor William A. Egan referred to ". . . a just settlement of the Native land claims . . ." as the first of three landmark objectives to be overtaken in the four years ahead.

THE NEED TO PLAN—NOW

The pendency of claims settlement legislation has justifiably heightened the sense of urgency reflected by Native organizations presently preparing for the administration of lands, resources and compensation that will result from the passage of claims legislation. The potential for change implicit in the post-settlement era is almost mind-bending in its implications for the Native and non-Native community.

In my judgment, a just settlement of the Native land rights issue will more permanently and profoundly affect the entire Alaskan community than will the discovery of huge oil deposits. Resolution of the land claims will prevent the widening of the existing social and economic gap between Native and non-Native Alaska that could result from affluence accruing to some because of oil discoveries, by equipping the Indians, Eskimos and Aleuts to attack the causes of disparities in health, education, housing, employment, etc. The results will be an Alaska more firmly united than ever before.

Whatever the size of the settlement determined by the legislation passed in Washington, D.C., it will be only a small fraction of the income and the wealth which would have accrued to the natives had their lands and resources not been taken by the United States Government. Also, no matter how large the settlement will be, it will surely not be adequate to close the huge gap which now prevails between the living standards of the natives and the living standards of the balance of the population of Alaska. Nor will it be anywhere near sufficient to assure the natives that they can and will keep pace with the furtue rise in living standards among the non-native population in Alaska.

THE CHALLENGE OF PLANNING

The Natives must strengthen and improve their institutions so that they can put forward plans and programs and policies which take into account the needs and desires of the Natives, which assure that development projects are feasible as well as ambitious, and which are compatible with what the Natives regard as *their* fundamental goals and objectives. Neither the planning process nor the ensuing policy determinations will be easy to fulfill successfully. Above all, the ultimate implementation will be most difficult. In fact, we natives are faced with very difficult and challenging problems as well as excellent opportunities. Devilopment and modernization do not come cheaply or easily. If the desire for progress

were the only essential ingredient for development then few nations or groups would be under-developed. We have, up to this point, been exposed to a plethora of studies and plans, all designed to benefit the natives, with most lacking significant Native input.

One of the questions that is and will be most difficult to answer concerns the ways and means of speeding the development process among the Natives. What kinds of economic activities will be most conducive to greater productivity, to higher levels of production, to rising incomes and to improved standards of living? Should short-run or longer-run considerations be given priority? To what extent and at what pace should departures from traditional economic occupations and activities be anticipated and expedited? Can new and enlarged economic activities be undertaken by the natives on thier own initiative and responsibility or should joint ventures be contemplated to speed the process of modernization? To what extent is it necessary or desirable to move toward some degrees of concentration of the Native population? Is widespread dispersion compatible with rapidly improved standards of Health, Education and Housing on the one hand, and with higher productivity and rising incomes and substantially improved standards of living on the other hand?

THE SOCIAL AND ECONOMIC CONSEQUENCES OF PLANNING

There will be serious problems in reconciling social and cultural patterns with economic development. As the process of education bring greater knowledge and capability to the younger members of Native groups, there will tend to be more migration and more urbanization in some areas. Many such tendencies will be inevitable. The challenge is to utilize these trends where they occur so as to optimize the well-being of the Natives rather than to try to obstruct or halt these powerful tendencies. The overall desire of most Native leaders will be to inject economic viability in villages lacking this ingredient. For only in this fashion will the prerogative or choice become a reality in the villages.

In considerable degree the very fact of having enlarged resources at their disposal will give to the Natives a greater degree of control over their destiny than they ever had before. They will need to develop both the institutions, the leadership and the managerial capabilities which will deal effectively with these new opportunities and these greater responsibilities. Greater knowledge and greater understanding will be needed. Better management and more efficient and effective organizations must be developed. Only then will these added resources serve to better the lot of the Natives of Alaska.

Analysis of a Native regional organization—the Central Council of the Tlingit and Haida Indians of Alaska—will expand your understanding of the scope of its activities and the increasingly sophisticated apparatus emerging to deal with our varied and complex problems.

THE CENTRAL COUNCIL OF THE TLINGIT AND HAIDA INDIANS: A DYNAMIC NATIVE REGIONAL ORGANIZATION

During the last 2 years, the central council of the Tlingit and Haida Indians of Alaska, the regional governing body of the Natives of Southeast Alaska, has, among other things, formulated and had adopted by Congress, plans for the use of judgment funds, amounting to approximately seven (7) million dollars, in programs designed to produce maximum social and economic benefits for the Tlingit and Haida people; managed the interim investment of the funds in a manner that has resulted in significantly increasing returns over what they would have been had the funds been left on deposit in the U.S. Treasury; structured itself as a democratic representative, and highly efficient Governmental organization which annually administers an operational budget of between $150,000 and $200,000; and encouraged and assisted its component communities to formally organize at the local level. The entity represents the land claims interests of approximately 14,000 Tlingit and Haidas and consists of the following member communities:

1. Anchorage.
2. Angoon.
3. California.
4. Craig.
5. Hoonah.
6. Hydaburg.
7. Juneau.
8. Kake.
9. Ketchikan.
10. Klawock.
11. Klukwan.
12. Metlakatla.
13. Petersburg.
14. Saxman.
15. Seattle.
16. Sitka.
17. Wrangell.
18. Yakutat.

The bill proposed to Congress by the Alaska Federation of Natives to settle the aboriginal rights of the Alaska Natives provides for the establishment of

Native organizations in twelve geographic regions to manage and administer most of the funds and some of the interests in land which it is contemplated the Natives will receive as part of the settlement. This has caused some to ask whether the Natives at the regional level are competent to order and operate organizations as important and sophisticated as these will have to be.

Perhaps the most convincing evidence that this question must be answered in the affirmative is provided by the accomplishments of the regional organization of the Tlingit and Haida Indians of southeast Alaska.

RULES OF ELECTION

The general or regional governing body of the Tlingit and Haida Indians is the central council. Initially, an informal organization created for the purpose of keeping abreast of developments in the claim case which the tribes prosecuted in the court of claims, it was recognized and constituted as an official organ for self governance by an act of Congress approved in 1965. The act required the council to prepare and submit for approval to the Secretary of the Interior a set of rules for the election of delegates to the central council designed to insure that it would be representative and democratic. In accordance with the act, the council formulated and submitted a comprehensive set of rules which was approved by the Secretary. These rules of election, together with the constitution drafted and adopted by the central council, are the principal organic documents of the Tlingit and Haida regional organization.

The rules, among other things, designate the communities entitled to elect delegates to the central council (there are 18 communities at the present time), and prescribe the terms of delegates, the qualifications of electors, the formula for community representation, and the duties of local election officials. They also prescribe procedures for the nomination of candidates, for the registration of voters, for the conduct of elections, and for the casting of absentee ballots.

CONSTITUTION

The Constitution provides that the central council shall be the general governing body of the Tlingit and Haida Indians of Alaska and that, agreeably to the laws and regulations of the United States, it shall have, among others, the powers to acquire and dispose of property; to enter into contracts; to borrow and raise money; to employ lawyers and other persons to render professional, technical and other services; to authorize the use and expenditure of funds belonging to the Tlingit and Haida Indians; to consult and advise persons and entities, public and private, concerning matters affecting their interests: and to authorize and provide for the organization of subordinate entities to perform governmental and proprietary functions.

The officers of the council, who compose the executive committee and who are elected by and from the delegates, are the president, four vice presidents, the secretary and treasurer. When the central is not in session, the executive committee may exercise all the powers of the council except that it may not take actions repudiating or negating actions of the full council.

The council employs a general manager and secretarial staff and maintains an office in Juneau. At the present time I am president of the council. The other officers are: Steven Hotch of Klukwan, first vice president; Edward Churchill of Wrangell, second vice president; Richard Stitt of Juneau, third vice president; Roger Lang of Sitka, fourth vice president; Dennis Demmert of Ketchikan, secretary; and Harvey Marvin of Sitka, treasurer. The report of the credentials committee shows that at the last meeting of the council held in Anchorage in April 1970, there were 55 delegates from the local communities in attendance or represented by proxy.

The 1965 act enabled the organization of the central council and recognized it as the official organ of self-government of the Tlingit and Haida Indians. The council was charged with the responsibility of formulating programs for the use of such funds and of administering the programs after their approval by Congress.

PLANS FOR USE OF FUNDS

The program planning committee of the central council, under the chairmanship of Clarence Jackson of Kake began work on plans for the use and investment of the funds. Guided by the proposition that the funds should be employed in ways which would return maximum social and economic benefits to the Tlingit and Haida people, the committee quickly came to realize that while 6.8 million dollars in the abstract may seem a substantial sum, it pales when considered in relation

to the great and multiple needs of our people. After investing much time, thought and effort in establishing priorities, the committee, after eliciting the opinions of Tlingit and Haida community leaders, came forth with plans for the use of the funds which were approved for scholarships and educational assistance, for special services to the elderly, for housing, for community, industrial and commercial development, for credit, and for investment.

Ever since funds in payment of the judgment were appropriated in 1968, the executive committee of the central council has been actively superintending and overseeing their investment. The executive committee requested the secretary of the Interior to use the authority he possesses to take the funds out of the Treasury and invest them in securities backed by the credit of the United States. From time to time, as securities purchases on the tribes' account matured, the executive committee arranged for the reinvestment of the principal and the proceeds. As a result, the funds have produced substantially more than they would have had they been left in the treasury. This investment program has been referred to as the most outstanding among the Indian tribes.

The Central Council and the Executive Committee, which operate on the annual administrative budget of between $150,000 and $200,000, deal on a continuing basis with a multitude of problems affecting the Tlingit and Haida people. These range from improving means of communication among the several communities to taking action to protect village fishing rights.

ECONOMIC DEVELOPMENT ADMINISTRATION GRANT

The Central Council is presently administering an $80,000 economic development administration technical assistance grant which has two precise objectives:

A. The detailing of the six point plans for the use of judgment funds with the development of the precise means of securing maximum economic and social benefits for the central council constituency. The objective is to translate detailed plans into on-going programs in member communities.

B. The training of two Tlingit and Haida as development planners for the purposes of structuring and staffing a permanent central council office of development planning to be located in Juneau. They will work with Tlingit and Haida Community Councils to develop planning capabilities in member organizations.

Mr. Theodore Denny and Mr. Richard Stitt recently concluded three months of training in Grantsmanship and Development Planning with Wolf and Company, A consulting management firm with offices in New York and Washington, D.C. in conjunction with their training, Messrs. Denny and Stitt contributed significantly to the formulation of a comprehensive document, *A Development Planning Program for the Central Council of the Tlingit and Haida Indians of Alaska* which was developed by Wolf and Company after visits to each of the 18 communities and consultation with Tlingit and Haida organizations, individuals, state and Federal officials, etc. This document is scheduled for final publication.

This document reflects data gathered, assembled and analyzed subsequent to surveys conducted in 10 of 18 communities in southeast Alaska. The surveys for the remaining 8 communities will be completed in the near future.

The central council office of development planning anticipates a permanent staff consisting of two senior planning and two assistant planners. Part-time subject-area specialists will be hired from among the Tlingits and Haidas to assist in the development of detailed programs in education and skill training, care of the elderly, housing and construction, community development, commercial and industrial development, and in the creation and operation of financial institutions. In addition, a Tlingit or Haida in each community will function on a part-time basis as both expediter and coordinator of local planning activities and as the community's liaison channel to the central council's planning office.

Collectively, the planners will require detailed knowledge of appropriate Federal grant and loan programs; expertise in project development; including preparation of applications for assistance; and the ability to perform (at least in a preliminary manner) technical, financial and commercial feasibility evaluations of proposed facilities and businesses.

A videotape communications project for the member Tlingit and Haida communities has been developed and will be implemented shortly. The project provides for the employment of a full-time public information officer who will be responsible for the recording, taping, interviewing and transmitting of our communications via the video media. Equipment will be located in each member community with a studio scheduled for Juneau. Part-time paid operators will

also provide for the prompt and accurate feedback of information from the communities and will enable the Central Council to participate in future technological communications developments in its member communities.

The Central Council has been responding to President Nixon's message to the Congress relative to the policy of his administration to promote and encourage American Indians to assume the management and control of services and programs presently provided and conducted from them by the Bureau of Indian Affairs by negotiating with the Bureau of Indian Affairs to enable the Central Council to assume administrative responsibility for the Bureau of Indian Affairs' southeast superintendency. We are not proposing to the Bureau of Indian Affairs that the Central Council assume responsibility for serving the Metlakatla Indian Reservation.

In essence, the Central Council is: preparing detailed plans that will reflect the conditions, needs and desires of the Tlingit and Haida, recruiting and training needed personnel, refining its overall structure, working to improve communications and manifesting indications of a growth potential that will enable the organization to serve its constituents. The future for the Tlingit and Haida is very promising.

That preparations for post-settlement planning in anticipation of land claims legislation should be underway *now* has been recognized by the Alaska Federation of Natives. The outline of the Alaska Federation of Natives' proposal to the Ford Foundation indicates, in general, the awareness of this statewide native organization and the rationale underlying its approach to this complex issue.

AFN PLANNING PROPOSAL IN ANTICIPATION OF A CLAIMS SETTLEMENT

Because prospects are favorable for Alaska natives acquiring substantial amounts of land and financial resources through compensation for native rights, the Alaska Federation of Natives must become promptly and more greatly involved in developing economic and social plans, programs and projects for the future of its constituent members. In recognition of this fact the Alaska Federation of Natives has submitted a proposal to the Ford Foundation that would permit the Federation to employ economists, sociologists and planners who can undertake immediately a thorough evaluation of the Federal Field Committee Report, *Alaska Natives and the Land* and other relevant information and can work in close association with the Federation and its component organizations in helping the natives to find constructive and practical solutions to the problems they face and which problems demand solutions in the immediate period ahead.

It is important for the federation and the regional groups to understand and interpret past and current developments in the fields of education, health and infra-structure developments, in order to provide a base for analyzing and projecting probable demands in these important social and public service areas.

Further, it is necessary to have experts working with the natives to fully understand and interpret recent changes in economic patterns of native production activities and to project trends that are likely to evolve even without substantial imputs of new resources.

On the basis of these resource analyses, evaluations and projections, the federation will need expert assistance in helping in the formulation of goals that encompass not merely economic objectives but which take into full account the deep-seated desires and ambitions of the natives. There are complex social problems as well as economic problems involved in seeking to formulate plans and programs over the next decade or two, or even to the turn of the century. The economic and social plans must reflect the basic values and objectives of the natives because these plans and programs will in turn importantly and directly affect the very character of future social and economic life among the natives.

What is being sought through this proposal is the help of experts and technicians who will work in closest harmony with the natives, who will be totally responsible to the federation and will serve in an advisory capacity to the natives and who will seek to provide assistance which will result in plans and programs and projects that are based on what the natives seek and need and not on some abstract principles of economic and social development.

It is especially essential that the natives work harmoniously and effectively together both in formulating and articulating appropriate policies for the Federal and State governments as well as for local governments in different parts of Alaska. Also, we must seek to assure that the natives themselves develop that quality of leadership and that efficiency of operation and organization which will effectively reconcile the resources and the means on the one hand, with the needs and desires of the natives on the other. It is truly a period of great opportunity and heavy responsibility which lies ahead.

Statement of Assistant Secretary William E. Warne Before the Senate Committee on Interior and Insular Affairs, February 24, 1948

NATIVE LAND RIGHTS IN ALASKA

The Department of the Interior has a heavy responsibility to offer all assistance compatible with the public interest in the development of the immense and largely untouched resources of the Territory of Alaska. Along with this commitment, the Department has the solemn duty of caring for the interests of the native citizens of that Territory.

Neither of these responsibilities, I believe, can adequately be discharged as long as the question of native ownership of Alaskan lands remains unsettled. Neither the native nor the white settler can so order his affairs as to make the most of his opportunities if there is known neither the validity nor the extent of his land titles. New enterprises are effectively discouraged if the entrepreneur cannot tell whether or not he has title to his plant site.

There are three approaches that we can take to this problem of native land rights in Alaska: procrastination, negotiation, or expropriation.

1. Procrastination.

Of these three, the method of procrastination has been the most widely used. For one thing it is the easiest. Alaska is far away and largely unknown, so that further study, research, and investigation usually seem appropriate for Alaskan problems.

Then we are all very much like tha man who wouldn't fix his roof when it was raining because he didn't want to get wet and wouldn't fix it when it wasn't raining because it didn't leak then. When people are not settling in Alaska, there is no pressing reason for bothering about Indian land claims. When settlers are moving onto Indian lands, then anybody who tries to determine rights is likely to find himself in the middle of a very unpleasant situation.

So we have all postponed action most of the time. We acquired Alaska in 1867.[1] It took us 17 years before we passed the first organic act for Alaska,[2] and at that time we dealt with Indian land claims by providing simply that they should not be disturbed and that Congress would pass legislation providing for the confirmation of Indian titles as a later date. Then there is a time span of 62 years before Congress, in 1936, enacted a law [3] to carry out the promise of 1884,[4] authorizing the Secretary of the Interior to mark out and protect Indian land titles. During the 12 years that have passed since 1936, we have conducted a number of investigations and hearings looking to action under that law, but only in six cases [5] have we reached final action. In all our investigations and hearings we have been continually beset by pleas for delay. The fact of war, or the imminence of some economic development, or the need for further investigations, or the pendency of some proposed legislation, or some other persuasive reason for putting off a final decision, seems always to be present when any proposal for action reaches its final stage. I cite as an example the case of the Hydaburg Indians who on April 11, 1938, petitioned for recognition and confirmation of their land rights. We have taken more than 2,800 pages of testimony at public hearings on this claim, and we have had to read hundreds of pages of briefs bearing the names of more than 30 lawyers. But we have not yet brought the matter to a conclusion.

It is much easier to postpone a difficult decision than to face the issues and decide them. The simplest thing for us to do on this Hydaburg petition of 1938 and all similar petitions is to postpone action. We can postpone action until Congress passes more legislation or completes planned investigations, and Congress can postpone action until we make further investigations or until we make full use of the legislative authority that has already been conferred on us. I am not advocating this course. I am merely setting it out as one possible alternative.

In weighing this alternative, your committee should consider whether postponing action on these issues is also postponing the clarification of Alaskan land titles and thus postponing the settlement and industrial development of Alaska. If that is the case, then either the Congress or the Interior Department is going to have

[1] 15 Stat. 539.
[2] Act of May 17, 1884, 23 Stat. 24.
[3] Act of May 1, 1936, 49 Stat. 1250.
[4] "This provision in reality carries out the promise of this Government contained in the act approved May 17, 1884 (23 Stat. 26)." House Committee Report on act of May 1, 1936 (H. Rep. No. 2244, 74th Cong., 2d sess., 1936).
[5] The following reservations have been established under the 1936 Act: Unalakleet (Jan. 27, 1942); Akutan (May 20, 1943); Venetie (May 20, 1943); Karluk (May 22, 1943); Wales (June 19, 1943); Little Diomede (April 22, 1946).

to choose between facing the brick-bats that any solution of this problem will draw, on the one hand, and, on the other hand, leaving a vital segment of our national frontier undeveloped and almost uninhabited.

II. *Negotiation.*

The chief method of dealing with Indian land claims in the United States has been by negotiation. It has been estimated that more than 90 percent of our public domain was acquired from the Indians by treaty or agreement and that we paid the Indians somewhere around 800 million dollars for perhaps 1600 million acres, that is to say on the average about 50 cents an acre for this land. Most of this payment, of course, was in commodities and services rather than in cash. In the course of these negotiations we have bought all the land in the States that we could persuade the Indians to sell at a reasonable figure, and confirmed the Indians' title to areas that they insisted on reserving for their own use. About 56,000,000 acres are still reserved by the Indians in the States, that is to say, an average of about 160 acres per capita (including papooses). That is the general background of our Indian land deals in the continental United States. It is very easy to miss the main outlines of the Indian land problem in an undeveloped area like Alaska unless we look at it in the light of our actual dealings with Indian land claims in those parts of our country that we have really settled.

There is a common misapprehension that Indian reservations are a recent invention, in the nature of concentration camps. But the fact is that Indians began making reservations of land for their own use just as soon as they began to sell land to the first white settlers. We have a record of a sale of land in 1640 in Connecticut in which Chief Uncas carved a reservation for his Mohican Tribe out of the lands he was ceding to the new Colony. It is true that in early times many Indians were mistreated on their reservations and shot by white neighbors when they ventured off the reservation and that explains some of the emotions that the word "reservation" still arouses. If we want to be unemotional we have to talk about Indian owned lands, which is what I propose to do, but we must not be scared if somebody jumps up and shouts "reservations" at us.

The traditional American way of dealing with the Indian land problem in the States has worked pretty well on the whole. The Federal Government profited by buying land from Indians at 50 cents an acre and selling it for $1.25 an acre. The white settlers got cheap land and security of title. The Indians were assured of protection on the land they reserved for their own use, and the payment they received for what they sold helped them to acquire farm machinery, livestock, draft animals, sawmills, and other products of white civilization, and so to get a greater return out of less land.

I should add that the method of negotiation has generally been unpopular on the frontier. The typical frontiersman has always thought that recognizing aboriginal land titles, making treaties or agreements with Indians, and allowing them to hold part of their lands in reservations, was a "mollycoddle" policy and that stronger measures would be preferable. From time to time the Federal Government has experimented with stronger measures. They have never proved satisfactory. In the late seventies and eighties, when Indian wars were the chief occupation of all our troops, it was estimated that it cost, on the average, about $4,000,000 to kill one Indian. It was cheaper, as well as more humane, to deal with the Indian by peaceful methods.

Generally speaking, the natives of Alaska are insistent that the Federal Government negotiate with them for the settlement of their land claims just as it has negotiated with the Indians of the continental United States. The Indians of Alaska are a proud people with a strong regard for property rights. Before the white man reached their country, they were the richest Indians in our land. They caught millions of pounds of salmon every season. There were Indians who counted their wealth in thousands of blankets and furs. They sailed from the Columbia River to the Aleutians in their own sailing vessels and traded up and down the coast. They forced the Russians to respect their property rights so that back in 1841 a Ukase, signed by His Imperial Majesty, "the Autocrae of all the Russians," ordered agents of the Russian-American Company not to construct factories or redoubts on native lands without first reaching an agreement with the natives concerned. [6] Now they feel that the United States should show them at least the

[6] "Sec. 282. Should the Colonial Administration consider it advantageous to establish factories redoubts or so-called 'one-man posts' in various parts of the American continent for the safeguaring of its commercial interests, it shall obtain the consent of the natives to such action using every endeavor to preserve pacific relations with them and to avoid arousing the suspicion of any desire to encroach on their liberty." (Ukase of March 5, 1841: translated by R. H. Goeghegan.)

same consideration that the Russian Czar showed them. They resent bitterly any suggestion that the Federal Government should discriminate against them by treating their land claims with less consideration than the Federal Government accorded to the claims of other Indian tribes in the States.

There is a good deal of history behind this feeling on the part of the Alaskan natives. Not being an expert on anthropology, I won't go back beyond 1867 in talking about that history. But a good many things have happened in the last 80 years to make the Indians feel that they have the same kind of land rights that Indians in the States have enjoyed.

First, there was the treaty of 1867 which declared that civilized Indians should, like other inhabitants of the territory, "be admitted to the enjoyment of all rights, advantages, and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their rights, property and religion".[7] It then went on to add: "The uncivilized tribes will be subject to such laws and regulations as the United States may from time to time, adopt in regard to the aboriginal tribes of that country."[8]

Commenting on these treaty guaranties, the last Republican Delegate from Alaska, a distinguished jurist and historian who represented Alaska in the Congress for 14 years, Judge Wickersham, said:

"The clause taking over these people in Alaska, Russians and other is, I think, identically the same clause that is found in the treaty by which we purchased Louisiana, and by which we secured the Mexican provinces after the Mexican War; that is, California, Arizona, and New Mexico.

"So that the Alaskan Indians at that time came in with the same assurance of citizenship in the United States as those in the Louisiana and Mexican purchases, and the uncivilized Indians came in with the assurance they would be treated exactly as the Indian tribes of the United States are.

"So that extends to Alaska the policy which this Government has always maintained, and which was maintained before this Government was organized by the British Government, in respect to the Indians' title to lands they occupied. * * * Treaties were made by the United States after we purchased Louisiana, all over that region. After we purchased the California-Mexican country, treaties were made with the Indians there, and their titles were always quieted by a treaty and by purchase.

"Of course, there were some areas of land where there were no Indian claims. Those lands came into the public domain, without that procedure being taken. Wherever there was an Indian claim of possession, however, it has been the policy of our Government from the beginning, and the British Government prior to that time, to settle with these natives and procure the quieting of their possessory rights by purchase.

"Now, that policy was extended into Alaska by the third article of this treaty of 1867, purposely, intentionally, and the courts have universally held that they stand in the same exact relation to the Government of the United States, with their property and other rights, that the Indians in the States do." [9]

These views were quoted with approval by another distinguished jurist, Judge Dimond, a Democrat, who faithfully served in the Halls of Congress as Delegate from Alaska for twelve years.[10]

During all the 26 years in which these men served, there was no question raised in Congress but that the land claims of the Alaskan Indians were entitled to the same consideration that was given to the land claims of Indians in the States.

In our western territories we generally negotiated with Indians for land cessions when there was some real demand for land on the part of white settlers or prospectors. Similarly, in Alaska, we have waited for some real demand before negotiating with the natives for land cessions. Only during the last two or three years has any such demand developed on a large scale. In view of that demand Delegate Bartlett has introduced and this Department has endorsed a bill, H.R. 190, modeled on the legislation that was used to open up the West, authorizing negotiated cessions of native lands.[11]

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[7] 15 Stat. 539 542.

[8] *Ibid.*

[9] Hearings before Sen. Comm. on Indian Affairs on S. 1196 72 Cong. pp. 5-6.

[10] See Cong. Rec. vol. 83 pt. 9 p. 179.

[11] H.R. 190 follows. so far as possible. the language of the act authorizing negotiations for extinguishment of Indian title in Utah. Act of February 23. 1865. 13 Stat. 432. In the early days cessions were made by treaty. Since 1871 cessions have been effected by agreements between the Indians and. usually. a representative of the Secretary of the Interior. and approved by the Congress. Example of such agreements for land cessions are the following: Act of April 29, 1874, 18 Stat. 36 (Ute); Act of April 11, 1882, 22 Stat. 42 (Crow); Act of July 3, 1882, 22, Stat. 148 (Shoshone and Bannoc); Act of July 10, 1882, 22 Stat. 157 (Crow); Act of February 20, 1904, 33 Stat. 46 (Red Lake Chippewa); Act of March 3, 1905, 33 Stat. 1016 (Shoshone-Arapahoe).

While white demands for land have been slow to develop in Alaska, native claims for the clarification of native titles have been advanced ever since 1890, and the Department has established at least 126 reservations in Alaska since that time, notwithstanding the widespread opinion that there are very few Indian reservations in Alaska.[11a] I attach a list of these reservations. Until 1936 these reservations were established on the same basis as other Indian reservations in the States, by Executive orders of the President. The act of May 1, 1936, vested the power to establish native reservations in Alaska in the Secretary of the Interior; and laid various conditions upon the exercise of that power, requiring the consent of the natives for the establishment or modification of any reserve, Under this 1936 legislation, the natives can incorporate and the native lands then become corporate property and may be leased and disposed of like other corporate property.[12]

The policy of protecting Indian lands is something that Congress has insisted on in legislating for Alaska since the first Alaskan Organic Act of May 17, 1884. In that act, as originally drafted, it was provided that Indian possession should be protected as to "any lands actually in their use or occupation."

Senator Plumb insisted that this phrase was too narrow, and so the statute was broadened to cover "any lands actually in their use or occupation or now claimed by them." Senator Plumb explained the importance of thus broadening the protection to be given to Indian lands in the following words:

"I do not want to impose a government on several thousand Indians, for the purpose of assuming to consult the convenience of about four hundred white people, which shall do the Indians more hurt than it will do the white people good. Pending an investigation of this question I propose that the Indian shall at least have as many rights after the passage of this bill as he had before." (15 Cong. Rec. 530–531.)

The proposed amendment was accepted by Senator Harrison, who was in charge of the bill, with the statement:

"* * * It was the object of the committee absolutely to save the rights of all occupying Indians in that Territory until the report which is provided for in another section of the bill could be made, when the Secretary of the Interior could ascertain what their claims were and could definitely define any reservations that were necessary to be set apart for their use." (15 Cong. Rec. 531.)

Senator Plumb's amendment was adopted. The entire discussion evinces the most scrupulous care not to destroy any aboriginal rights whatever but to leave the determination of such rights to future administrative inquiry. As Senator Plumb said,

"* * * We are passing upon the rights and duties of a people about whom we know practically nothing, and a people who are entirely helpless.

* * * * * * *

"Alaska is a long way off, and a series of outrages and wrongs might be perpetrated there which could not be remedied or healed and which would ripen into something which could not be reached by legislation or remedied practically before anybody knew anything about it." (15 Cong. Rec. 531.)

Since 1884 Congress has, in at least four other statutes, expressly recognized the possessory rights of Alaskan natives.[13]

The Department of the Interior has tried to carry out this Congressional policy of respecting and safeguarding Indian possessory rights. There is a common impression in Alaska that this is a new departure in Interior Department policy. Anyone who has studied the record, however, will recognize that the Department has been trying to protect Indian possessory rights ever since the Gold Rush days, when the first waves of American settlement beat against native possessions.

In 1896, for instance, a commercial cannery applied for a patent to an area that included the fresh water supply of a native village. The application was denied by the Secretary of the Interior on the ground that land "upon which is located the sole and long used source of fresh water supply of the inhabitants is land which in contemplation of law is actually occupied by said natives" (23 L. D. 335, 337).

[11a] See 49 L. D. 592, 594; 54 I. D. 39.45. All of the 126 Indian reserves except Annette Island were established by executive action, which, until recently, was not widely publicized. The Annette Island Reserve was set up by statute because the Attorney General had held that an executive order could not be issued for the benefit of immigrant Indians coming from Canada. 18 Op. Atty. Gen. 557.

[12] Under existing statutes, a fee simple title may be conveyed by the Indian corporation, but only when the consideration is other land of equal value. On the leasing of reserve lands see p. 29. *infra*.

[13] Act of March 3, 1891, 26 Stat. 1095; act of June 6, 1900, 31 Stat. 321, 330; act of May 25, 1926, 44 Stat. 629; act of May 1, 1936, 49 Stat. 1250.

In the case of Benjamin Arnold, 24 L. D. 312 (1897), the Department held that an application of a trader, for a patent covering the water supply of a neighboring native village on Kodiak Island should be denied, and declared:

"* * * the actual and prior appropriation of the same by the native Alaskan villagers for the purpose of securing the necessary fresh water supply for domestic use and consumption entitle the said villagers to the exclusive use, control, and possession of said water way, and the particular portion of the land which is occupied by said water way, and sought to be purchased and entered by claimant, may be considered, as land in or under the 'actual occupation' of the said villagers, by virtue of which they have a prior right thereto, within the meaning of said section 14 of the act herein cited."

The opinion in the latter case is of particular interest since it was prepared by Assistant Attorney General Van Devanter, who later became a justice of the Supreme Court. With all due respect, I think it fair to say that Justice Van Devanter was never accused of radicalism. His understanding of Indian land problems, dating from his experience as Governor of Wyoming, has probably never been surpassed.[14]

Many decisions of the Interior Department during the 50 years since 1897 have followed Mr. Van Devanter's opinions in holding that the land rights of the Alaskan natives should be accorded the same respect and protection as the land rights of any Indians in the United States.

In the case of Frank St. Clair, 52 L. D. 597 (1929), it was held that Indian occupancy predating the establishment of the Tongass National Forest entitled the Indian occupant to maintain his possession and receive a patent notwithstanding the objections of the Forest Service.[15] The Interior Department noted that under the Alaskan Indian homestead law (act of May 17, 1906, 34 Stat. 197) it was not necessary to show continuous settlement or occupancy or the maintenance of a residence to the exclusion of a home elsewhere, as required by the general homestead laws (52 L. D. 597, at 601). The Interior Department refused to cut down the Indian's 160 acre application to 9.38 acres as the General Land Office recommended, or to require the Indians to purchase not more than 5 acres, as the Forest Service urged, but held: "The application of the Indian as originally made is approved" (at p. 601).

In the opinion of February 24, 1932 (53 I. D. 593), an opinion written by Solicitor Finney and approved by Secretary Wilbur, the Department, after examining the legal status of Alaskan natives, reached the conclusion that "their status is in material respects similar to that of the Indians of the United States" (at p. 605).[16] The Department particularly called attention to the right and duty of the United States, in Alaska, "to protect the property rights of its Indian wards" (at p. 600).[17]

On March 15, 1932, Secretary Wilbur wrote to assure the chairman of the House Indian Affairs Committee:

"In adjudicating applications for patents to public domain in the Territory [of Alaska] careful inquiry is always made to ascertain whether or not any native rights are involved." [18]

In the light of that record of recognition of native land rights by Congress and by the Department of the Interior, it is not surprising that the natives are insistent that we should not discriminate against them by failing to recognize their land rights in ways that we have followed with the Indians of the States.

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[14] Again in 1898 a similar decision was reached where a cannery's application for a patent to land in the vicinity of a native village was refused by Secretary of the Interior Bliss, again on the recommendation of his Assistant Attorney General, on the ground that the patent would be "an infringement upon certain 'prior rights' of the natives of Alaska" (26 L. D. 517 518).

[15] To the same general effect, see 48 L. D. 362 (1921).

[16] See to the same effect 49 L. D. 592, 595 (1923).

[17] Again, in its opinion of September 3, 1932, written by Solicitor Finney and approved by First Assistant Secretary Dixon, the Department, in upholding the validity of an Indian custom marriage among Alaskan natives, came to the following conclusions:

"In view of the foregoing opinions, which appear to be fully supported by the authorities therein cited, it must now be regarded as established that the native tribes of Alaska occupy substantially the same relation to the Federal Government as their American neighbors; that they are a dependent people under the protective care of the United States; that they and their affairs are subject to such legislation as Congress may see fit to enact for their benefit and protection, and that the laws of the United States with respect to the American Indians are applicable generally to the natives of Alaska." (54 I. D. 39, 42.)

* * * * * * *

"* * * Congress has declared that they shall not be disturbed in the possession of lands in their use and occupancy and claimed by them (Sec. 8, act of May 17, 1884, 23 Stat. 26); and whether further protection shall be extended to them by the setting aside of specific reservations for their use is a matter of policy as yet undetermined. * * *" (pp. 42, 45–46).

[18] Hearings before Ind. Aff. Comm. on S. 1196 72d Cong. 1st sess. pp. 15–16.

The courts of Alaska have confirmed this expectation of the natives.[19]

If we are to treat the Alaskan natives in a non-discriminatory manner, we will have to extend to them the same opportunity that was given to the Indians of the continental United States to cede the lands to which they have rights of occupancy, in return for fair compensation, and to reserve for their own use, if they wish it, as much of their land as is essential for their economic needs. This is not a radical or untried solution of our problem. It is a tried and tested American solution of one of our oldest American problems. It is expressed in the current platform of the Republican Party in Alaska in the following words:

"We acknowledge their original ownership of this Territory, and we believe that an early settlement of this question would be beneficial to the development of Alaska and so we urge the immediate passage of the bill to empower the Interior Department to negotiate for the extinguishment of their title *or so much thereof as may not be needed to maintain a decent standard of living.*" (Emphasis supplied.)

Enactment of the Bartlett Bill (H.R. 190), to which this platform declaration refers, would make possible a negotiated settlement of the entire problem of native land claims in Alaska, just as similar legislation has given us security of titles in the continental United States. I cannot make an informed estimate of the cost of negotiating such settlements for all Alaska, but I am sure that the cost of the land subject to native title that we should want to acquire from the native groups will be much greater 20 years from now than it is today. Prompt action is likely to be the most economical in the long run. If we do not want to pay cash outright, we may negotiate, as we frequently did in the States, to pay over to the natives income from the disposition of the ceded lands. All such agreements would be subject to Congressional approval under the Bartlett Bill.

Even without the Bartlett Bill, this Department could negotiate land settlement agreements that would help to clear up Alaskan titles. We could do this in two ways. One way would be to negotiate an agreement and then submit it for Congressional approval and appropriation. We have hesitated to do that without some expression from this Committee that such a procedure would be favorably regarded.

There is a second way of settling Alaskan land titles, which does not require further legislation or any appropriations. Congress has already, by the act of May 1, 1936, 49 Stat. 1250, given the Department of the Interior power to convey to native groups a formal title to land, restricted only as to alienation. We are satisfied that we can make such a grant or confirmation of title conditional upon the execution of a release of all other possessory claims by the native group and its members. Proceeding in this way, we might negotiate with many different native groups. In those cases where we can reach a reasonable agreement we would confirm title to some part of the lands now subject to native claims, in exchange for a release of the remainder. In this way I believe that we can free large areas from the cloud of native possessory claims.

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[19] In 1904 the District Court of Alaska in the case of *Johnson* v. *Pacific Coast S.S. Co.*, 2 Alaska Rep. 224 said:

"The evident purpose of Congress is to protect the natives in the possession of lands continuously claimed and occupied by them. * * *" (2 Alaska 224, at 241.)

A year later in *United States* v. *Berrigan* 2 Alaskan Rep. 442 the District Court of Alaska in issuing an injunction against timber-cutting and other forms of trespass on a native village site, declared:

"The Tinneh tribes of Alaska were uncivilized native tribes at the date of the treaty with Russia, and the evidence in this case shows that the band for which this suit is brought still occupies that plane of culture. As such they are entitled to the equal protection of the law which the United States affords to similar aboriginal tribes within its borders. * * *" (at pp. 447–448)

"Congress has also by special enactment provided for the protection of the Indian right of occupancy upon the public domain in Alaska." (at p. 448)

"The United States has the right, and it is its duty, to protect the property rights of its Indian wards." (at p. 450)

In *Nagle* v. *United States* 191 Fed. 141 (C.C.A. 9 1911) the Court declared:

"There can be no doubt that this stipulation relates to the Indian tribes in Alaska, and manifestly the treaty was designed to insure them like treatment under the laws and regulations of Congress, as should be accorded Indian tribes in the United States." (at p. 142)

In *Abbate* v. *United States*, 270 Fed. 735 (1921), the Circuit Court of Appeals for the Ninth Circuit said (at p. 736) that Alaska in 1918 was "Indian country" and therefore subject to special Congressional liquor control on that basis.

In its most recent decision on the scope of the 1884 Act, the Circuit Court of Appeals for the Ninth Circuit declared: "From the foregoing statutes and decisions, it is clear that Congress, since 1884, has intended to protect, recognize and even 'guarantee' the possessory rights of those Tlingit Indians. Such rights are compensable; for their holders are neither squatters nor outlaws." (*Miller* v. *United States*, 159 F. (2d) 997 (1947).)

The Court in the *Miller* case rejected the contention of the Department of Justice that only a tribe could claim possessory rights under the 1884 Act and held that the individual plaintiffs (comprising apparently all the known adult members of the tribal group originally occupying this land) could recover the value of the area. There is no holding in any case that a group of Indians may not present their claims collectively, and such claims, when so presented, have regularly been allowed. *Johnson* v. *Pacific Coast S.S. Co.*, *supra; United States* v. *Berrigan*, *supra; Nagle* v. *United States*, *supra;* 23 L.D. 335; 24 L.D. 312; 26 L.D. 517.

Negotiating for land cessions, whether we offer in exchange a sum of money or the confirmation of title to lands reserved from cession, cannot succeed unless the natives are willing to be reasonable in their demands. That is something of which we cannot be sure until we make an attempt. If this Committee has no objection, we propose to make that attempt and to see how far we can get.

In both these efforts we would be in a much stronger position if the Congress should take favorable action on the Bartlett Bill or something of the same order.

III. Expropriation.

The method of dealing with Indian land claims that is strongly favored by the chambers of commerce of Alaska is the method of expropriation. Those who advocate this approach believe that it will aid the development of the Territory. They argue that white men are more capable of developing Alaskan resources than are the natives. They insist that their approach will not be unjust to the natives, since the natives will be able to sue for money damages eventually, if any lands that belong to them are taken away.

Along with this demand goes the companion demand that no further Indian reservations should be established and that past decisions defining the extent of areas subject to statutory Indian titles should be reopened.

Some of the white Alaskans who urge this course are of the opinion that no legislation is necessary, and that by a mere change in departmental policy we could wipe out Indian land claims. Other white Alaskans who have studied the matter more carefully are convinced that a change of departmental policy would not wipe out Indian land claims but would merely encourage Indian litigation and tie up all disposition of land in Alaska in litigation for many years to come, with a good chance that much of this litigation would be resolved in favor of the Indians. Therefore it is suggested that it is up to Congress to pass legislation extinguishing all Indian land titles in Alaska, with possible exceptions for small plots on which homes or other improvements are located, and allowing the Indians to collect whatever damages they are entitled to, through court proceedings or some sort of quasi-judicial administrative proceedings.

In general, the Department of the Interior has opposed proposals to wipe out Indian titles by legislation. The position of Secretary Krug was expressed in the following statement made in a letter to the President of the Juneau Chamber of Commerce, dated March 29, 1947, commenting on a bill for the extinguishment of Indian titles in Alaska sponsored by that organization:

"The solution which your draft of bill proposes is in some respects a tempting one, in that it would forthwith eliminate all Native claims to the public domain in Alaska, without the necessity of a tedious inquiry into what may in fact be their land rights. I do not, however, consider that such an approach is consistent with our national traditions. Our Government has always respected property rights, of persons of all races, and should not in my judgment pass a bill which amounts to a general condemnation of all real property belonging to particular races, in order simply to achieve certainty of land title. * * *"

I should add that there is considerable doubt among Government attorneys and other attorneys whether expropriation legislation of the sort proposed by the Juneau Chamber of Commerce would survive the test of constitutionality to which it would certainly be subjected in the courts.

On these issues, I think it is clear that Congress and the courts must make the decisions. This Department has no authority to do what many white Alaskans would like to have us do, i.e., to overrule acts of Congress and court decisions which recognize that the Indians of Alaska have the same sort of land rights that we have always recognized in the States.[20]

[20] On two occasions the Department of the Interior has attempted to deny recognition to Indian land claims and the Supreme Court eventually held that such departmental action, not authorized by any statute, could not impair Indian possessory rights. In one of these cases, *Cramer* v. *United States*, 261 U.S. 219, the Department recognized the title of a railroad to lands on which some Indian families were living and leased the land for some time from the railroad for the benefit of these Indian families. The Supreme Court held that the Indian possessory title was superior to that of the railroad and that the action of the Department "could not deprive the Indians of their rights" (at p. 234).

A similar decision was reached in the *Walapai* case (*United States* v. *Santa Fe RR Co.*, 314 U.S. 339), where the Supreme Court held that "forcible removal" of these Indians from the lands which they aboriginally possessed could not impair their possessory rights in such lands since such action "was not pursuant to any mandate of Congress. It was a high-handed endeavor to wrest from these Indians lands which Congress had never declared forfeited" (p. 355).

Former Assistant Secretary Gardner who gave considerable study to this problem, reached the following general conclusions:

"* * * I have question as to some of the procedures employed, but none as to the basic policy of respecting native rights based upon possession and occupation; that policy in my opinion is compelled not only by standards of decency but also by the requirements of the law.

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"Except so far as their use may have been voluntarily abandoned, the natives have either a legally protected right to occupation of lands which are in their actual use and occupation or a valid claim for com-

Considerations in Choice of Alternatives.

There are certain facts which should be carefully considered by this Committee in deciding what course is to be followed in this troublesome problem. Most of these facts are well known to the members of this Committee, and I therefore merely list very briefly these considerations:

(*1*) *The need for clarifying title.* At almost every point Alaskan development is being held up or slowed up by clouds on title. If we really mean business about developing our northern territory we need to act promptly in ways that will clarify native and white titles.[21] We can do this under existing law or we can do this under various proposed bills, but we cannot do this so long as we postpone a choice between alternative approaches.

(*2*) *The limitations of litigation.* It is very easy for the executive and legislative branches of the Government to get together and pass responsibility for solving a hard problem to the courts. But if we do that we should be aware of two things. First, the judicial process in dealing with Indian title questions is pretty slow.[22]

In the second place, the courts have frequently refused to decide Indian title questions presented to them on the ground that such questions are political or moral questions that ought to be decided by the executive and legislative branches of the Government.[23] Such cases are usually disposed of on technical procedural grounds and the issue of the merits comes right fack to Congress and the Executive.[24]

(*3*) *Native economic needs.* The native population of Alaska is, on the whole, in a deplorable economic position. Its tuberculosis rate is about 10 times as high as the normal American rate. This is primarily the result of inadequate food, and inadequate, overcrowded housing. Where a reasonable land base has been reserved for native communities, as is the case, for instance, at Metlakatla and Tyonek, the native economy has prospered, and this has been reflected in the prosperity of neighboring white towns. In order to enjoy a year-round economy and to improve their own housing, the natives need sawmills, power plants, canneries, and machine shops. They cannot invest money or attract capital for such development unless their titles are clearly established.

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pensation for past taking with respect to all losses attributable to Government action or inaction. This is now entirely clear as to the natives in the continental United States. *Cramer* v. *United States*, 261 U.S. 219, *United States* v. *Santa Fe Pacific R.R. Co.*, 314 U.S. 339; *Alcea Band of Tillamooks* v. *United States*, No. 26, October Term 1946.

"I am satisfied that the same principle applies to Alaska.* * *

"There would, in any event, be a real constitutional question if the Congress were to strip the natives of their rights to land without provision for just compensation." (Memo of March 24, 1947.)

[21] This need was voiced by the Commissioner of Indian Affairs in his annual report for 1872, in the following language:

"What is to become of the rights of the Indians to the soil, over portions of territory which had not been covered by treaties at the time Congress put an end to the treaty system? * * * How are Indians, never yet treated with, but having every way as good and as complete rights to portions of our territory as had the Cherokees, Creeks, Choctaws, and Chickasaws, for instance, to the soil of Georgia, Alabama, and Mississippi, to establish their rights? How is the Government to proceed to secure their relinquishment of their lands, or to determine the amount of compensation which should be paid therefor? Confiscation, of course would afford a very easy solution for all difficulties of title, but it may fairly be assumed that the United States Government will scarcely be disposed to proceed so summarily in the face of the unbroken practice of eighty-five years, witnessed in nearly four hundred treaties solemnly ratified by the Senate, not to speak of the two centuries and a half during which the principal nations of Europe, through all their war. and and conquests, gave sanction to the rights of the aborigines.

"The limits of the present report will not allow these questions to be discussed; but it is evident that Congress must soon, if it would prevent complications and unfortunate precedents, the mischiefs of which will not be easily repaired, take up the whole subject together, and decide upon what principles and by what methods the claims of Indians who have not treaty relations with the Government, on account of their original interest to the soil, shall be determined and adjusted; * * *."

[22] In the *Walapai* case, for example, to which reference has already been made, the Senate Indian Affairs Committee proposed initiation of this law suit in 1932. The subject was a complicated one and it was not until 1937 that the departments concerned had analyzed the facts in the case and instituted litigation. The litigation took 10 years and has only been brought to a conclusion within the last few months. The case of the California Indians, which was authorized by act of Congress in 1928, was concluded after 17 years of litigation. The suit of the Sioux Indians, authorized by the Jurisdictional Act of June 3, 1920 (41 Stat. 738), is still in the courts after more than 27 years.

[23] See *Muskrat* v. *United States*, 219 U.S. 346 (1911); *Northwestern Bands of Shosohne Indians* v. *United States*, 324 U.S. 335 (1945); and *cf. United States* v. *Holliday*, 3 Wall. 407, 419 (1865).

[24] Typical of this situation is the litigation involving the Klamath Tribe. Congress in 1920 (act of May 26, 1920, 41 Stat. 623) authorized suit by this tribe on various claims against the United States. The Supreme Court in 1935 held that it could not pass on the chief claim, which was that the tribe had been over reached in a cession of timber land worth about $3,000,000 which the Indians were persuaded to sell at 4 percent of its real value. The Supreme Court, in rejecting the Indians' case delcared:

"The obligation of the United States to make good plaintiff's loss is a moral one calling for action by Congress in accordance with what it shall determine to be right." (*Klamath Indians* v. *United States*, 296 U.S. 244, 255.)

Thereupon Congress, five months after the Supreme Court decision, passed another jurisdiction act (act of May 15, 1936, 49 Stat. 1276) authorizing the courts to pass on the merits of the rejected claim. The courts did this and in 1938 the Supreme Court handed down its second decision, this time passing on the merits and awarding the Indians a judgment for a little more than $5,000,000 (*United States* v. *Klamath Indians*, 304 U.S. 119).

(4) *Native attitudes.* From the standpoint of national defense it is important that our Alaskan population be thoroughly imbued with loyalty and trust towards the Federal Government. We are not likely to strengthen that loyalty and trust among the natives unless promises made to them since 1867 by the United States, in statutes, administrative decisions, and Court rulings, are faithfully and honorably executed. From the standpoint of the natives, the most important of these promises are the following:

(1) The promise made in the treaty of cession of 1867 that the natives of Alaska would have at least the same rights that were accorded to the Indians of the States.[25] This to the natives means adequate reservations, where they want reservations, and fair compensation for all land cessions.

(2) The promise made in the Alaska Organic Act (act of May 17, 1884, 23 Stat. 24) that lands occupied or claimed in 1884 should not be disturbed and the assurance that it was the intent of Congress "To save the rights of all occupying Indians until * * * the Secretary of the Interior could ascertain what their claims were and could definitely define any reservations that were necessary to be set aside for their use." [26]

(3) The assurance given the natives by many Secretaries of the Interior that their possessory rights would be respected.[27]

(4) The promise made by the Secretary of the Interior in 1944 and repeated in 1946 that we would accord hearings to all native groups seeking a determination of the exact extent of their rights.

(5) The promise made by the Secretary of the Interior in 1946 that the Indians would be protected in their use and control of the lands found to be subject to their statutory rights. On January 11, 1946, Secretary Ickes stated:

"* * * All such areas may, of course, be utilized by non-natives, but only with the consent of the owners of the soil. This is the rule that applies throughout the United States to the use of land belonging to another. There is no reason to apply a different rule to the possessions of Alaskan natives."

Failure to carry out these promises is likely to have serious repercussions on the attitudes of our Alaskan natives. If any course of action or inaction is likely to give us a disgruntled and aggrieved native population, that is something that ought to be very seriously considered before anything is said or done which might cause the natives to feel that the Government of the United States is not protecting their rights. The mood indicated by recent communications from native communities in Alaska is predominantly a mood of suspicion. It may easily become something much more serious for the United States generally and for the International reputation of the United States for fair dealings with native peoples.

(5) *Public opinion in Alaska.* Public opinion in Alaska is sharply divided on the Indian land question. The more vocal elements of public opinion favor a policy of expropriating Indian possessions, with or without compensation. The natives insist that their land rights be respected as fully as those of other Indians. There is a growing middle ground that feels that even a second-best solution reached promptly would be better than a continuation of present uncertainties. [28] At the last territorial election 14 candidates for public office took a definite public stand on the native land question. Of these, 13 declared "that the Alaskan natives should be protected in their possession of the lands that they have always used and treated as their own, until such time as they see fit to dispose of those lands for a fair compensation," and undertook to "support and defend the 1936 law, introduced by Delegate Dimond, which says that each native community shall decide for itself whether it is to be eligible for a land reservation." Eight of these 13 candidates (of both political parties), who pledged themselves to these propositions, were elected. The only candidate (the incumbent Democratic Labor Commissioner) who openly refused to support these propositions was decisively defeated. Of three candidates who gave non-committal or ambiguous answers, one was elected. The Republican Party, in its Territorial platform, supported the right of the natives to retain as much of their traditional holdings as may be "needed to maintain a decent standard of living," and to sell the remainder to the Federal Government.

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[25] See pp. 7–16, *supra.*

[26] See p. 11, *supra.*

[27] See pp. 12–15, *supra.*

[28] Dr. Harlan H. Barrows at the conclusion of an Alaskan trip made this summer in the effort to appraise current Alaskan problems reported (on September 18, 1947): "The question of Indian possessory rights should be settled somehow in the near future. More than one local speaker declared that 'any decision would be better than no decision.' I believe that is true."

Incidentally, it may be noted that while this Administration has been subjected to some criticism in recent years for helping the natives, preceding Administrations were criticized much more severely for not helping them. [29]

(6) *Restrictions on native property.* One of the substantial grounds for opposition to extension or perpetuation of Indian land titles is the feeling that Indian titles are really Indian Bureau titles and that the Indians will have no control of Indian reservation lands. In past years this feeling was widespread among the Indians of Southeastern Alaska, who were accordingly opposed to the establishment of Indian reservations as an impediment on their land titles. As the Indians have learned that we do not propose to interfere with their own use of their own reserves, or to set up any reservation superintendents in Alaska, they have dropped this opposition to reserves, and at tle present time petitions from four native communities of Southeastern Alaska for the establishment of reserves or the enlargement of reserves established years ago are pending before this Department. The last convention of the Alaska Native Brotherhood voted unanimously to urge the enlargement of the Hydaburg Reserve.

Our policy in the Interior Department for some years has been to eliminate bureau controls over Indian lands just as rapidly as we can persuade the natives to go along with us. Last summer we urged the Kake Natives, who were drafting a village constitution and charter, to eliminate all departmental controls over the leasing and disposition of their lands and resources. This they have done in documents which the Interior Department approved on November 17, 1947. I think this will serve as a good example for all the other tribes and communities in Alaska. We don't want to have to make the decisions about land use that should be made by the natives themselves. When that is understood in Alaska by whites, as it is coming to be understood by the natives, it may be that some of the opposition to reserving and protecting Indian land rights will evaporate.

One thing that would assist very materially in eliminating the impression of bureau control over Indian lands would be the amendment of those laws now on the statute books which restrict the term of years for which Indian lands may be leased.

Long-term leases seem to be essential to attract capital for large-scale development. The last Congress passed a special act for Indians of the State of Washington (act of August 9, 1946, 60 Stat. 962) extending the permissible term for Indian leases to 25 years. I should like to see that law extended to all Indian lands, but particularly to Indian lands in Alaska. I should like to see that law extended even to a longer period. If that is done, I hope that Congress will not add the proviso included in the 1946 act by which leases of natural resources were excluded from the scope of the law.

I may add that while the point has not come before the Supreme Court and is not free from doubt, the courts have held that Indian titles under the 1884 act are alienable without restriction.[29a] *Miller* v. *United States*, 159 F. (2d) 997 (C.C.A. 9, 1947), and cases cited.

(7) *The scope of native possessions.* Many white Alaskans will grant that the Indians are entitled to be protected in their possessions provided the area of such possessions is narrowly construed. What they fear is that Indian possession may be broadly construed to cover Indian hunting and trapping areas. This fear is not entirely fanciful. The Supreme Court has frequently said that possession must be considered in the light of the normal use of the land involved.[30] As for Indian possession, the Supreme Court said more than a century ago, in a case which has been cited and followed ever since:

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[29] See, Memorial of Alaskan Legislature (75 Cong. Rec. 60, Pt. I, Dec. 8, 1931), criticizing the Federal Government because it "has not provided adequate reservations for their (Indian) use."

[29a] This is clear as to individual Indian claims, such as were considered in the *Miller* case. In *Worthen Lumber Mills* v. *Alaska Juneau G. Min. Co.*, 229 Fed. 966, 969 (C.C.A. 9, 1916), where it does not appear whether the Indian claim was a group claim or an individual claim, the court said:

"We do not think that it was the purpose of this act merely to protect the possession of the Indians of lands which they then occupied in Alaska, and to deny them the power to convey to others their right of occupation."

That this rule applies equally to tribal claims is indicated by several cases. To the effect that the 1884 Act must be construed in the light of the fact that the Alaskan Indians "were understood to occupy lands in common either in villages where they lived, or for fishing, hunting, and like purposes," see *Johnson* v. *Pacific Coast S. S. Co.*, 2 Alaska 224, 239 (1904). And see *United States* v. *Berrigan*, and *Nagle* v. *United States*, 191 Fed, 141 (C.C.A. 9, 1911), both quoted in fn. 19, *surpa*.

[30] *United States* v. *Fullard-Leo*, 331 U.S. 257 (1947) is the latest such decision. In that case the Court held that a possessory title to Palmyra Island was established by 80 years possession which consisted chiefly of continued assertions of ownership backed by visits to the Island and collection of coconuts or other natural products every few years. The Court said:

"What constitutes such possession of a large tract of land depends to some extent upon circumstances, the fact varying with different condition such as the general state of the surrounding country, whether similar land is customarily devoted to pasturage or to the raising of crops, to the growth of timber or to mining or other purposes. That which might show substantial possession exclusive in its character where the land was devoted to the grazing of numerous cattle might be insufficient to show the same kind of possession where the land was situated in the midst of a large population, and the country devoted, for instance, to manufacturing purposes."

"Indian possession or occupation was considered with reference to their habits and modes of life; their hunting grounds were as much in their actual possession as the cleared fields of the whites; and their rights to its exclusive enjoyment in their own way and for their own purposes were as much respected, until they abandoned them, made a cession to the government, or an authorized sale to individuals." *Mitchel* v. *United States*, 9 Pet. 711, 745 (1835).

In the *Walapai* case, for instance, the final decree of the court recognized continued possessory rights of about 460 Indians to a little over one million acres, that is to say a little over 2,000 acres per capita.

It was with the hope of reducing our problem to its proper proportions that this Department began in 1944 to hold hearings at which all parties in interest were represented and in which we proposed to consider all Indian land claims in Alaska, area by area. Of course the Interior Department has been adjudicating Indian land claims as long as we have been in existence. Usually we adjudicate such claims on the petition of a non-Indian who wants a homestead or other patent. In 1944 we put the Indian on the same level as the white man by permitting the Indians to initiate hearing procedures. As a result of our first three hearings, we found that approximately 8 percent of the lands claimed really belonged to the Indian claimants, the rest having been abandoned or otherwise lost to its aboriginal owners.[31] So far, our findings in Alaska have run to about 190 acres per capita. In this connection it may be noted that each Alaskan native is now entitled to take up 160 acres as a native homestead, without the usual requirements of cultivation, improvement, or residence on the homestead (act of May 17, 1906, 34 Stat. 197; see 52 L. D. 597 (1929) discussed at pp. 11–12, *supra*). The lands available for such native homesteads are the same areas that are defined in these findings as subject to possessory rights antedating the establishment of the Tongass National Forest.

On June 10, 1946, we amended our hearing regulations to speed up the quieting of titles by providing that all native land claims in Alaska should be submitted for consideration by December 31, 1949. Of course we realize that a departmental determination of fact can be challenged in the courts and that our decisions are therefore not necessarily final. But since the courts very seldom indeed upset our findings in land matters we hoped that our investigations and determinations might lead to a larger degree of certainty in all Alaskan land titles, Indian and white.

Pursuant to the regulations of June 10, 1946, investigations were conducted under the auspices of the Bureau of Indian Affairs into all Indian land titles in Southeastern Alaska. This investigation resulted in a finding that approximately the same proportion of land has been lost by abandonment or otherwise in other parts of Southeastern Alaska as we found to be the case in those areas which were examined in the 1944 hearings. These findings will be subjected to scrutiny and challenge by all parties if the procedure prescribed in the regulations is carried out.

(*8*) *The nature of Federal responsibility for Alaskan native affairs.* It is, of course, entirely for Congress to say whether the Interior Department should exercise the same responsibilities towards the natives of Alaska as it is charged with in relation to the Indians of the States. Many Alaskans seem to take the position that we should carry out all responsibilities which involve paying money—they wish us to build native schools and hospitals, pay tuition for natives in territorial schools, build roads for native communities, and perform various other services involving the expenditure of Federal funds. But the same people who advocate this course are often strenuously opposed to any efforts of the Federal Government to protect the property rights of the Alaskan natives, to see, for instance, that they retain the land base they need to earn enough income to avoid malnutirion and tuberculosis. If we can only spend money, without helping to see that the natives are able to hold on to their property and earn incomes for an American standard of living, then we are just pouring Federal funds down a rathole.

We ought to do our job as it needs to be done or else get out of it and turn it over to Alaska Legislature.

[31] "It is the duty of this Department to respect existing rights in disposing of the Federal public domain. This is true whether the public domain is land or water or a mixture of both, and whether the existing rights were established under Spanish, Mexican, Hawaiian, Danish, Choctaw or Tlingit law. It makes no difference whether the evidence of such rights is found in papers sealed and notarized or in custom and the fact of possession, which is older than seals and notaries. Having attempted to discover the exact facts in these cases, the Department will govern its future actions accordingly. It will recognize that the natives involved in these proceedings are entitled to the exclusive possession of approximately 190 acres per capita of land on which they live and which has remained in their possession since before our soverignty attached. It will continue to recognize that these natives have certain rights of user in other public lands, protected but limited by our conservation laws. It will take the position that all public lands in which Indian exclusive possession has been extinguished are henceforth open to settlement and disposal, and that whatever loss has been suffered by those Indians through such extinguishment is to be remedied by appropriate action in the Court of Claims." (Decision of Jury 27, 1945, on Claims of Hydaburg.)

On this score Delegate Dimond made some very pertinent remarks a few years ago, and with these remarks I conclude my presentation:

"These cases and departmental opinion have not changed, but, instead, have confirmed, my view that the Government owes to the natives of Alaska a measure of protection and care, looking toward their welfare, which is somewhat similar to the duty imposed upon a guardian by law. * * * It seems to me that perhaps the legal relation which fits the case most closely is that of trustee and cestui que trust, or beneficiary of the trust.

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"If my view is not correct, then Congress has been wrong all along in making special appropriations for the education and medical welfare of the natives of Alaska. These appropriations can be based only upon the theory that the Government, and therefore Congress, does owe a special duty to the natives of Alaska which is not owed to the other citizens of the Territory. At the last session Congress appropriated the sum of $626,000 for the support and education 'of the Eskimos, Aleuts, Indians, and other natives of Alaska.' This appropriation, of course, is based upon the theory that a special duty is owed by the Federal Government to the natives of Alaska. It really does not matter what name is given to this duty so long as Congress and the Government generally recognize it. You know, of course, just as well as I, that $626,000 is equivalent to approximately one-half of the total income of the government of the Territory of Alaska for any 1 year, and if this appropriation were to be cut off and the whole burden thrown upon the Territorial government, all of the citizenry of Alaska would suffer and probably the natives most of all. I am sure that you would not want to see Congress adopt any view of the law which would prevent the making of such special annual appropriations, and you would not advise me to urge any such action upon Congress, for the adoption of that course would be about the most disastrous thing that could happen to the natives of Alaska since it would deprive many of the present generation at least of an opportunity for securing adequate education as well as medical relief which is now being furnished by the Federal Government.

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"* * * There is not, to my mind, any single right or privilege or immunity enjoyed by the Indians as citizens of the United States which can possibly be taken away by the fact that they occupy a special relation with respect to the Federal Government so as to be intitled to enjoy benefits not granted to other citizens of the United States.

"Let us refer once more to the actual condition of the residents of Metlakahtla, who now are all citizens of the United States, some by virtue of a special act, the passage of which I secured last year. I have never heard of any one of them being denied any right, privilege, or immunity guaranteed to other citizens of the United States and I have no reason to anticipate or even to suspect that any attempt will be made, or that any attempt could successfully be made under any circumstances, to deny to the other Indian residents of Alaska any such right, privilege, or immunity.* * * The Indians of Metlakahtla, who are unquestionably living on a reservation, vote the same as other citizens, and no right-thinking person would wish to deny them that right even if it could be done. Moreover the Constitution stands as a protector of their right of suffrage as well as of their other rights." (Cong. Rec., vol. 83, pt. 9, p. 179.)

Arctic Slope Native Association Outline of Proposed Bill to Settle Alaska Native Land Claims

Unlike existing approaches to resolve Alaska Native Land Claims, the outline of a bill as proposed herein recognizes that Congress, with full authority to do so, is settling legal claims to *land*, not enacting anti-poverty or social welfare legislation. Accordingly, there must be a direct relation between the claim extinguished and the confirmation of land and compensation received in exchange.

This proposal also recognizes that different ethnic groups of Alaska Natives have claims to different lands aboriginally used and occupied by them. The settlement should reflect these differences and, short of a lengthy adjudicatory process in the courts to determine value, should be premised on the quantum of land claimed by a particular ethnic group.

A fair, just and equitable settlement of Alaska Native Land Claims is recommended in accordance with the framework for settlement outlined below.

A BILL

1. *Enactment Clause*
2. *Declaration of Policy*
3. *Definitions*
4. *Regions*

(a) For purposes of this Act, the State shall be divided by the Secretary within six months after the effective date of this Act into seven 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 shall approximate the area described as follows in the Federal Field Committee Report and covered by the operations of the following existing Native associations:

(1) *Arctic Slope:* Arctic Slope Region (Arctic Slope Association);

(2) *Northwest:* Bering Straits Region, Bering Sea Region (Bering Straits Association, Northwest Alaska Native Association);

(3) *Southwest:* Southwest Coastal Lowland Region, Bristol Bay Region (Association of Village Council Presidents, Bristol Bay Native Association);

(4) *Central:* Upper Yukon—Porcupine Region, Koyukuk—Lower Yukon Region, Tanana Region, Upper Kuskokwim Region (Tanana Chief's Conference);

(5) *Aleutian:* Aleutian Region, Kodiak Region (Aleut. League, Kodiak Area Native Association);

(6) *Southern Coastal:* Cook Inlet Region, Copper River Region, Gulf of Alaska Region (Cook Inlet Association, Chugach Native Association, Copper River Native Association); and

(7) *Southeast:* Southeast Region (Tlingit-Haida Central Council).

(b) Native villages located within each region should be listed by region in the bill.

5. Regional Corporations

(a) A regional corporate structure should be established to administer th settlement proceeds and receive title to the land located wlthin the variou regions.

(b) Business corporations for each region should be created as federally chartered corporations with the articles of incorporation being set forth in the Act itself. The corporate powers and responsibilities would be spelled out in order to insure a proper balance between Native control and federal oversight responsibility.

(1) Alternative: The Secretary of Interior could retain authority to approve original articles of incorporation and amendments thereto.

(2) Second Alternative: The regional corporations could be organized under the Indian Reorganization Act (Act of June 18, 1934, 48 Stat. 984, 25 U.S.C. § 461 *et seq.*) which would require certain modifications to permit the corporations to hold unrestricted fee title with concomitant authority to lease real property for up to 99 years.

(c) Each regional corporation shall be devoted to promoting the health, welfare, education and economic and social well-being of its stockholders and their descendants, and shall be authorized by its articles of incorporation, among other purposes, to construct, operate and maintain public works and community facilities, to engage in medical, educational, housing and charitable programs, to make loans and grants consistent with its corporate purposes, to engage in and foster industrial and economic development, to lease, sell, and manage real property, to distribute lands, interests in land, and funds to the Native villages located within its region, and to stockholders and their descendants.

(d) Stock of the regional corporations should be inalienable for a fixed period of time not to exceed the length of time it takes to pay out the federal appropriations. Although inter vivos transfers would not be permitted during this period, the stock would be transferable through inheritance.

(e) The Secretary shall prepare an enrollment of Natives on a regional basis for purposes of determining who are eligible to be stockholders of the regional corporations.

6. Land allocations

(a) The seven native regions would have confirmed to each of the regional corporations a proportionate share of 60 million acres in fee based on each region's land claim area as it bears to the seven region total. This approach not only causes the settlement to relate directly to the land claimed by identifiable Native groups, but also simplifies the land allocation process by not having to rely on the Native enrollment.

(b) The table below depicts each region's acreage and its approximate proportionate share of the statewide total. The regional percentages have been rounded off to the nearest five percent except for minor exceptions, such as a six percent reduction of the Central region's share because a portion of that region's acreage is not subject to filed Native protests.

Region	Region's acreage (in millions)	Percentage
1. Arctic slope	56.5	15
2. Northwest	38.1	10
3. Southwest	48.1	15
4. Central	136.7	30
5. Aleutian	22.4	5
6. Southern coastal	46.5	15
7. Southeast	27.0	10
Total	375.3	100

(c) On the basis of the foregoing table, each region would receive proportionate shares of the 40 million acres as follows:

	Percent	Million acres
(a) Arctic slope	15	9
(b) Northwest	10	6
(c) Southwest	15	9
(d) Central	30	18
(e) Aleutian	5	3
(f) Southern coastal	15	9
(g) Southeast	10	6
Total	100	60

(d) Each regional corporation would hold fee title to land allocated to its region. Land selections would be limited to areas contiguous to native villages (both existing and historical). Regional corporations would have authority to convey to villages the surface estate to land upon which a village is situated and a reasonable amount for expansion if requested to do so by the village governing body. Title to the leasable minerals, locatable minerals and renewable surface resources and to that portion of the surface estate not granted to villages, would remain with the regional corporation

(e) To permit the greatest flexibility in land selection, the regional corporations would be allowed a period of two years from receipt of the initial $10 million payment (pursuant to Section 7, *infra*) to make their selections. During this period, the State of Alaska would be permitted to go ahead with selections under the Statehood Act, but tentative approval could not be given prior to expiration of the two-year period unless an affirmative showing is made that such approval would not conflict under any circumstances with possible regional corporation selections. Additionally, any attempted appropriation under the public land laws, such as a homestead entry or mineral lease application, would take subject to the regional corporation selection right if it were determined that the appropriation was on native selected land. A number of methods presumably exist to fully protect the native selection right and at the same time permit the State to move ahead with its own selections and to permit appropriations under the public land laws pursuant to existing statutes and regulations.

(f) There should be no revenue sharing between regions and the entire yield from the land (i.e., all revenues resulting from disposition of leasable and locatable minerals and renewable surface resources such as timber) should be retained by the region of origin.

7. Allocation of monetary proceeds

(a) Two primary sources of funding settlement:

(1) $500 million Federal appropriation

(2) A 2% royalty in mineral revenues from public lands (including tentative approval lands) in perpetuity.

(b) Distribution of cash proceeds:

(1) Initial payment of $10 million to each regional corporation to assist such corporations to organize and become operational, and to allow corporations to exercise land selection rights in a meaningful fashion, i.e., on the basis of hard technical data.

(2) The balance of the $500 million Federal appropriation payable over a nine-year period, $80 million the second year, and $50 million each year thereafter.

(3) The federally appropriated funds and revenue sharing funds would be paid directly to regional corporations on a proportionate basis of each region's land claim acreage total as it bears to the seven region total. Thus:

	Percent
A. Arctic slope	15
B. Northwest	10
C. Southwest	15
D. Central	30
E. Aleutian	5
F. Southern coastal	15
G. Southeast	10
Total	100

8. Taxation

(a) No portion of the monetary proceeds of the settlement should be taxable, either to the regional corporations or to the villages or individual Natives.

(b) The basis of stock in the regional corporations should be its fair market value, at a fixed period of time after enactment of the Act, e.g., 15 years, 20 years, or when final revenue sharing funds are paid into the Fund.

(c) The basis of land should be its value at the time it is first sold or otherwise disposed of. If the owner died and the land were taxable in his estate (in the case of individual ownership), its basis would be fixed at an earlier time. The basis of land would also be fixed at an earlier time if the owner wished to claim a tax deduction computed by reference to basis such as depreciation or cost depletion.

9. Subsistence

(a) Native subsistence use of public lands in Alaska must be protected. In determining whether to withdraw, reserve, lease or otherwise permit the use or occupancy of land that is being used by Natives for subsistence purposes, the Secretary of the Interior should be required to consider alternatives that would elimi nate or reduce the requirement for taking lands needed for subsistence uses.

(b) Subsistence uses should not be limited except to the extent that, after notice and opportunity for hearing in the general vicinity of the area involved, it is determined on the record by the head of the agency having jurisdiction that a limitation on the exercise of subsistence uses is necessary and can be accomplished without unreasonably impairing the ability of the Natives involved to satisfy their subsistence needs.

10. Attorneys' fees and expenses

Reasonable attorneys' fees and necessary out-of-pocket expenses earned and incurred by persons rendering services to Natives and Native villages, associations, tribes, bands or groups in connection with the settlement of Alaska Native land claims, should be paid out of the settlement proceeds on a quantum merit basis.

11. Appropriations

12. Publications

The Secretary of the Interior should issue and publish in the Federal Register, pursuant to the Administrative Procedures Act (5 U.S.C. 500 *et seq.*), such regulations as may be necessary to carry out the purposes of the Act.

13. Savings clause

INNOVA,
ADVANCED BUSINESS CONCEPTS DEVELOPMENT,
September 11, 1970.

To: Mr. FREDERICK PAUL, Paul, Henry, Wheeler, Burton & Meade, 3201 Seattle-First National Bank Building, Seattle, Wash.
Mr. JAMES F. WICKWIRE, and Mr. MARK A. HUTCHESON, Davis, Wright, Todd, Riese & Jones, 4200 Seattle-First National Bank Building, Seattle, Wash.

From: Dr. HAROLD L. AMOSS, Director, Bureau of Community Development, University of Washington, Seattle, Wash.
Mr. JOHN L. KING, Chairman of the Board, Innova, Inc.; Mr. GARY B. Lewis, Vice President, Innova, Inc.
Subject: Alaska Native Claims Settlement Concepts.

Clearly, S. 1830 declares the over-riding importance of a just and final settlement of all land claims by Alaskan Natives as soon as possible. It is obvious, though less boldly stated, that the proposed provisions for such settlement intend to promote the economic development of the Alaskan Natives to self-sufficiency and to enhance their present and future welfare. It is also obvious that these purposes are necessary to the sound and orderly development of the State of Alaska, its people, its land, and its natural resources. And there is no doubt that this development, particularly that of mineral resources, is of national and international significance both commercially and politically.

It is our belief that this important land claims settlement provides an unequalled opportunity for the U.S. Government to deal both honestly and effectively with a very significant population of Native Americans. However, from the point of view of the anthropologist and social scientist primarily concerned with and experienced in community development (in both developed and developing countries), there are some serious conceptual oversights in S. 1830. We will speak from this viewpoint on what we believe are basic concepts absolutely necessary to the achievement of the purposes of the legislation, but which we feel are not expressed or embodied in it.

1. The concept of "development" as well as "settlement" should be more clearly stated as an important objective of this Act.

2. The concept that personal and social development is interdependent with economic development should be clearly reflected, not only in the wording of the Declaration of Policy, but in the design of the mechanisms and procedures for implementation.

3. The concept of regional organization of development should be reflected in the design of effective Native organizations provided for by the Act.

4. The concept of Native participation in all planning and implementation procedures should be strongly expressed and actually embodied in the mechanisms for these functions operating at all levels: village (or city), region, and state.

The last concept is the *sine qua non*, which, if ignored, will confound the best intentions, plans, and actions on the part of the U.S. Government, the State of Alaska and all other interested parties toward an honorable and workable settlement. The strong, active and extremely able interest on the part of the Alaskan Natives in the management of their own affairs needs only an effective sanction to become a strong, positive force in the development of the State. If ignored or denied, this same force can be equally powerful in negative directions, and the grief and recriminations that would certainly arise and become public to the world would shame our nation.

We feel that effective regional organizations, formed by villages with self-recognized common interests and common cultural characteristics are essential to maximizing Native involvement in the decisions affecting Native rights and obligations. It is in this area that S. 1830 is particularly weak, with one notable exception. Section 9(b)(2) authorizes the establishment of a North Slope Native Corporation which may hold title to lands, manage them, distribute revenues from them to its members or shareholders and carry on such other activities as its members or shareholders may decide. This singular example of a truly effective and representative regional organization should be the rule rather than the exception. The Act should institute such corporations for all geographic regions, each corporation composed of representatives from its members and shareholders, that is, the villages of the region. It is within this mechanism that a process of rapid an orderly personal and social development is most likely to occur naturally.

We would suggest further, however, that the Act incorporate provisions for a well selected and trained cadre of advisors, individuals—not a board, and not agents of the U.S. Government, to begin working as soon as possible, (1) with each village toward developing effective representation in the regional corporation, and (2) with the regional corporations toward developing mechanisms for effective intra-regional coordination of proposals, petitions and implementive programs. Such a cadre organization should be responsible to the Alaska Native Services and Development Corporation and should be fielded for no more than about two years and at an overall cost of approximately two million dollars. It should be self-retiring and should be funded by a grant to the Services Corporation separate from any settlement funds. We believe that such a program would be feasible, acceptable to the Natives, and would yield dividends in terms of rapid

and orderly transition to complete self-determination and political responsibility of the Native peoples far beyond its cost. In our opinion, there is no other way in which both the justice of self-government and the practicality of responsible representation in the affairs of the State can be so easily expedited.

Both hoped-for achievements of this legislation, settlement and development, are interdependent and equally important to the welfare of the State of Alaska, its Native peoples and the nation. The economic development of the Alaskan Natives and, indeed, of their State of Alaska is interdependent with their development of interests and abilities to manage their own affairs. This development can and will proceed only if there is sanction and provision for their full and effective involvement in the decision-making mechanisms embodied in the land claims settlement act. To this end, we have suggested the extension of the concept exemplified by the authorization of the North Slope Native Corporation to apply to all regions and, further, the assistance of a planning grant separate from settlement funds to provide for direct, on-the-spot guidance to Village Corporations and Regional Corporations during the earliest phases of the implementation of the settlement.

We will be ready to assist you further if you should need us.

HAROLD L. AMOSS,
GARY B. LEWIS.

STATEMENT OF JAMES CRAIG PEACOCK

As attorney for the Five Chiefs of Yakutat let me state that, reserving the right to make further appropriate suggestions from time to time, we strongly urge a favorable report and eventual enactment of S. 35.

FRIENDS COMMITTEE ON NATIONAL LEGISLATION,
Washington, D.C, February 19, 1971.

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

DEAR SENATOR JACKSON: As you hold Hearings on the Alaska Native Claims Settlement, we appreciate the opportunity to communicate our views to you and to the Senate Committee on Interior and Insular Affairs.

When the Senate passed S. 1830 in July we issued a statement to the effect that the Bill, as passed, provided a strong foundation for work toward passage of equitable legislation on the issue. However, we maintained that several provisions of the Bill, notably the land grant provision, needed to be strengthened considerably.

Our concern always has been that the legislation should correspond to the Proposal presented by the Alaska Federation of Natives. The Natives recognize the fact that they will not secure all the land they occupied in pre-Russian and American times, but they seek an equitable settlement of their land rights. We believe you understand that the Natives are not asking to be given anything. They are requesting legal title for the lands they retain, and compensation for what they relinquish.

We believe you understand also that the Natives need a just settlement to improve the quality of their lives. We have followed developments pertaining to the Alaska Native Claims Settlement closely, and we know of your consistent and skillful efforts toward passage of legislation on the matter. We hope, as the result of your current reconsideration of the issue, that legislation will be more firmly based on the AFN position.

1. *Land grant.*—Estimates of the amount of land needed for the Natives to maintain their patterns of use and occupancy vary from 60 to 100 million acres. For those who have studied the matter in depth, including the Federal Field Committee, 60 million acres has been regarded as the minimum acreage necessary.

If the Natives are granted less than 60 million acres their hunting economy will be adversely affected, and they inevitably will move down the well-known path to cultural destruction.

You have heard the testimony of a number of Alaska Natives with regard to their relation to the land. Their intimate, reverent relationship to their land is well known. Equally well known is the result of tampering with a traditional way of life. The Eskimos, Indians and Aleuts of Alaska are entitled to the land which they know is necessary to maintain their economy and culture. Their cultural

changes should develop from within the secure environment afforded by the land base which legislation can provide.

2. *Cash settlement.*—The $500 million provision should be maintained as augmentation to the land grant. The cash settlement together with an adequate land base will enable the Natives to begin their development programs without delay.

3. *Revenue sharing.*—One of the most important features of the AFN Proposal deals with a way to assure the Natives a share of the revenues from the development of the natural resources in the State of Alaska. The Natives still retain their aboriginal title to 90 percent of that area, and they should have permanent participation in its development. The two percent revenue-sharing provision should be made in perpetuity.

4. *Native corporations.*—The success of the implementation of the Alaska Native Claims Settlement will be in direct proportion to the extent to which the people most closely associated with the issue are involved. The Native ability to manage already has been demonstrated in several areas, and they believe they should have primary responsibility for the management of the Native Corporations from their inception. The concept of self-determination should also be manifested in the Native Commission by providing that three of the five members of the Commission be Natives.

Congress still has the unique opportunity to pass truly equitable legislation on the Alaska Native Claims Settlement. The passage of such legislation will be furthered by efforts to keep the issue in proper perspective, namely, that it is a land claims settlement with intelligent, proud, unconquered people who have lived in the area known as Alaska for up to 8,000 years.

We urge you and the members of the Committee to work toward drafting and supporting legislation which reflects the position of the Alaska Federation of Natives.

Sincerely yours,

EDWARD F. SNYDER,
IRENE F. HEINE.

McGrath, Alaska, February 12, 1971.

Subject: Alaska Native Land Claims Legislation

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

DEAR SENATOR JACKSON: I have no doubt as to your sincerity nor good intentions with regard to the Alaska Native Land Claims Bill that you have come up with; however, the road to hell is paved with good intentions, and the best damn thing that you can do with your bill is tear it up and start all over again—or, hold it in committee and see what the House of Representatives comes up with.

I realize that you have received a lot of testimony from a lot of interested persons on this subject, and have attempted to compromise this testimony into an acceptable bill. This may be democratic process, but it in no way guarantees the accuracy of information received, nor the correctness of views nor opinions, as they were expressed. That you have been both badly misinformed and misguided is shown by the complete and profound ignorance of Alaska expressed by this bill. The outcome of your bill—if it should become law—can best be described as "DISASTER", and not only disaster for Alaska, but disaster for the United States as well.

Your bill fails to reflect: The strategic importance of Alaska to the United States—both from a standpoint of military logistics, and perhaps soon to be the only secure source of strategic raw materials available to the United States and without which survival is impossible: That Alaska's agricultural potential is sufficient to feed the United States—uncontaminated (by pesticides) foods: That most of the "Native" villages listed were founded by whitemen, maintained by the whiteman's economy, are fully integrated, and in many cases the present white or non-native population is considerably larger than the so-called native population: That most of Alaska's *permanent* non-native population is comprised of some 100,000 pioneering war veterans and their families whom the Federal Government *invited* to settle in Alaska—offering us opportunities under the federal land and mining laws to be independent, and according to our individual ingenuity and willingness to work, to develop and become part of an economy that would make Alaska self-sufficient—and, we are now scattered throughout Alaska—both within and out of "Native" villages—and, Alaska is our home as well: That Alaska's aboriginal natives subsisted off the surface of the land mainly

as nomads, and in their Stone Age culture the only minerals used were rocks, and the general complete lack of interest in all phases of mining—except employment—demonstrated by Alaska's natives throughout Alaska' mining history.

Perhaps I should identify myself and give a short summary of my background, before elaborating upon the failings of your bill, so that you can judge my competence to speak on the various subjects.

I have for the past 26 years—most of my adult life—lived in remote areas of Alaska from the Brooks Range to Bristol Bay, and with and among Alaska's native people. I have spent the equivalent of years alone in the wilderness, although while I once went three years without a trip to town, I never spent over six months alone in the wilderness without a trip to a village. This is my home, and I am one of the last people who want to see the wilderness destroyed; however, experience indicates that Alaska is in no imminent danger of complete exploitation. The alarmists are all inexperienced in resource development, as if they had any considerable first hand knowledge—they would not be sounding off. I have spent my life engaged in resource development. I was born and raised on a farm in northern Ohio, and have farmed in Alaska. I have been a Registered Guide engaged in recreational development in Alaska forover 20 years. I spent 3 seasons with the U.S. Bureau of Mines on strategic mineral survey in Southwestern Alaska, and have for the past 8 years prospected and held an interest in a mine property that—if we can get it into production—can be a considerable economic benefit to this poverty stricken area. I have also been a life-long conservationist. This amy to some seem a paradox, but who can better understand conservation than one engaged in natural resource development. Human life cannot exist without utilizing natural resources, and we cannot develop effective conservation measures without knowledge gained through experience.

You of all people should be aware that the United States is inferior to her enemies in population and we can survive, and maintain our freedom and way of life only through superior technology. This technology is only useful and of value when necessary materials are available derived from raw materials provided by natural resources. The world situation being what it is we no longer have *secure* sources of strategic mineral supplies much beyond our own borders. Our survival demands self-sufficiency. We can survive a few scars in the wilderness, but if you lock up Alaska—you will lose both the United States and Alaska—and, nothing is saved.

Your proposal to grant Alaska's natives mineral rights to *hard* minerals on large blocks of land with the hopeful purpose in mind of creating employment, and an economic base—is, I am sure, well intended; however, coupled with the proposal to bring hard minerals under the mineral leasing laws, and place a freeze upon further mineral claim staking for years to come—is in effect putting a triple lock on continued development of both the mining industry and economy of Alaska. Alaska's natives have, throughout Alaska's mining history demonstrated a general lack of interest in mining, and most of Alaska's past mining has been simple placer mining. Lode mining demands skill, knowledge and experience possessed by even few non-native Alaskans, and lode mining is always an expensive high-risk undertaking, which is a major reason so few lode mines are operating in Alaska today. Alaska's native people cannot be themselves expected to discover and develop mineral properties, and economics rules out any small mine operation where royalties must be paid. This leaves only large mine possibilities operated by large companies. Large mines are rare—something like one percent (1%) of the total number of mines operating in the world. Thus your proposal to grant Alaska's natives title to hard minerals will actually deprive both the natives and the United States of any benefits that might be gained by small mine development.

The cost of prospecting is high, and skilled experienced prospectors in Alaska today are few with the result that both the Territory in the past and the State of Alaska today subsidize qualified prospectors up to 90% of costs. It appears that if survival of the United States demands discovery and development of strategic mineral supplies in Alaska—we not only cannot even consider operations under your proposed mineral leasing laws, but even continuing under the current mining laws cannot operate without subsidy. Many of the big mining companies have had exploration crews in the field in Alaska for several years, but they have yet to open up a mine. They are only locating future reserves and setting on them, because operation is not now economically feasible. They are taking over very few known properties where any amount of money is required to change hands. Any proposal that the mining industry in Alaska pay royalties to either the natives (for mineral rights you propose to give them) or the federal government (under your proposed leasing laws) when in fact a subsidy is required

to place most known mines in production is the highth of assinine absurdity. Your proposed freeze on staking of mining claims not only adds insult to injury, but could well be the straw that broke the camel's back. If the time comes when Alaskan mineral production is critical to U.S. survival, we will at best have no more than time to place known deposits into production, and if we have not found a sufficient supply of a critical mineral because the new leasing laws, and your proposed freeze prevented searching—then it is too late and we have lost all.

I completely fail to understand how you can continue to propose and support these provisions in your native claims bill in view of the National Minerals Policy Act that you just passed? There is no way that you can help Alaska's natives, Alaska's mining industry, or the national security more than exempting hard minerals from any land claims settlement, and giving your full support to the mining laws of 1872. Under this law any Alaskan native who wishes to participate in prospecting and mining has the same privilege as any other citizen, and any deposit found by anyone that can be placed into production will provide jobs and aid in the local economy.

While Alaska's mineral resources are at best unknown, and short lived depletable assets as well—they cannot be used to plan any permanent future. Alaska's future lies in her renewable resources, and her greatest potential lies in agriculture in the Interior, and fisheries and timbering in coastal areas. The agricultural potential of Alaska is immense, and limitations to date have been purely economic and have nothing to do with feasibility. Agriculture is something that Alaska's native people can participate in and thrive. This is the answer to subsistance among the natives. While a native family can starve, or at best only survive on 10,000 acres by Stone Age subsistance methods—no one native family can consume in one year all that can be produced in a well cared for one-half (½) acre garden. Alaska's natives today all live on the same foods as the rest of us purchased from the same stores or sources of supply. They even cook their moose, caribou, and rabbits in whiteman's utensils by whiteman's methods, and bake their bread, cakes and pies as we do using whiteman's recipes and stoves. The fact is that in wilderness areas we all live pretty much the same. Only the elite hierarchy of transient government carpetbaggers living in high style in elaborate government housing with many special privileges live differently.

The only investment that these people have in Alaska is a suitcase, their special privileges together with a cost-of-living differential grant them a 50% tax break on their income denied permanent Alaskans, and as they generally suffer the hardships and deprivations of living in such style for several years while attempting to amass their fortunes milking the government, they thereby become legal residents and have the assinine gall to present themselves as Alaskans. THIS is the major cause of friction and resentment between the Alaskan native and the whiteman, and very bitter resentment between the non-native pioneering veterans and the government. However, these long term transient carpetbagger parasites on the government payroll and their lackeys, fortune hunting construction stiffs following government projects, constitute well over half of Alaska's so-called resident population, and thus control our politics as well. Much if not most of the problems related to settling this Alaska Native Land Claims issue is the direct result of this coalition of parasites forming under directorship of the Bureau of Land Management intent upon creating a bureaucratic dynasty. They want Alaska's resources locked up, economic development curtailed, and the government to fund an elaborate enforcement program that would result in the U.S. Taxpayer supporting the world's largest resort area, for the exclusive benefit of this bunch of useless parasites who developed the idea in an effort to justify their otherwise worthless existance, and not only pay them for the privilege of living here, but fully support their recreational activities by paying them travel expenses and per diem while they run around hunting and fishing on government business.

BLM has mounted a huge government funded program in the last few years aimed at driving the non-native permanent Alaskans out by destroying their sources of income, and thus lessen resistance to their take-over. BLM fire-fighting crews have landed at nearly every unoccupied mining camp and trappers cabin, and some that were occupied, within several hundred miles of an "Ranger" station, and robbed and vandalized them leaving them in shambles. Presumably this is done putting out fires, and they of course deny knowledge of it. The irony is that BLM has yet to put out it's first major fire in Alaska. Nature starts these fires and nature puts them out when it gets damn good and ready as it has through the centuries. The truth is that these fires in a vast majority of cases do a great deal more good than harm. Nearly all of Alaska's best game lands, with the possible exception of tundra caribou areas, are burnt over lands that reseed to an entirely different vegetation which is game supporting. Some of the most choice

farm lands are also burned over lands. In any event it appears that congress has been duped and suckered into supporting a monster, and the monster wants to breed with congress now so that it can reproduce and multiply.

Most of the reasonably level land in Alaska below 2,000′ in altitude and from the southern slopes of the Brooks Range southward is arable, and somewhere between 20% and 30% of Alaska's land area has some agricultural potential. Alaskan agriculture can develop at any time that a market opens up. Alaskan agriculture is also unique in that many of the plant diseases and parasite pests apparently cannot survive our winters so that most food crops can be grown without the use of poisons. The waste from our seafood industry can be utilized as organic furtilizers creating a new industry, and Alaska as a result can produce some of the most contamination free health foods in the world. A demand for healthier foods could create a market and off-set some of our higher production costs. Dehydrated foods are another possible answer. Alaskan food production could replace some farm areas in the south 48 which cannot produce without heavy use of poisons, and those farms turned into fish and game farms which would still produce income, and help alleviate the recreation problems of the ever growing population. It is also possible that if an effort was made that a food market in Southeast Asia can be developed.

With modern air transportation the reindeer industry around the southern, western and northern coastal area from Bristol Bay to Demarcation Point can now really flurish. There is also no reason why the natives of the Interior cannot trade garden produce with coastal natives for reindeer meat and fish. Many people who possess little or no knowledge of Alaska and less knowledge of agriculture are calling for repeal of the Homestead Act as being now obsolete. Nothing could be farther from the truth in Alaska, as we are only now approaching a time when utilization of this law is possible. The Homestead Act is also sure as hell no giveaway. Common labor in Alaska today pays a minimum of $10,000 per year, and skilled labor $15,000 to $20,000 or more. Any man who takes 160 acres of raw wilderness and spends 5 years pioneering it into a producing farm has a minimum of $50,000 worth of time alone invested, and he still has the costs of land clearing, machinery purchases, building and furnishing costs and etc. Thus the improvements on a homestead at the time of patent today can be placed at an average value of $100,000 after five years of effort. Faced with those costs a man cannot afford to take this "FREE" land and develop it unless a market exists for his produce. In plain English, homesteading will come of age in Alaska whenever a man can make a living farming here—which some are now doing.

Alaska is the only state in the United States that has never been self-sufficient. Alaska has never produced more than a small fraction of the federal tax moneys spent here, although the per capita burden on non-government employment is extremely excessive as the standard of living of those of us living in remote wilderness areas is about 75% below that of persons of *equal* income in other states, or of federal employees in Alaska. The Alaskan economy was some 80% supported by federal spending at the time of Statehood. While this has dropped to 65% to 70% federal support today because of the Cook Inlet oil and gas industry—the overall condition in remote areas is actually worse as the food stamp program has sent welfare costs zooming. While some of the traders are becoming wealthy on food stamps, and the natives living better than ever in history—even eating beef for the first time, but the only industry in most of Interior Alaska, mining, is at best just barely holding it's own. At that there are only some ten operating mines in Southwestern Alaska, an area twice the size of Pennsylvania, and no more than three employ over 5 or 6 persons.

It is certainly in the best interests of the United States that Alaska become self-sufficient. The federal government over the past 100 years has pumped billions of U.S. taxpayers dollars into Alaska just trying to hang on to it until a private economy can be established to take over this burden. Alaska has been wide open to settlement under the federal land and mining laws during this period up until the land freeze, and veterans were granted special preference or privileges if they would settle in Alaska. The result is that today while the permanent non-native population is still only same 100,000 composed mostly of pioneering war veterans and their families, we are scattered throughout Alaska in a fully integrated homogenous society. The native population is slowly being assimilated by the non-native population, as it should be, until today no more than ten percent (10%) of the so-called native population can claim to be 100% aboriginal decent. Also when the whiteman started to explore and settle Alaska the natives were largely nomads or grouped elsewhere to the extent that most of the "Native" villages listed in your bill were founded by the whiteman who created an economy by building trading posts creating a market for fur, making mineral discoveries

and building mining camps, setting up transportation and distribution centers, whaling stations, coaling stations, fish canneries and processing plants and etc.

The natives saw that the whiteman had a better and easier way of life so they moved into the whiteman's towns and villages and intermarried and took up the whiteman's way of life, and were welcomed. Your bill proposing settlement of the native claims issue on a village by village basis with the criteria that a village be designated a "Native Village" if inhabited by 25 or more natives—is an incomprehensible injustice to the non-native pioneers. You not only refuse to recognize our existence, but add insult to injury by proposing to settle the matter by granting the natives land title in huge blocks surrounding each designated village destroying our rights completely in the area, and as the freeze is to be maintained until the land laws are revised—we are permanently denied our rights.

Among the "native villages" you list on the Kuskokwim River; Medfra was never a native village. A whiteman named Spencer established a trading post there. For the last thirty years (30) the *only* permanent residents have been the two different white traders and immediate families—also white. McGrath was founded as a freight transfer point for freight into the Innoko Mining District. The present population of McGrath includes some 75 so-called natives and possibly three (3) aborigines, while the non-native population numbers around 175. Red Devil never existed until whitemen developed several mines and hired all of the natives willing to work—many comming from way over in the Nome area on the Seward Penninsula. Aniak was founded by a trader, Aniak Johnson, and today the white population is larger than the native population. Bethel was founded by Moravian Missionaires and is the ocean seaport for the Kuskokwim River. The population is approximately equal between native and non-native. In the southern part of the Brooks Range country there were no natives above the South Fork (mouth) on the Koyukuk River until the whitemen came in. Hughes, Arctic City, Bergman, Marsan and Alatna were founded by Ed Marsan for the AC Co. Bettles at the head of steamboat navigation was founded by Gordon Bettles. Coldfoot and Wiseman were founded as mining camps. The Chandalar was opened up in the stampede of 1906, and Caro was founded by the NC Co. to supply the Chandalar mining area. Fort Yukon near the mouth of the Chandalar was of course a Hudson's Bay Post. I can go on through the rest of your list with mostly the same answers.

Your bill will defeat it's purpose unless drastically modified, and in the end Congress will probably have to go through the whole matter again. The land freeze has denied Alaska's pioneering veterans their rights under the public land laws. Your bill not only makes this loss permanent, but in addition will deny us our rights under the mining laws as well, and would deprive many of us of our homes as well. This only came about because Alaska's natives started action. We will simply sue the natives for their entire settlement. Ths natives would end up completely destitute with less than they had to start with. The only defense the natives would have would be to have the Supreme Court throw out the law created by your bill on the grounds of racial discrimination, or to take their plight to the American public in the hope that public sentiment will force you to again take up the matter. The answer is reconsideration of the matter now, and come up with an acceptable solution—even if it does take more time.

Whether or not the federal government is or is not indebted to Alaska's native people, or in what degree is an unanswered question. Alaska's natives are, however, considerably in debt to the United States. Had the United States not purchased Alaska these natives today would be Russian slaves without rights. Had the United States not defended Alaska and won the Pacific action in World War II, Alaska today would be under Japanese control. To this end both the federal government and Alaska's native people are in debt to World War II veterans, many of whom live throughout Alaska today, and are gravely affected by this legislation.

We non-native pioneers were *invited* to come and settle in Alaska and offered various opportunities for personal gain under the various public land and mining laws. We therefore feel that the government is under *equal* obligation to keep it's promises and trust to the non-native pioneers and the natives alike.

Settlement of the native claims is in effect settlement of an estate, as there is probably no living native who was not born a U.S. Citizen, and the debt—if such exists—was to those natives living in Alaska when the United States took possession. Aside from the need for a home the other need is for *money to live with. The answer then is pay the natives money.*

Alaska today lies mostly dormant and uninhabited—as it has through the centuries—because it's resources, whatever they may be, cannot be produced and utilized at a profit. The only economic base that you can give the native people living in most remote areas of Alaska is a monetary investment in a profitable income producing industry someplace other than at home. Settlement of the native claims can be reasonably simple even if it does not suit the lawyers, conservationists or the BLM—it will be fair to both the natives and non-native prioneers alike, and this is mandatory. With the exception of monetary payment simply settle the matter under the existing public land and mining laws. Grant anyone living in any village title to the land he occupies under a standard townsite survey—if this has not already been done. Grant each qualified native title to a 160 acre homestead, land of his choice from unreserved public domain as close as possible to his village of residence. Permit him to choose one or more 5-acre tracts where he chooses as hunting, fishing or trapping headquarters. Retain the claim staking provisions of the mining laws, of 1872, and permit any native who wishes to prospect or mine.

Lift the land freeze restoring the rights of U.S. Citizens under the public land laws. You could require that an applicant under the public land laws in Alaska must be a qualified Alaskan resident before he is eligible to file a claim, and exempt all federal employees on active duty in Alaska who were hired outside Alaska. We non-native pioneers demand compensation for time lost under the land freeze. Anyone who was a bona fide resident of Alaska at the time the land freeze went into effect and remained throughout effective time of the freeze should be entitled to deduct that amount of time as was lost under the land freeze from the performance requirements of any type claim that he might still be entitled to under the public land laws (that is if a party already has title to a homestead, he has used up that right and is entitled to no more).

Some fears of a land rush have been expressed, but not by knowledgeable people. The public land laws are land use laws, and not "free gifts". Before patent can even be applied for, the land must be used for the purpose for which it is claimed, certain work must be performed, certain improvements made and certain requirements met. People must also earn a living—which can seldom be done on the land so they generally must settle within commuting distance of a place of employment. There are at present very few places in Alaska where this can be done. If you knock out non-residents of Alaska and *imported* federal employees—there is little left to create any rush. There really isn't too much danger from federal employees as most of them are far too lazy to meet a work requirement, but a number get their way paid out and back and renew their contract every two years with the result that some were in Alaska when the land freeze went into effect and would qualify under the time deduction proposal that we non-natives demand as compensation for time lost under the land freeze. It is no more than right to deny rights under the federal land laws to federal employees hired outside Alaska and here under contract to the government on active duty.

Your proposal to set up huge hunting, fishing and subsistance preserves surrounding each village in Alaska and grant the natives exclusive rights within these preserves—is as you should well know—unconstitutional in addition to being absolutely unnecessary. In the first place Alaska's natives being born U.S. Citizens have no more rights under the law than any other citizen. In the second place the vacant unappropriated public domain and the national forests in Alaska have never been closed to hunting, fishing or subsistance by any Alaskan resident, and no justifiable reason exists now. In the third place this is 1971, Alaska's natives in remote areas live just as their whiteman neighbors eating the same foods, owning the latest firearms, traps, fish nets, chainsaws, outboard boats and motors, dog teams have been almost entirely replaced by snow machines, many own automotive equipment, and their own private airplanes with many operating government certified air taxi services—all of which is a hell of a long ways from the Stone Age past.

Those natives living in coastal areas get most of their subsistance from the sea which cannot and need not be reserved. Those inland natives who have not learned to garden (and they are few) can readily be instructed, and rotary tillers are less expensive to purchase and no more difficult to operate than an outboard motor or snow machine that all natives now have. Besides that many integrated villages like McGrath are already established patented townsites in which residents have title to the lands they occupy. You propose that the non-native population will have to travel miles through Indian Territory in tresspass to get to an area where we are entitled to do our subsistance hunting and fishing.

In fact we would not be able to leave the boundaries of the townsite for any reason without being in tresspass. To attempt to enforce that you would need a military bodyguard for every non-native in Alaska. You settle nothing without recognizing the existance and rights of Alaska's non-native pioneering veterans.

Sincerely yours,

THEORDORE J. ALMASY.

NATIONAL WILDLIFE FEDERATION,
Washington, D.C., February 23, 1971.

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

DEAR SENATOR: The purpose of this letter is to express the broad viewpoint of the National Wildlife Federation on S. 35 and S. 835, relating to the Alaska Native Claims hearings held by your Committee last week. This is in response to your invitation that private groups such as the Federation submit comments in writing.

When the Committee was considering this proposal during the 91st Congress, our organization expressed the viewpoint outlined in a resolution adopted during the 33rd Annual Convention held in Washington, D.C., February 28–March 2, 1969, a copy of which is attached.

From the resolution, it is evident that we are interested and concerned about both the version of the bill which was passed by the Senate during the 91st Congress and by the proposals submitted by representatives of the natives. Our position is set out in the resolution but we would like to emphasize strongly this point: that the Congress should meet any obligation it believes the Nation owes to the natives principally through grants of money, except for a minimal amount of land. We recognize that the natives will have a need for gaining title to their villages and land for reasonable expansion, and for this reason have viewed with extreme interest the proposal of the Administration that they be allowed their village sites and an area three times as large. We believe that this would be considerably less than the ten to twelve million acres proposed in S. 35 and much less than what we consider to be exorbitant claims of 60 million as put forth by representatives of the natives. We also recognize that the natives should have rights to subsistence hunting and fishing but not for commercial purposes.

We hope that the Committee will move to give early consideration to enactment of a reasonable bill in order that the difficulties centering around conflicting claims can be extinguished at the earliest possible time.

Sincerely,

THOMAS L. KIMBALL,
Executive Director.

RESOLUTION NO. 5—NATIONAL WILDLIFE FEDERATION

Whereas, native land claims in Alaska have been problems since 1884, when an Act establishing a civil government provided that "Natives shall not be distrubed in the possession of any lands actually in their use and occupation or now claimed by them," but with the Congress to decide upon terms and conditions under which they might get title; and

Whereas, subsequent Congresses have refrained from solving or identifying the question of land ownership amid conflicting claims and/or compensation in lieu of the granting of titles; and

Whereas, the development of Alaska cannot proceed properly until these claims are settled; and

Whereas, early determination should be made of these claims and, if found valid, adequate cash and a limited amount of land should be granted in compensation;

Now, therefore, be it resolved that the National Wildlife Federation, in annual convention assembled Feb. 28–Mar. 2, 1969, in Washington, D.C., hereby expresses its conviction that these principles should govern any settlement:

1. Various groups of Alaska natives should be granted title to the village sites they occupy and a limited acreage of adjacent lands considered essential to their livelihoods; with "natives" to be defined as Indians, Aleuts, and Eskimos of Alaska, with claims centered upon aboriginal use and occupancy of lands;

2. No individual village or group grant should exceed 50,000 acres, with a total for all not to exceed 2,500,000 acres and a decision by hearings before the Congress or the Indian Claims Commission a prerequisite for a grant;

3. Natives should have only subsistence hunting, fishing, and trapping rights.

4. The U.S. should consider these grants as extinguishing any and all claims to use and occupancy of such larger areas, for additional cash settlements, for legal fees, and for exclusive hunting, fishing, and trapping rights.

RESOLUTION—MENTASTA LAKE

The village of Mentasta Lake, through its Village Council and traditional chief, make the following resolution based on the following facts:

Whereas, the Alaska Native Land Claims Settlement Bill has for one of its purposes the granting of lands surrounding established Native Villages, and

Whereas, the Village of Mentasta Lake is an established native community using and dependent upon the lands surrounding the community, and

Whereas, without our awareness and over our protest, the State of Alaska has selected and been given tentative approval to the selection of the lands surrounding the village of Mentasta Lake, and

Whereas, the most current versions of the settlement proposal do not specifically provide for a priority of village selection over State tentatively approved selections, and

Whereas, we will never relinquish our village site and the surrounding and supporting lands,

Therefore, be it resolved that the Village of Mentasta Lake opposes any land claims settlement which does not specifically provide for the selection of lands surrounding the village or by the village even though these lands have been tentatively approved for selection under the Statehood Act.

Dated this 6th day of Sat. 1971.

MENTESTA VILLAGE COUNCIL,
HUSTON SANFORD
President.

LEE NICOLAI
Secretary.

BEN F. JOB
Vice President.
FRED JOB
Traditional Chief of Mentasta Lake.

UNITED CROW BAND,
Tok, Alaska, February 11, 1971.

Hon. Senator HENRY JACKSON,
Chairman, Senate Interior Committee,
Washington, D.C.

Be it hereby resolved by the United Crow Band that it petitions the Alaska Congressional Delegation: Senators Gravel and Stevens, and Representative Begich, and the chairmen of the Senate and House Committees of the Interior and Insular Affairs as follows:

1. That any land claims bill passed to settle the Alaska Native Land Claims shall allow the Alaska Native People to have first preference rights in selecting lands, including land for which Tentative Approval (TA) has been granted to the State of Alaska.

BACKGROUND

The Bureau of Land Management has granted Tentative Approval to the State of much of the most important land used since time immemorial by our people, the United Crow Band, including traditional villages and hunting areas.

2. That title shall be issued to Alaska Native People for any land to which the right has already been gained by prior use and occupancy and for other public land which shall be available under general public land laws including the Native Allotment Act of 1906; further, that the Native Allotment Act of 1906 shall not be terminated by any land claims bill passed by Congress.

BACKGROUND

The last land claims bill introduced but not passed stipulated that the Native Allotment Act of 1906 be terminated upon passage of the bill. It was also understood through Congressional Records that all applications in process but to which title had not passed would be lost. The United Crow Band does not want its people to lose land which they have been using since time immemorial through any short sighted legislation.

Dated this 11th day of February 1971.

(Signed) CARL CHARLES,
President, Crow Bands.

Attest:

ANDREW ISAAC,
Traditional Chief, United Crow Band.

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