

Public Law 99-96
99th Congress

An Act

Sept. 25, 1985

[S. 444]

To amend the Alaska Native Claims Settlement Act.

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

SECTION 1. The Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C. 1601-28), as amended, is further amended by adding at the end thereof the following new sections:

43 USC 1629.

"SEC. 34. (a) For purposes of this section the following terms shall have the following meanings:

"(1) the term 'The Agreement' or 'Agreement' means the agreement entitled 'Terms and Conditions Governing Legislative Land Consolidation and Exchange between NANA Regional Corporation, Inc., and the United States' executed by the Secretary of the Interior and the President of NANA Regional Corporation, Inc., on January 31 and January 24, 1985, respectively.

"(2) the term 'transportation system' means the Red Dog Mine Transportation System described in Exhibit B of the Agreement.

Corporation.

"(3) the term 'NANA' means NANA Regional Corporation, Inc., a corporation formed for the Natives of Northwest Alaska pursuant to the provisions of this Act.

Public lands.

"(b) Except as otherwise provided by this section, the Secretary shall convey to NANA, in accordance with the terms and conditions set forth in the Agreement, lands and interests in lands specified in the Agreement in exchange for lands and interests in lands of NANA, specified in the Agreement, upon fulfillment by NANA of its obligations under the Agreement: *Provided, however,* That this modified exchange is accepted by NANA within 60 days of enactment.

Public lands.

"(c)(1) The Secretary shall convey to NANA, pursuant to the provisions of paragraph A(1) of the Agreement, the right, title and interest of the United States only in and to those lands designated as 'Amended A(1) Lands' on the map entitled 'Modified Cape Krusenstern Land Exchange', dated July 18, 1985. The charges to be made pursuant to paragraphs B(1) and D(27) of the Agreement against NANA's land entitlements under this Act shall be reduced by an amount equivalent to the difference between that acreage conveyed pursuant to this subsection and the acreage that would have been conveyed to NANA pursuant to paragraph A(1) of the Agreement but for this subsection.

"(2) Notwithstanding the provisions of paragraph A(3) of the Agreement, the Secretary shall not convey to NANA any right, title and interest of the United States in the lands described in such paragraph A(3) and the Secretary shall make no charge to NANA's remaining entitlements under this Act with respect to such lands. Such lands shall be retained in Federal ownership but shall be subject to the easement described in Exhibit D to the Agreement as

if the lands had been conveyed to NANA pursuant to paragraph A(3) of the Agreement.

"(d)(1) There is hereby granted to NANA an easement in and to the lands designated as 'Transportation System Lands' on the map entitled 'Modified Cape Krusenstern Land Exchange', dated July 18, 1985, for use in the construction, operation, maintenance, expansion and reclamation of the transportation system. Use of the easement for such purposes shall be subject only to the terms and conditions governing the construction, operation, maintenance, expansion and reclamation of the transportation system, as set forth in Exhibit B to the Agreement.

Transportation.

"(2) The easement granted pursuant to this section shall be for a term of 100 years. The easement shall terminate prior to the 100-year term:

"(i) if it is relinquished to the United States; or

"(ii) if construction of the transportation system has not commenced within 20 years of the enactment of this subsection. Computation of the 20-year period shall exclude periods when construction could not commence because of force majeure, act of God or order of a court; or

"(iii) upon completion of reclamation pursuant to the reclamation plan required by Exhibit B to the Agreement.

"(3) Within 90 days after enactment of this section the Secretary shall execute the necessary documents evidencing the grant to NANA of the easement granted by this section.

"(4) Except as regards the trail easement described in Exhibit D to the Agreement (to which the 'Transportation System Lands' shall be subject as if such lands had been conveyed to NANA pursuant to paragraph A(1) of the Agreement), access to the lands subject to the easement granted by this section shall be subject to such limitations, restrictions or conditions as may be imposed by NANA, its successors and assigns, but NANA and its successors and assigns shall permit representatives of the Secretary such access as the Secretary determines is necessary for the monitoring required by this section.

"(e) The easement granted by this section makes available land for the transportation system, and is intended to be sufficient to permit NANA to comply with the laws of the State of Alaska which may be necessary to secure financing of the construction of the transportation system and the operation, maintenance or expansion thereof by the State of Alaska or by the Alaska Industrial Development Authority.

State and local
governments.
Transportation.

"(f) The easement granted to NANA by this section may be reconveyed by NANA, but after any such reconveyance the terms and conditions specified in Exhibit B of the Agreement shall continue to apply in full to the easement.

"(g) NANA is hereby granted the right to use, develop and sell sand, gravel and related construction materials from borrow sites located within the easement granted pursuant to this section as required for the construction, operation, maintenance, expansion and reclamation of the transportation system, subject to the terms and conditions specified in Exhibit B of the Agreement.

"(h)(1) The construction, operation, maintenance, expansion and reclamation of any portion of the transportation system on any of the lands subject to the easement granted to NANA by this section shall be governed solely by the terms and conditions of the Agreement, including the procedural and substantive provisions of Exhibit B to the Agreement, as if the lands covered by the easement

Transportation.

granted to NANA by this section had been conveyed to NANA pursuant to paragraph A(1) of the Agreement.

"(2) The Secretary of the Interior, acting through the National Park Service, shall monitor the construction, operation, maintenance, expansion and reclamation of the transportation system, as provided in the Agreement. Any complaint by any person or entity that any aspect of the construction, operation, maintenance, expansion or reclamation of the portion of the transportation system on the lands subject to the easement granted to NANA by this section is not in accordance with the terms and conditions specified in the Agreement shall be made to the Secretary in writing. The Secretary shall review any such complaint and shall provide to NANA or its successors or assigns and to the complainant a decision in writing on the complaint within 90 days of receipt thereof. If the Secretary determines that the activity made the subject of a complaint is not in accordance with the terms specified in the Agreement, and NANA or its successors or assigns disagrees with that determination, the dispute shall be resolved according to the procedures established in Exhibit B to the Agreement.

"(i) The Secretary shall make available to NANA and its successors and assigns the right to use sand, gravel and related construction materials located in Sections 23, 24, 25, 26, 35 and 36 of Township 26 North, Range 24 West, Kateel River Meridian, Alaska, if the Secretary determines either (1) that use of such sand, gravel or related construction material is necessary because there is no other sand, gravel or related construction material reasonably available for the construction, operation, maintenance, expansion or reclamation of the transportation system; or (2) that use of such sand, gravel or related construction material is necessary in order to construct, operate, maintain, expand, or reclaim the transportation system in an environmentally sound manner, consistent with the requirements of Exhibit B of the Agreement. The right to use such sand, gravel and related construction material shall be subject to the terms and conditions of paragraph A of Exhibit B of the Agreement and such other reasonable terms and conditions as the Secretary may prescribe.

"(j) Notwithstanding paragraph D(23) of the Agreement, the Secretary shall not agree to any amendment to the Agreement without first consulting with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and shall transmit copies of the text of any amendment to the Agreement to those Committees at the time of his agreeing to any such amendment.

"SEC. 35. (a) The terms and conditions of this section are solely applicable to the lands described in paragraph A(1) of the Agreement, which is defined by section 34(a)(1) of this Act and modified by section 34, and shall not affect the relinquishment by NANA described in section B(1) of such Agreement.

"(b) NANA Regional Corporation, Inc. ('NANA'), may convey by quit-claim deed to the United States all of its interest in the surface and subsurface estate in any lands described in subsection (a) of this section: *Provided, however,* That NANA can relinquish only lands that are compact and contiguous to other public lands within the Krusenstern National Monument and, if the lands to be relinquished have been disturbed by NANA, the Secretary must first determine that such disturbance has not rendered the lands incompatible with Monument values. Whenever NANA executes a

43 USC 1629a.

Ante, p. 460.

National parks,
monuments, etc.
Public lands.

quit-claim deed pursuant to this section, it shall be entitled to designate and have conveyed to it any lands outside the boundaries of the Cape Krusenstern National Monument and any other conservation system unit, as established and defined by the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371, et seq.), covered by any of its pending selection applications filed under the entitlement provisions of either section 12(b), 12(c) or 14(h)(8) of this Act, as amended. Lands conveyed to NANA pursuant to this subsection shall be of a like estate and equal in acreage to that conveyed by NANA to the United States. The lands conveyed to NANA pursuant to this subsection shall be in exchange for the lands conveyed by NANA to the United States and there shall be no change in the charges previously made to NANA's land entitlements with respect to the lands conveyed by NANA to the United States. Lands received by NANA pursuant to this subsection are Settlement Act lands.

“(c) NANA may relinquish any interest it has under selection applications filed pursuant to this Act, as amended, in the surface and subsurface estate in lands described in subsection (a) of this section by formally withdrawing such application pursuant to this section: *Provided, however,* That NANA can relinquish only interests in lands that are compact and contiguous to other public lands within the Krusenstern National Monument and, if the lands have been disturbed by NANA, the Secretary must first determine that such disturbance has not rendered the lands incompatible with Monument values. Whenever NANA formally withdraws a selection application pursuant to this section, it shall be entitled to designate and have conveyed to it lands outside the boundaries of Cape Krusenstern National Monument and any other conservation system unit, as established and defined by the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371, et seq.) pursuant to any of its pending selection applications filed under either section 12(b), 12(c) or 14(h)(8) of this Act. Lands conveyed to NANA under this subsection shall be of a like estate and equal in acreage to the interest which NANA relinquished, and when the lands are conveyed to NANA, the conveyance shall be charged against the same entitlement of NANA as if the lands had been conveyed pursuant to the relinquished selection applications. Lands received by NANA pursuant to this subsection are Settlement Act lands.

“(d) The provisions of this section shall remain in effect only until December 18, 1991.

16 USC 3101
note.
43 USC 1611,
1613.

43 USC 1601
note.
National parks,
monuments, etc.
Public lands.

Effective date.

"(e) Nothing in this section shall be deemed to alter or amend in any way NANA's selection rights or to increase or diminish NANA's total entitlement to lands pursuant to this Act."

Approved September 25, 1985.

LEGISLATIVE HISTORY—S. 444 (H.R. 1092):

SENATE REPORT No. 99-97 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 131 (1985):

July 18, considered and passed Senate.

July 29, H.R. 1092 considered and passed House; S. 444, amended, passed in lieu.

Aug. 1, Senate concurred in House amendment with an amendment.

Sept. 12, House concurred in Senate amendment.