

Public Law 102-489
102d Congress

An Act

Oct. 24, 1992
[H.R. 3638]

Making technical amendments to the law which authorizes wildlife modification of the boundaries of the Alaska Maritime National Wildlife Refuge.

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

Koniag Lands
Conveyance
Amendments of
1991.
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note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Koniag Lands Conveyance Amendments of 1991".

SEC. 2. DEFINITIONS.

Section 1 of the Act entitled "An Act to authorize modification of the boundaries of the Alaska National Wildlife Refuge (Public Law 101-622; hereinafter in this Act referred to as the 'Boundary Act') is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (4), and (5), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

"(1) 'Identified lands' means lands (including improvements, surface rights, and subsurface rights) designated as Tracts 1, 2, and 3 upon the map entitled 'Koniag Land Exchange,' dated September 4, 1990, and available for inspection in appropriate offices of the United States Fish and Wildlife Service;"; and

(3) by inserting after paragraph (2), as redesignated, the following:

"(3) 'Koniag Lands' means approximately 209 acres of lands (including improvements, surface rights, and subsurface rights to land) on Kodiak Island, Alaska, designated as 'Koniag Lands' on the maps referred to in paragraph (1)."

SEC. 3. LANDS TO BE EXCHANGED.

(a) LANDS EXCHANGED TO THE UNITED STATES.—Section 2(a) of the Boundary Act is amended to read as follows:

"(a) LANDS EXCHANGED TO THE UNITED STATES.—(1) If after a final value is assigned to the Identified lands and to the Koniag Lands, Koniag expresses to the Secretary in writing the intent of Koniag to enter into a land exchange with the United States, then the Secretary shall accept from Koniag a conveyance by limited general warranty deed of the Koniag Lands.

"(2) A value shall be a final value for purposes of paragraph (1) if—

"(A) the Secretary has assigned a value to the Identified lands and the Koniag Lands in accordance with section 3; and

"(B) either—

"(i) Koniag has expressed in writing its intent to forego judicial review under chapter 7 of title 5, United States Code, of the value assigned by the Secretary;

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“(ii) the time limit for filing a petition for judicial review under that chapter has expired and no petition has been filed; or

“(iii) a final determination on any such petition is issued.

“(3) For purposes of this subsection, a determination is final only if all rights to appeal the determination, or to request a review, rehearing, or redetermination of the matter that is the subject of the determination, have been exhausted or have lapsed.

“(4) The Koniag Lands shall be included in the Alaska Maritime National Wildlife Refuge as of the date of the acceptance of the conveyance of those lands from Koniag.”

(b) LANDS EXCHANGED TO KONIAG.—Section 2(b) of the Boundary Act is amended to read as follows:

“(b) LANDS EXCHANGED TO KONIAG.—In exchange for the Koniag Lands conveyed under subsection (a)(1), the Secretary shall, subject to valid existing rights and notwithstanding any other provision of law, convey to Koniag from within the Identified lands, land selected by Koniag with a total assigned value, as determined in accordance with section 3, equal to the sum of the value of the Koniag Lands, plus one-half of the cost of all appraisals performed under section 3. Such conveyance shall be by quitclaim deed, based upon a metes and bounds description of the land to be conveyed.”

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SEC. 4. ASSIGNMENT OF VALUES.

(a) APPRAISALS.—Section 3(a) of the Boundary Act is amended to read as follows:

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“(a) APPRAISALS.—(1) Not later than 60 days after the date of the enactment of the Koniag Lands Conveyance Amendments of 1991, the Secretary and Koniag shall each select an appraiser who shall independently perform an appraisal of the fair market value of the Koniag Lands and of the Identified lands.

“(2) Each appraiser selected under paragraph (1)—

“(A) shall be a member of or certified by the Appraisal Foundation, and

“(B) shall have a professional designation compatible with the valuation to be performed.

“(3) Appraisals under this subsection shall be performed in conformity with the standards of the Appraisal Foundation. Any special instruction regarding the performance of the appraisals shall be issued only upon the mutual agreement of Koniag and the Secretary.

“(4)(A) Koniag shall bear the cost of all such appraisals, but shall be reimbursed by the United States for one-half of such costs—

“(i) in land, in accordance with subsection (b)(2), or

“(ii) in accordance with subparagraph (B).

“(B) The Secretary shall pay to Koniag an amount equal to one-half of the costs of appraisals performed pursuant to this section, if—

“(i) the values assigned by the Secretary pursuant to subsection (c) are different than—

“(I) the values determined by the review appraiser pursuant to subsection (b)(2), or

“(II) the average of the values assigned to the respective lands by the appraisers if no review appraiser is required to be selected, and

“(ii) Koniag elects not to consummate the exchange.”.

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(b) **DIFFERENCES IN APPRAISALS.**—Section 3(b) of the Boundary Act is amended to read as follows:

“(b) **DIFFERENCES IN APPRAISALS.**—(1) If the appraisals conducted under subsection (a) for tracts of the Koniag Lands or of the Identified lands differ by less than 20 percent in their assignment of values to particular tracts of those lands, then both appraisals for those particular tracts shall be submitted to the Secretary.

“(2)(A) In the event that the appraisals conducted under subsection (a) for tracts of the Koniag Lands or of the Identified lands differ by more than 20 percent in their assignment of values to particular tracts of those lands, then the Secretary and Koniag shall jointly select a third appraiser who meets the requirements of section 3(a)(2).

“(B) Such appraiser shall review the previously conducted appraisals for those tracts of land with appraisals differing by more than 20 percent, and shall assign values to those tracts, giving due consideration to the values set by the other 2 appraisers.

“(C) Such appraiser shall then submit all 3 appraisals for those tracts to the Secretary.”.

(c) **TECHNICAL AMENDMENTS.**—The heading for section 3 of the Boundary Act is amended to read as follows:

“**SEC. 3. ASSIGNMENT OF LAND VALUES.**”.

(d) **ASSIGNMENT OF VALUE BY SECRETARY.**—Section 3 of the Boundary Act is amended by adding at the end the following:

“(c) After considering the appraisals submitted to the Secretary, the Secretary shall assign values, as appropriate, to tracts of the Koniag Lands and to the Identified lands. This assignment of value shall be considered a final agency action for purposes of judicial review under chapter 7 of title 5, United States Code.”.

SEC. 5. TIMING.

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(a) **CONVEYANCE BY KONIAG.**—Section 4(c) of the Boundary Act is amended to read as follows:

“(c) **CONVEYANCE BY KONIAG.**—Koniag shall have 180 days after the date the values are final under section 2(a)(2) in order to notify the Secretary of its intent to enter into the exchange and convey to the Secretary the Koniag Lands and to deliver to the Secretary a technically correct description of the lands to be con-

veyed to Koniag under section 2(b). The Secretary may extend such time for good cause.”.

(b) **TECHNICAL AMENDMENT.**—Section 4(d) of the Boundary Act is amended by striking “them” in the first sentence and inserting “Koniag”.

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Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 3638:

HOUSE REPORTS: No. 102-350 (Comm. on Merchant Marine and Fisheries).

SENATE REPORTS: No. 102-467 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 137 (1991): Nov. 23, 26, considered and passed House.

Vol. 138 (1992): Oct. 7, considered and passed Senate.