

106TH CONGRESS
1ST SESSION

S. 1686

To provide for the conveyances of land interests to Chugach Alaska Corporation to fulfill the intent, purpose, and promise of the Alaska Native Claims Settlement Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 5, 1999

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

A BILL

To provide for the conveyances of land interests to Chugach Alaska Corporation to fulfill the intent, purpose, and promise of the Alaska Native Claims Settlement Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Chugach Alaska Na-
5 tives Settlement Implementation Act of 1999”.

6 **SEC. 2. DEFINITIONS.**

7 For the purposes of this Act, the following definitions
8 apply:

1 (1) The term “ANCSA” means the Alaska Na-
2 tive Claims Settlement Act, as amended (43 U.S.C.
3 1601 et seq.).

4 (2) The term “ANILCA” means the Alaska
5 National Interest Lands Conservation Act of 1980,
6 as amended (16 U.S.C. 3101 et seq.).

7 **TITLE I—EASEMENT FOR**
8 **ACCESS**

9 **SEC. 101. FINDINGS.**

10 The Congress finds that—

11 (1) Chugach Alaska Corporation, formerly
12 known as Chugach Natives, Inc., is the Alaska Na-
13 tive Regional Corporation organized under the au-
14 thority of ANCSA for the Chugach people in the
15 Chugach region;

16 (2) ANCSA promised the Chugach people a fair
17 and just settlement of their aboriginal claims to
18 lands and waters in Alaska;

19 (3) pursuant to section 1430 of ANILCA, the
20 Secretary of the Interior, the Secretary of Agri-
21 culture, the State of Alaska, and Chugach Alaska
22 Corporation were directed to study land ownership
23 in and around the Chugach region for the purposes
24 of—

1 (A) providing a fair and just land settle-
2 ment for the Chugach people and realizing the
3 intent, purpose, and promise of ANCSA by
4 Chugach Alaska Corporation; and

5 (B) identifying lands that, to the maximum
6 extent possible, are of the like, kind, and char-
7 acter of those traditionally used and occupied
8 by the Chugach people, and, to the maximum
9 extent possible, are coastal accessible and eco-
10 nomically viable;

11 (4) on September 17, 1982, the aforementioned
12 parties entered into the 1982 Chugach Natives, Inc.
13 Settlement Agreement in order to set forth a fair
14 and just land settlement for the Chugach people
15 pursuant to the study directed by Congress, which
16 among its many provisions—

17 (A) required the United States to convey
18 to Chugach Alaska Corporation not more than
19 73,308 acres of land in the vicinity of Carbon
20 Mountain, which tract of land contains signifi-
21 cant natural resources, but is inaccessible by
22 road;

23 (B) granted Chugach Alaska Corporation
24 rights-of-way across Chugach National Forest
25 to such tract of land, and required the United

1 States to grant to Chugach Alaska Corporation
2 an easement for the purpose of constructing,
3 using, and maintaining roads and other facili-
4 ties necessary for the use and development of
5 that tract of land;

6 (C) required Chugach Alaska Corporation
7 to apply to the Forest Supervisor for Chugach
8 National Forest for conveyance of the ease-
9 ment, and to provide such information as may
10 be prescribed by the Forest Supervisor; and

11 (D) reserved in the United States the right
12 to prepare environmental documents in connec-
13 tion with the easement grant, consistent with
14 the provisions of section 910 of ANILCA, if
15 deemed desirable by the responsible Federal
16 agency;

17 (5) on September 11, 1996, the Forest Super-
18 visor deemed preparation of environmental docu-
19 ments for the easement desirable;

20 (6) on August 8, 1997, and January 21, 1998,
21 Chugach Alaska Corporation and the United States
22 Forest Service entered into collection agreements,
23 pursuant to which Chugach Alaska Corporation was
24 required to pay to the United States Forest Service
25 the costs of United States Forest Service personnel

1 involvement in the preparation and review of envi-
2 ronmental documents and processing of the ease-
3 ment application;

4 (7) on March 13, 1998, Chugach Alaska Cor-
5 poration and the United States Forest Service en-
6 tered into a Memorandum of Understanding, pursu-
7 ant to which the parties reached agreement on—

8 (A) the information prescribed by the For-
9 est Supervisor, in a detailed work plan prepared
10 jointly by United States Forest Service and
11 Chugach Alaska Corporation representatives;

12 (B) the process for the preparation and
13 approval of environmental documentation in
14 support of the easement; and

15 (C) the requirement that the United States
16 Forest Service grant an easement to Chugach
17 Alaska Corporation within 45 days after receiv-
18 ing a complete easement application from Chu-
19 gach Alaska Corporation;

20 (8) in furtherance of providing the environ-
21 mental documentation prescribed by the Forest Su-
22 pervisor, Chugach Alaska Corporation, at its sole
23 expense—

24 (A) contracted for the performance of field
25 surveys and the preparation of resource reports

1 on the cultural resources, wetlands, threatened,
2 endangered, and sensitive plant and animal spe-
3 cies, vegetation, and fish and wildlife in the
4 easement project area, as depicted on the map
5 entitled “Project Area and Corridor Carbon
6 Mountain Access project 1–14–98”;

7 (B) submitted the resource reports to the
8 United States Forest Service for review and
9 comment, and contracted for further field sur-
10 veys and reports as and when requested by the
11 United States Forest Service;

12 (C) in conjunction with United States For-
13 est Service biologists, contracted for the per-
14 formance of field surveys and the preparation of
15 reports for waterfowl, goshawk, and goat kid-
16 ding areas in the easement project area;

17 (D) contracted for the preparation of
18 bridge designs and hydrological analyses for
19 major crossings within the easement project
20 area, submitted such designs and analyses to
21 the United States Forest Service for review and
22 comment, and modified such designs pursuant
23 to comments received from United States For-
24 est Service specialists;

1 (E) prepared a transportation plan for the
2 easement and road, including maintenance and
3 design standards and an erosion control plan,
4 for review by United States Forest Service engi-
5 neers and specialists; and

6 (F) contracted for the preparation of a
7 draft road design for field and office review by
8 United States Forest Service engineers and spe-
9 cialists, and for the modification of such design
10 pursuant to comments received by the United
11 States Forest Service;

12 (9) in June 1998, an interdisciplinary team of
13 specialists in the fields of fisheries, hydrology, engi-
14 neering, soils, wildlife, recreation, and visual quality
15 from the United States Forest Service and Chugach
16 Alaska Corporation and its contractors conducted an
17 extensive field review of the easement corridor and
18 road location, the costs of which were borne by Chu-
19 gach Alaska Corporation, and United States Forest
20 Service specialists concurred with Chugach Alaska
21 Corporation on the location of the easement cor-
22 ridor;

23 (10) following the interdisciplinary team review
24 and concurrence, United States Forest Service staff
25 officers, including the Forest Supervisor for the

1 Chugach National Forest, conducted a field review
2 of the road location and affirmed such concurrence;

3 (11) on January 12, 1999, the Forest Super-
4 visor determined that Chugach Alaska Corporation
5 had completed all studies and provided adequate
6 documentation to support its easement application;

7 (12) on January 19, 1999, Chugach Alaska
8 Corporation submitted the complete easement appli-
9 cation, containing all information prescribed by the
10 Forest Supervisor, in a multivolume collection of the
11 extensive field work, reviews, reports, analyses, and
12 modifications performed and relied upon in support
13 of the easement, and entitled “Documentation in
14 Support of an Easement Application for Road Ac-
15 cess Via the Martin River Valley to the Bering River
16 Coal Fields as Granted by the 1982 CNI Settlement
17 Agreement”;

18 (13) to date, the United States Forest Service
19 has failed to grant Chugach Alaska Corporation an
20 easement for access to its lands in the vicinity of
21 Carbon Mountain;

22 (14) without such easement, the lands conveyed
23 to Chugach Alaska Corporation in the vicinity of
24 Carbon Mountain cannot be utilized or developed in

1 a manner consistent with the intent of Congress as
2 expressed in the ANILCA and ANCSA;

3 (15) Chugach Alaska Corporation has incurred
4 considerable expense and delay in its efforts to
5 achieve the fair and just settlement Congress in-
6 tended and promised to the Chugach people more
7 than 2 decades ago pursuant to ANCSA; and

8 (16) the easement requirement under the 1982
9 Chugach Natives, Inc. Settlement Agreement should
10 be granted without further delay.

11 **SEC. 102. PURPOSE.**

12 The purpose of this title is to provide Chugach Alaska
13 Corporation with access to and for the utilization and de-
14 velopment of land interests in the vicinity of Carbon
15 Mountain that were conveyed to Chugach Alaska Corpora-
16 tion pursuant to ANCSA.

17 **SEC. 103. CONVEYANCE.**

18 Notwithstanding any other provisions of law, as soon
19 as practicable but not later than 90 days after the date
20 of the enactment of this title, the Secretary of Agriculture
21 shall grant Chugach Alaska Corporation a perpetual ease-
22 ment located and having the specifications as set forth in
23 the “Documentation in Support of an Easement Applica-
24 tion for Road Access Via the Martin River Valley to the
25 Bering River Coal Fields as Granted by the 1982 CNI

1 Settlement Agreement”, for the purposes of facilities de-
2 scribed therein.

3 **SEC. 104. EASEMENT.**

4 Unless otherwise agreed to by the Secretary of Agri-
5 culture and Chugach Alaska Corporation, the easement
6 granted under section 103 of this title shall—

7 (1) include sufficient lands for logistical staging
8 areas and construction material sites used for the
9 construction and maintenance of a single-lane forest
10 road; and

11 (2) include the right for Chugach Alaska Cor-
12 poration, or its assignees to construct, operate, and
13 maintain related facilities and structures within the
14 right-of-way.

15 **SEC. 105. TRANSFER.**

16 If within 6 months from the date of the enactment
17 of this title the Secretary of Agriculture and Chugach
18 Alaska Corporation fail mutually to agree on the terms
19 and conditions of the use of the easement, then the ease-
20 ment is hereby granted to Chugach Alaska Corporation,
21 and such grant shall be deemed as a conveyance pursuant
22 to ANCSA.

1 **TITLE II—CEMETERY SITES AND**
2 **HISTORIC PLACES**

3 **SEC. 201. DEFINITIONS.**

4 For the purposes of this title, the following defini-
5 tions apply:

6 (1) The term “Federal Government” means any
7 Federal agency of the United States .

8 (2) The term “Secretary” means the Secretary
9 of the Interior.

10 **SEC. 202. FINDINGS.**

11 The Congress finds the following:

12 (1) Pursuant to section 14(h)(1) of ANCSA,
13 the Secretary has the authority to withdraw and
14 convey to the appropriate regional corporation fee
15 title to existing cemetery sites and historical places.

16 (2) Pursuant to section 14(h)(7) of ANCSA,
17 lands located within a National Forest may be con-
18 veyed for the purposes set forth in section 14(h)(1)
19 of ANCSA.

20 (3) Chugach Alaska Corporation, the Alaska
21 Native Regional Corporation for the Chugach Re-
22 gion, applied to the Secretary for the conveyance of
23 cemetery sites and historical places pursuant to sec-
24 tion 14(h)(1) of ANCSA in accordance with the reg-
25 ulations promulgated by the Secretary.

1 (4) Pursuant to such regulations, Village Cor-
2 poration selections were given priority over Regional
3 Corporation selections for the same lands.

4 (5) Chugach Alaska Corporation's section
5 14(h)(1) applications for lands that were selected by
6 and conveyed to Village Corporations in the Chugach
7 Region were either withdrawn by Chugach Alaska
8 Corporation or denied by the Secretary.

9 (6) As part of the Exxon Valdez Oil Spill Res-
10 toration Program, the Federal Government has ac-
11 quired and is in the process of acquiring lands from
12 Village Corporations in the Chugach Region that
13 Chugach Alaska Corporation applied for pursuant to
14 section 14(h)(1) of ANCSA and lands from other
15 private parties in the Chugach Region that contain
16 cemetery sites and historical places.

17 (7) The fulfillment of the intent, purpose, and
18 promise of ANCSA requires that lands Chugach
19 Alaska Corporation selected or would have selected
20 under section 14(h)(1) of ANCSA and that were
21 subsequently acquired by the Federal Government
22 should be made available for conveyance to Chugach
23 Alaska Corporation as cemetery sites and historical
24 places pursuant to section 14(h)(1) of ANCSA, sub-
25 ject only to a determination that such lands meet

1 the eligibility criteria for historical places or ceme-
2 tery sites, as appropriate, set forth in the Sec-
3 retary's regulations.

4 **SEC. 203. WITHDRAWAL OF LANDS.**

5 Notwithstanding any other provision of law, the Sec-
6 retary shall withdraw from all forms of appropriation—

7 (1) all public lands for which Chugach Alaska
8 Corporation filed an application for conveyance pur-
9 suant to section 14(h)(1) of ANCSA as a cemetery
10 site or an historical place, and such application was
11 denied because the land was selected by and con-
12 veyed to a Village Corporation; and

13 (2) all lands that the Federal Government ac-
14 quired or hereafter acquires from Village Corpora-
15 tions or other private parties in the Chugach Region
16 in connection with the Exxon Valdez Oil Spill Res-
17 toration Program.

18 **SEC. 204. APPLICATION FOR CONVEYANCE OF WITHDRAWN**
19 **LANDS.**

20 Chugach Alaska Corporation shall apply to the Sec-
21 retary for the conveyance of lands as cemetery sites or
22 historical places under section 14(h)(1) of ANCSA as fol-
23 lows:

24 (1) With respect to lands withdrawn pursuant
25 to subsection 203(1) of this title, by filing with the

1 Secretary a request for reinstatement of its original
2 application, together with any amendments author-
3 ized under section 205 of this title.

4 (2) With respect to lands withdrawn pursuant
5 to subsection 203(2) of this title, for which Chugach
6 Alaska Corporation has not filed an application
7 under section 14(h)(1) of ANCSA with the Sec-
8 retary, by filing with the Secretary an application in
9 accordance with the regulations promulgated by the
10 Secretary as of the date of enactment of this title.
11 The Secretary shall accept all such requests filed within
12 the periods set forth in section 207 of this title.

13 **SEC. 205. AMENDMENTS.**

14 Chugach Alaska Corporation may amend original ap-
15 plications filed with the Secretary for the conveyance of
16 lands pursuant to section 14(h)(1) of ANCSA—

17 (1) to include lands withdrawn pursuant to sec-
18 tion 203 of this title which are adjacent to lands
19 Chugach Alaska Corporation selected in its original
20 application and that Chugach Alaska Corporation
21 deems culturally important and potentially eligible as
22 a cemetery site or historical place; and

23 (2) to cure technical defects.

1 **SEC. 206. PROCEDURE FOR EVALUATING AND CONVEYING**
2 **SELECTED LANDS.**

3 The lands selected by Chugach Alaska Corporation
4 pursuant to sections 204 and 205 of this title shall be
5 evaluated for their eligibility as cemetery sites and histor-
6 ical places, as appropriate, and conveyed to Chugach Alas-
7 ka Corporation, in accordance with the criteria and proce-
8 dures set forth in the regulations promulgated by the Sec-
9 retary as of the date of the enactment of this title. To
10 the extent that such criteria and procedures conflict with
11 any provision of this title, the provisions of this title shall
12 control.

13 **SEC. 207. REINSTATEMENT PERIOD.**

14 Notwithstanding any other provision of law, Chugach
15 Alaska Corporation shall have—

16 (1) 1 year from the date of enactment of this
17 title to file a request for reinstatement under sub-
18 section 204(1) of this title, together with any
19 amendments authorized under section 205 of this
20 title; and

21 (2) 4 years from the date of recording the con-
22 veyance document for any Federal acquisition of
23 lands to file an application under subsection 204(2)
24 of this title.

1 **SEC. 208. APPLICABILITY.**

2 This title shall apply to all Federal acquisitions of
3 the lands described in section 203 of this title, whether
4 occurring prior to or after the date of enactment of this
5 title.

6 **TITLE III—FOREST SYSTEM**
7 **LAND MANAGEMENT**

8 **SEC. 301. DEFINITION.**

9 For the purposes of this title, the term “Alaska Na-
10 tive Corporation” means a “Native Corporation” as that
11 term is defined in section 3(m) of ANCSA, as amended
12 (43 U.S.C. 1601 et seq.).

13 **SEC. 302. FINDINGS.**

14 The Congress finds that—

15 (1) pursuant to ANCSA and ANILCA, Alaska Native
16 Corporations own hundreds of thousands of acres of land
17 intermingled with, adjacent to, or dependent for access
18 upon National Forest System lands in Alaska;

19 (2) the United States Forest Service, in a letter
20 dated June 30, 1998, to Chugach Alaska Corpora-
21 tion, the Alaska Native Regional Corporation for the
22 Chugach Region established under ANCSA, dis-
23 claimed any legal obligation to coordinate the revi-
24 sion of the Chugach National Forest land and re-
25 source management plan with the plans of Alaska

1 Native Corporations for the utilization of their lands
2 and resources;

3 (3) the uncoordinated development, mainte-
4 nance, or revision of land and resource management
5 plans for units of the National Forest System and
6 Alaska adversely affects the use, development, and
7 value of the lands and resources conveyed to Alaska
8 Native Corporations under ANCSA and ANILCA;
9 and

10 (4) the proper management of National Forest
11 System lands in Alaska and the fulfillment of the in-
12 tent, purpose, and promise of ANCSA require co-
13 ordination in the development, maintenance, and re-
14 vision of land and resource management plans for
15 units of the National Forest System in Alaska with
16 the plans of Alaska Native Corporations for the uti-
17 lization of their lands which are intermingled with,
18 adjacent to, or dependent upon for access National
19 Forest System lands.

20 **SEC. 303. COORDINATION REQUIRED.**

21 Notwithstanding any other provision of law, the Sec-
22 retary of Agriculture shall coordinate the development,
23 maintenance, and revision of land and resource manage-
24 ment plans for units of the National Forest System in
25 Alaska with the plans of Alaska Native Corporations for

1 the utilization of their lands which are intermingled with,
2 adjacent to, or dependent for access upon National Forest
3 System lands. At a minimum, such coordination shall
4 involve—

5 (1) notifying Alaska Native Corporations in ad-
6 vance of the development, maintenance, or revision
7 of a land and resource management plan for a unit
8 of the National Forest System in Alaska;

9 (2) meeting with Alaska Native Corporations at
10 the beginning of the plan preparation, maintenance,
11 or revision process to develop procedures for coordi-
12 nation;

13 (3) reviewing the plans of Alaska Native Cor-
14 porations for the utilization of their lands and re-
15 sources;

16 (4) assessing the impacts of Alaska Native Cor-
17 poration land use plans on National Forest land and
18 resource management planning, and determining
19 how to address those impacts; and

20 (5) identifying conflicts between National For-
21 est land and resource management plans and the
22 land use plans of Alaska Native Corporations, and
23 considering alternatives for resolving those conflicts.

1 **SEC. 304. APPLICABILITY.**

2 This title shall apply to all land and resource manage-
3 ment plans for units of the National Forest System in
4 Alaska—

5 (1) in the process of being developed or revised
6 on the date of enactment of this title; and

7 (2) developed, maintained, or revised after the
8 date of enactment of this title.

○