

LAND EXCHANGE BETWEEN AN ALASKAN NATIVE VILLAGE AND THE DEPARTMENT OF THE INTERIOR

The Senate proceeded to consider the bill (S. 924) to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 924

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

**SECTION 1. FINDINGS.**

[Congress finds that:

(1) The continued existence of the village of Newtok, Alaska is threatened by the eroding banks of the Ninglick River.

(2) A relocation of the village will become necessary for the health and safety of the residents of Newtok within the next 8 years.

(3) Lands previously conveyed to the Newtok Native Corporation contain habitat of high value for waterfowl.

(4) An opportunity exists for an exchange of lands between the Newtok Native Corporation and the Yukon Delta National Wildlife Refuge that would address the relocation needs of the village while enhancing the quality of waterfowl habitat within the boundaries of the Refuge.

(5) An exchange of lands between Newtok and the United States on an other than equal value basis pursuant to the terms of this Act is in the public interest.

**SECTION 2. DEFINITIONS.**

[For the purposes of this Act, the term—

(1) "ANCSA" means the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 et seq.);

(2) "ANILCA" means the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 410hh-3233, 43 U.S.C. 1602 et seq.);

(3) "Calista" means the Calista Corporation, an Alaska Native Regional Corporation established pursuant to ANCSA;

(4) "Identified Lands" means approximately 10,943 acres of lands (including surface and subsurface) designated as "Proposed Village Site" upon a map entitled "Proposed Newtok Exchange," dated September, 2002, and available for inspection in the Anchorage office of the United States Fish and Wildlife Service;

(5) "limited warranty deed" means a 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 Newtok to and including the moment at which such title is validly reconveyed to the United States of America and its assigns;

(6) "Newtok" means the Newtok Native Corporation, an Alaska Native Village Corporation established pursuant to ANCSA;

(7) "Newtok lands" means approximately 12,101 acres of surface estate comprising conveyed lands and selected lands identified as Aknerkochik on the map referred to in paragraph (4) and that surface estate selected by Newtok on Baird Inlet Island as shown on said map; and

(8) "Secretary" means the Secretary of the Interior.

**SECTION 3. LANDS TO BE EXCHANGED.**

(a) **LANDS EXCHANGED TO THE UNITED STATES.**—If, within 180 days after the date of

enactment of this Act, Newtok expresses to the Secretary in writing its intent to enter into a land exchange with the United States, the Secretary shall accept from Newtok a valid, unencumbered conveyance, by limited warranty deed, of the Newtok lands previously conveyed to Newtok. The Secretary shall also accept from Newtok a relinquishment of irrevocable prioritized selections for approximately 4,956 acres for those validly selected lands not yet conveyed to Newtok. The reconveyance of lands by Newtok to the United States and the prioritized, relinquished selections shall be 1.1 times the number of acres conveyed to Newtok under this Act. The number of acres reconveyed to the United States and the prioritized, relinquished selections shall be charged to the entitlement of Newtok.

(b) **LANDS EXCHANGED TO NEWTOK.**—In exchange for the Newtok lands conveyed and selections relinquished under subsection (a), the Secretary shall, subject to valid existing rights and notwithstanding section 14(f) of ANCSA, convey to Newtok the surface and subsurface estate of the Identified Lands. The conveyance shall be by interim conveyance. Subsequent to the interim conveyance, the Secretary shall survey the Identified Lands at no cost to Newtok and issue a patent to the Identified Lands subject to the provisions of ANCSA and this Act. At the time of survey the charge against Newtok's entitlement for acres conveyed or irrevocable priorities relinquished by Newtok may be adjusted to conform to the standard of 1.1 acres relinquished by Newtok for each one acre received.

**SECTION 4. CONVEYANCE.**

(a) **TIMING.**—The Secretary shall issue interim conveyances pursuant to subsection 3(b) at the earliest possible time after acceptance of the Newtok conveyance and relinquishment of selections under subsection 3(a).

(b) **RELATIONSHIP TO ANCSA.**—Lands conveyed to Newtok under this Act shall be deemed to have been conveyed under the provisions of ANCSA, except that the provisions of 14(c) of ANCSA shall not apply to these lands, and to the extent that section 22(g) of ANCSA would otherwise be applicable to these lands, the provisions of 22(g) of ANCSA shall also not apply to these lands. Consistent with section 103(c) of ANILCA, these lands shall not be deemed to be included as a portion of the Yukon National Wildlife Refuge and shall not be subject to regulations applicable solely to public lands within this Conservation System Unit.

(c) **EFFECT ON ENTITLEMENT.**—Nothing in this Act shall be construed to change the total acreage of land to which Newtok is entitled under ANCSA.

(d) **EFFECT ON NEWTOK LANDS.**—The Newtok Lands shall be included in the Yukon Delta National Wildlife Refuge as of the date of acceptance of the conveyance of those lands from Newtok, except that residents of the Village of Newtok, Alaska, shall retain access rights to subsistence resources on those public lands as guaranteed under ANILCA section 811 (16 U.S.C. 3121), and to subsistence uses, such as traditional subsistence fishing, hunting and gathering, consistent with ANILCA section 803 (16 U.S.C. 3113).

(e) **ADJUSTMENT TO CALISTA CORPORATION ANCSA ENTITLEMENT FOR RELINQUISHED NEWTOK SELECTIONS.**—To the extent that Calista subsurface rights are affected by this Act, Calista shall be entitled to an equivalent acreage of in-lieu subsurface entitlement for the Newtok selections relinquished in the exchange as set forth in subsection 3(a) of this Act. This additional entitlement shall come from subsurface lands already se-

lected by Calista, but which have not been conveyed. If Calista does not have sufficient subsurface selections to accommodate this additional entitlement, Calista Corporation is hereby authorized to make an additional in lieu selection for the deficient acreage.

(f) **ADJUSTMENT TO EXCHANGE.**—If requested by Newtok, the Secretary is authorized to consider and make adjustments to the original exchange to meet the purposes of this Act, subject to all the same terms and conditions of this Act. ]

**SECTION 1. DEFINITIONS.**

*For the purposes of this Act, the term:*

(1) "ANCSA" means the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(2) "ANILCA" means the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.);

(3) "Calista" means the Calista Corporation, an Alaska Native Regional Corporation established pursuant to ANCSA;

(4) "Identified Lands" means approximately 10,943 acres of lands (including surface and subsurface estates) designated as "Proposed Village Site" on a map entitled "Proposed Newtok Exchange," dated September, 2002, and available for inspection in the Anchorage office of the United States Fish and Wildlife Service;

(5) "limited warranty deed" means a 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 Newtok to and including the moment at which such title is validly reconveyed to the United States;

(6) "Newtok" means the Newtok Native Corporation, an Alaska Native Village Corporation established pursuant to ANCSA;

(7) "Newtok lands" means approximately 12,101 acres of surface estate comprising conveyed lands and selected lands identified as Aknerkochik on the map referred to in paragraph (4) and that surface estate selected by Newtok on Baird Inlet Island as shown on the map; and

(8) "Secretary" means the Secretary of the Interior.

**SECTION 2. LANDS TO BE EXCHANGED.**

(a) **LANDS EXCHANGED TO THE UNITED STATES.**—If, within 180 days after the date of enactment of this Act, Newtok expresses to the Secretary in writing its intent to enter into a land exchange with the United States, the Secretary shall accept from Newtok a valid, unencumbered conveyance, by limited warranty deed, of the Newtok lands previously conveyed to Newtok. The Secretary shall also accept from Newtok a relinquishment of irrevocable prioritized selections for approximately 4,956 acres for those validly selected lands not yet conveyed to Newtok.

(b) **LANDS EXCHANGED TO NEWTOK.**—In exchange for the Newtok lands conveyed and selections relinquished under subsection (a), the Secretary shall, subject to valid existing rights and notwithstanding section 14(f) of ANCSA, convey to Newtok the surface and subsurface estates of the Identified Lands. The conveyance shall be by interim conveyance. Subsequent to the interim conveyance, the Secretary shall survey identified lands at no cost to Newtok and issue a patent to the Identified Lands subject to the provisions of ANCSA and this Act.

**SECTION 3. CONVEYANCE.**

(a) **TIMING.**—The Secretary shall issue interim conveyances pursuant to subsection 2(b) at the earliest possible time after acceptance of the Newtok conveyance and relinquishment of selections under subsection 2(a).

(b) **RELATIONSHIP TO ANCSA.**—Lands conveyed to Newtok under this Act shall be treated as having been conveyed under the provisions of ANCSA, except that the provisions of 14(c) and 22g of ANCSA shall not apply to these lands. Consistent with section 103(c) of ANILCA, these lands shall not be included as a portion of the

*Yukon Delta National Wildlife Refuge and shall not be subject to regulations applicable solely to public lands within this Conservation System Unit.*

(c) *EFFECT ON ENTITLEMENT.—Except as otherwise provided, nothing in this Act shall be construed to change the total acreage of land to which Newtok is entitled under ANCSA.*

(d) *EFFECT ON NEWTOK LANDS.—The Newtok Lands shall be included in the Yukon Delta National Wildlife Refuge as of the date of acceptance of the conveyance of those lands from Newtok, except that residents of the Village of Newtok, Alaska, shall retain access rights to subsistence resources on those Newtok lands as guaranteed under section 811 of ANILCA (16 U.S.C. 3121), and to subsistence uses, such as traditional subsistence fishing, hunting and gathering, consistent with section 803 of ANILCA (16 U.S.C. 3113).*

(e) *ADJUSTMENT TO CALISTA CORPORATION ANCSA ENTITLEMENT FOR RELINQUISHED NEWTOK SELECTIONS.—To the extent that Calista subsurface rights are affected by this Act, Calista shall be entitled to an equivalent acreage of in lieu subsurface entitlement for the Newtok selections relinquished in the exchange as set forth in subsection 2(a) of this Act. This equivalent entitlement shall come from subsurface lands already selected by Calista, but which have not been conveyed. If Calista does not have sufficient subsurface selections to accommodate this additional entitlement, Calista Corporation is hereby authorized to make an additional in lieu selection for the deficient acreage from lands within the region but outside any conservation system unit.*

(f) *ADJUSTMENT TO EXCHANGE.—If requested by Newtok, the Secretary may consider and make adjustments to the exchange to meet the purposes of this Act, subject to all the same terms and conditions of this Act.*

The committee amendment, in the nature of a substitute, was agreed to.

The bill (S. 924), as amended, was read the third time and passed.

#### VIETNAM VETERANS MEMORIAL EDUCATION CENTER

The Senate proceeded to consider the bill (S. 1076) to authorize construction of an education center at or near the Vietnam Veterans Memorial, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 1076

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

#### **[SECTION 1. SHORT TITLE.**

This Act may be cited as the "Vietnam Veterans Memorial Education Center Act".

#### **[SEC. 2. VIETNAM VETERANS MEMORIAL EDUCATION CENTER.**

[Public Law 96-297 (16 U.S.C. 431 note) is amended by adding at the end the following:

#### **["SEC. 6. EDUCATION CENTER.**

["(a) **AUTHORIZATION.**—(1) The Vietnam Veterans Memorial Fund, Inc., is authorized to construct an education center at or near the Vietnam Veterans Memorial site, subject to the provisions of this section, in order to better inform and educate the public about the Vietnam Veterans Memorial.

["(2) The education center may be located above ground or underground, as determined through the approval process set forth under

chapter 89 of title 40, United States Code, and this section.

["(3) As used in this section, the term 'education center' or 'center' means a building or other structure approved in accordance with chapter 89 of title 40, United States Code, and this section.

["(b) **APPLICABLE LAW.**—(1) Chapter 89 of title 40, United States Code, shall apply to the education center, and the center shall be considered a commemorative work for the purposes of that Act, except that—

["(A) final approval of the education center shall not be withheld; and

["(B) the provisions of section 8908(b)(1) of title 40, United States Code, requiring approval by law for the location of a commemorative work within Area I, shall not apply.

["(2) The size of the education center shall be limited to the minimum necessary—

["(A) to provide for appropriate educational and interpretive functions; and

["(B) to prevent interference or encroachment on the Vietnam Veterans Memorial and to protect open space and visual sightlines on the Mall.

["(3) The education center shall be constructed and landscaped in a manner harmonious with the site of the Vietnam Veterans Memorial, consistent with the special nature and sanctity of the Mall.

["(c) **OPERATION AND MAINTENANCE.**—(1) The education center shall be operated and maintained by the Secretary of the Interior.

["(2) This subsection does not waive section 8906(b) of title 40, United States Code (requiring the donation of funds to offset the costs of perpetual maintenance and preservation of the commemorative work).

["(d) **FUNDING.**—All funds required for the planning, design, and construction of the education center shall be provided by the Vietnam Veterans Memorial Fund, Inc. No Federal funds shall be used for the planning, design, or construction of the center." ]

#### **TITLE I—VIETNAM VETERANS MEMORIAL EDUCATION CENTER**

#### **SEC. 101. EDUCATION CENTER.**

*Public Law 96-297, as amended (16 U.S.C. 431 note), is further amended by adding at the end thereof the following:*

#### *"SEC. 6. EDUCATION CENTER.*

#### *"(a) AUTHORIZATION.—*

*"(1) The Vietnam Veterans Memorial Fund, Inc., is authorized to construct an education center at or near the Vietnam Veterans Memorial site, subject to the provisions of this section, in order to better inform and educate the public about the Vietnam Veterans Memorial.*

*"(2) The education center may be located above ground or underground, as determined through the approval process set forth under the Commemorative Works Act and this Act.*

*"(3) As used in this section, the term 'education center' or 'center' means a building or other structure approved in accordance with chapter 89 of title 40, United States Code (commonly referred to as the 'Commemorative Works Act') and this section.*

*"(b) APPLICATION OF COMMEMORATIVE WORKS ACT.—*

*"(1) The Commemorative Works Act (chapter 89 of title 40, United States Code) shall apply to the education center, and the center shall be considered a commemorative work for the purposes of that Act, except that—*

*"(A) final approval of the education center shall not be withheld; and*

*"(B) the provisions of section 8908(b) of title 40, United States Code, requiring approval by law for the location of a commemorative work within Area I, shall not apply.*

*"(2) Notwithstanding section 8908(c) of title 40, United States Code (as added by the Commemorative Works Clarification and Revision Act of 2003), the designation of the Reserve shall*

*not preclude the approval of a site for the education center within such area.*

*"(3) Section 8905(b)(5) of title 40, United States Code (as added by the Commemorative Works Clarification and Revision Act of 2003), prohibiting the authorization of a commemorative work primarily designed as a museum on lands under the jurisdiction of the Secretary of the Interior within Area I or East Potomac Park, shall not be construed to deny approval of the education center.*

*"(4) The size of the education center shall be limited to the minimum necessary—*

*"(A) to provide for appropriate educational and interpretive functions; and*

*"(B) to prevent interference or encroachment on the Vietnam Veterans Memorial and to protect open space and visual sightlines on the Mall.*

*"(5) The education center shall be constructed and landscaped in a manner harmonious with the site of the Vietnam Veterans Memorial, consistent with the special nature and sanctity of the Mall.*

#### *"(c) OPERATION AND MAINTENANCE.—*

*"(1) The education center shall be operated and maintained by the Secretary of the Interior.*

*"(2) This subsection does not waive section 8906(b) of title 40, United States Code (as amended by the Commemorative Works Clarification and Revision Act of 2003), requiring the donation of funds to offset the costs of perpetual maintenance and preservation of the commemorative work.*

*"(d) FUNDING.—All funds required for the planning, design and construction of the education center shall be provided by the Vietnam Veterans Memorial Fund, Inc. No Federal funds shall be used for the planning, design, or construction of the center."*

#### **TITLE II—COMMEMORATIVE WORKS ACT AMENDMENTS**

#### **SEC. 201. SHORT TITLE.**

*This title may be cited as the "Commemorative Works Clarification and Revision Act of 2003".*

#### **SEC. 202. ESTABLISHMENT OF RESERVE.**

*Section 8908 of title 40, United States Code, is amended by adding at the end the following:*

*"(c) RESERVE.—After the date of enactment of the Commemorative Works Clarification and Revision Act of 2003, no commemorative work shall be located within the Reserve."*

#### **SEC. 203. CLARIFYING AND CONFORMING AMENDMENTS.**

(a) **PURPOSES.**—Section 8901(2) of title 40, United States Code, is amended by striking "Columbia;" and inserting "Columbia and its environs, and to encourage the location of commemorative works within the urban fabric of the District of Columbia;"

(b) **DEFINITIONS.**—Section 8902(a) of title 40, United States Code, is amended to read as follows:

"(a) **DEFINITIONS.**—In this chapter, the following definitions apply—

"(1) the term 'commemorative work' means any statue, monument, sculpture, memorial, plaque, inscription, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual, group, event or other significant element of American history, except that the term does not include any such item which is located within the interior of a structure or a structure which is primarily used for other purposes;

"(2) the term 'sponsor' means a public agency, and an individual, group or organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, and which is authorized by Congress to establish a commemorative work in the District of Columbia and its environs;

"(3) the term 'Reserve' means the great cross-axis of the Mall, which generally extends from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson