# Public Law 101-622
# 101st Congress

## An Act

To authorize modification of the boundaries of the Alaska Maritime National Wildlife Refuge.

Nov. 21, 1990
[H.R. 5264]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Public lands.

**SECTION 1. DEFINITIONS.**

16 USC 668dd note.

For the purposes of this Act, the term—

(1) "Koniag" means Koniag, Incorporated, an Alaska Native Corporation established pursuant to the Alaska Native Claims Settlement Act of 1971 (85 Stat. 688), as amended;

(2) "limited general warranty deed" means a general warranty deed which is, with respect to its warranties, limited to that portion of the chain of title from the moment of conveyance from the United States to Koniag to and including the moment at which such title is validly reconveyed to the United States of America and its assigns; and

(3) "Secretary" means the Secretary of the Interior acting through the Director of the United States Fish and Wildlife Service.

**SEC. 2. LANDS TO BE EXCHANGED.**

16 USC 668dd note.

(a) LANDS EXCHANGED TO THE UNITED STATES.—(1) The Secretary is directed to accept from Koniag a conveyance by limited general warranty deed of the surface and subsurface rights to approximately two hundred and nine acres of land on Kodiak Island, Alaska, designated "Koniag Lands" upon a map entitled "Koniag Land Exchange", dated September 4, 1990, and available for inspection in appropriate offices of the United States Fish and Wildlife Service.

(2) The lands described in paragraph (1) shall be included in the Alaska Maritime National Wildlife Refuge as of the date of the acceptance of the conveyance from Koniag.

(b) LANDS EXCHANGED TO KONIAG.—In exchange for the lands conveyed by Koniag under subsection (a)(1), the Secretary shall, subject to valid existing rights and notwithstanding any other provision of law, convey to Koniag, from within those lands designated as Tracts 1, 2 and 3 upon the map identified in subsection (a)(1), the surface and subsurface rights to an amount of land selected by Koniag which has a total value, as determined by the appraisals performed under section 3, equal to the sum of the value of the Koniag lands described in subsection (a)(1), plus one half of the cost of all appraisals performed under section 3 of this Act. Such conveyance shall be by quitclaim deed, based upon a metes and bounds description of the land to be conveyed.

**SEC. 3. DETERMINATION OF LAND VALUES.**

16 USC 668dd note.

(a) SELECTION OF APPRAISERS.—Not later than sixty days after the enactment of this Act, the Secretary and Koniag shall each select an appraiser who shall independently perform an appraisal of the fair

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market value of the lands identified in section 2 of this Act. Each such appraiser shall be a member of or certified by the Appraisal Foundation and shall have a professional designation compatible with the valuation to be performed. Such appraisals shall be performed in conformity with the standards of such Foundation. Any special instruction regarding the performance of the appraisals shall be issued only upon the mutual agreement of the Koniag and the Secretary.

(b) DIFFERENCES IN APPRAISALS.—(1) In the event that the appraisals conducted under the provisions of subsection (a) shall differ by less than 20 percent in their assignment of value to either the tract identified under section 2(a)(1) or to any of the tracts identified in section 2(b), the value assigned to that tract shall be an amount equal to the lower of the two appraisals, plus one-half of the difference between the two appraisals.

(2) In the event the appraisals delivered under the provisions of subsection (a) shall differ by more than 20 percent in their assignment of value to either the tract identified under section 2(a)(1) or the tracts identified in section 2(b), the Secretary and Koniag shall jointly select a third appraiser who meets the requirements of this section. Such third appraiser shall review the previously delivered appraisals of the tracts in question, and shall be instructed to reach a determination of value for the tract in question that lies between the values determined for that tract by the previous appraisals. The value determined by such third appraisal shall be binding upon both the Secretary and Koniag.

(3) Koniag shall bear the cost of all such appraisals, but shall be reimbursed in land by the United States for one-half of such costs pursuant to the provisions of section 2(b).

16 USC 668dd note.

**SEC. 4. TIMING.**

(a) INITIAL APPRAISALS.—The appraisals required under section 3(a) shall be completed and delivered to the Secretary and to Koniag within one hundred and twenty days of the selection of the appraisers.

(b) REVIEW APPRAISAL.—In the event a review appraisal is required pursuant to the provisions of section 3(b)(2) of this Act, such review appraisal shall be completed and delivered to the Secretary and to Koniag within sixty days of the selection of that appraiser.

(c) CONVEYANCE BY KONIAG.—Koniag shall have one hundred eighty days after the date of the delivery of the appraisals performed under section 3(b)(1) or 3(b)(2), as the case may be, to convey to the Secretary the lands described in section 2(a)(1), and a technically correct description of lands to be conveyed to them under section 2(b). The Secretary may extend such time for good cause.

(d) CONVEYANCE BY THE SECRETARY.—The Secretary shall convey to Koniag the lands identified by them pursuant to section 2(b) within one hundred and eighty days after his approval of Koniag's conveyance pursuant to subsection (c). Those lands conveyed to Koniag under this Act shall be excluded from the exterior boundaries of the Alaska Maritime National Wildlife Refuge.

16 USC 668dd note.

**SEC. 5. EFFECT ON TITLE TO TIDAL OR SUBMERGED LANDS.**

(a) CLAIMS BY THE STATE OF ALASKA.—No provision of this Act shall be construed to invalidate or validate or in any other way affect the State of Alaska's claim that title to any or all of the tidal or submerged lands conveyed or to be conveyed hereunder vested in

the State at statehood nor shall any actions taken pursuant to or in accordance with this section operate under any provision or principle of law to bar the State of Alaska from asserting at any time its claim of title.

(b) OTHER CONSIDERATION.—Should it be determined by a final order, not subject to further appeal and issued by a court of competent jurisdiction, that title to some or all of the lands conveyed or purported to be conveyed under the authority of this section is in the State of Alaska, then within six months after the final order the Secretary shall take all actions necessary to achieve rescission and restitution to establish status quo ante with regard to the exchange authorized in section 2 of this Act unless Koniag and the Secretary mutually agree to the identity of other consideration to be granted to Koniag, which consideration shall have a value equal to the value of those lands, the title to which is in the State of Alaska or mutually agree to extend the six month period.

**SEC. 6. RESTRICTIONS AND LIMITATIONS.**

16 USC 668dd note.

In order to protect the United States Coast Guard Holiday Beach receiver site, the lands to be conveyed to Koniag under subsection 2(b) of this Act shall be subject to the same restrictions and limitations on their use as are the adjacent lands which were conveyed to Koniag subject to the agreement dated December 9, 1977, between the Commandant of the United States Coast Guard and Koniag. Such restrictions and limitations shall be considered in determining the fair market value of the lands under section 3 of this Act.

Approved November 21, 1990.

LEGISLATIVE HISTORY—H.R. 5264:

HOUSE REPORTS: No. 101-703, Pt. 1 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed House.
Oct. 27, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 21, Presidential statement.