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S. 1889

To authorize the exchange of certain lands conveyed to the Kenai Natives Association pursuant to the Alaska Native Claims Settlement Act, to make adjustments to the National Wilderness System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 19, 1996

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

A BILL

To authorize the exchange of certain lands conveyed to the Kenai Natives Association pursuant to the Alaska Native Claims Settlement Act, to make adjustments to the National Wilderness System, 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 “Kenai Natives Associa-
5 tion Equity Act Amendments of 1996”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds the following:

1 (1) The United States Fish and Wildlife Service
2 and Kenai Natives Association, Inc., have agreed to
3 transfers of certain land rights, in and near the
4 Kenai National Wildlife Refuge, negotiated as di-
5 rected by Public Law 102–458.

6 (2) The lands to be acquired by the Service are
7 within the area impacted by the Exxon Valdez oil
8 spill of 1989, and these lands included important
9 habitat for various species of fish and wildlife for
10 which significant injury resulting from the spill has
11 been documented through the EVOS Trustee Coun-
12 cil restoration process. This analysis has indicated
13 that these lands generally have value for the restora-
14 tion of such injured natural resources as pink salm-
15 on, dolly varden, bald eagles, river otters, and cul-
16 tural and archaeological resources. This analysis has
17 also indicated that these lands generally have high
18 value for the restoration of injured species that rely
19 on these natural resources, including wilderness
20 quality, recreation, tourism, and subsistence

21 (3) Restoration of the injured species will bene-
22 fit from acquisition and the prevention of disturb-
23 ances which may adversely affect their recovery.

24 (4) It is in the public interest to complete the
25 conveyances provided for in this Act.

1 (b) PURPOSE.—The purpose of this Act is to author-
2 ize and direct the Secretary, at the election of KNA, to
3 complete the conveyances provided for in this Act.

4 **SEC. 3. DEFINITIONS.**

5 For purposes of this Act, the term—

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

8 (2) “ANILCA” means the Alaska National In-
9 terest Lands Conservation Act (Public Law 96–487;
10 94 Stat. 2371 et seq.);

11 (3) “conservation system unit” has the same
12 meaning as in section 102(4) of ANILCA (16
13 U.S.C. 3102(4));

14 (4) “CIRI” means the Cook Inlet Region, Inc.,
15 a Native Regional Corporation incorporated in the
16 State of Alaska pursuant to the terms of ANCSA;

17 (5) “EVOS” means the Exxon Valdez oil spill;

18 (6) “KNA” means the Kenai Natives Associa-
19 tion, Inc., an urban corporation incorporated in the
20 State of Alaska pursuant to the terms of ANCSA;

21 (7) “lands” means any lands, waters, or inter-
22 ests therein;

23 (8) “Refuge” means the Kenai National Wild-
24 life Refuge;

1 (9) “Secretary” means the Secretary of the In-
2 terior;

3 (10) “Service” means the United States Fish
4 and Wildlife Service; and

5 (11) “Terms and Conditions” means the Terms
6 and Conditions for Land Consolidation and Manage-
7 ment in the Cook Inlet Area, as clarified on August
8 31, 1976, ratified by section 12 of Public Law 94–
9 204 (43 U.S.C. 1611 note).

10 **SEC. 4. ACQUISITION OF LANDS.**

11 (a) OFFER TO KNA.—

12 (1) IN GENERAL.—Subject to the availability of
13 the funds identified in subsection (b)(3), no later
14 than 90 days after the date of enactment of this
15 Act, the Secretary shall offer to convey to KNA the
16 interests in land and rights set forth in subsection
17 (b)(2), subject to valid existing rights, in return for
18 the conveyance by KNA to the United States of the
19 interests in land or relinquishment of ANCSA selec-
20 tions set forth in subsection (b)(1). Payment for the
21 lands conveyed to the United States by KNA is con-
22 tingent upon KNA’s acceptance of the entire convey-
23 ance outlined herein.

24 (2) LIMITATION.—The Secretary may not con-
25 vey any lands or make payment to KNA under this

1 section unless title to the lands to be conveyed by
2 KNA under this Act has been found by the United
3 States to be sufficient in accordance with the provi-
4 sions of section 355 of the Revised Statutes (40
5 U.S.C. 255).

6 (b) ACQUISITION LANDS.—

7 (1) LANDS TO BE CONVEYED TO THE UNITED
8 STATES.—The lands to be conveyed by KNA to the
9 United States, or the valid selection rights under
10 ANCSA to be relinquished, all situated within the
11 boundary of the Refuge, are the following:

12 (A) The conveyance of approximately 803
13 acres located along and on islands within the
14 Kenai River, known as the Stephanka Tract.

15 (B) The conveyance of approximately
16 1,243 acres located along the Moose River,
17 known as the Moose River Patented Lands
18 Tract.

19 (C) The relinquishment of KNA's selection
20 known as the Moose River Selected Tract, con-
21 taining approximately 753 acres located along
22 the Moose River.

23 (D) The relinquishment of KNA's remain-
24 ing ANCSA entitlement of approximately 454
25 acres.

1 (E) The relinquishment of all KNA's re-
2 remaining overselections. Upon completion of all
3 relinquishments outlined above, all KNA's enti-
4 tlement shall be deemed to be extinguished and
5 the completion of this acquisition will satisfy all
6 of KNA's ANCSA entitlement.

7 (F) The conveyance of an access easement
8 providing the United States and its assigns ac-
9 cess across KNA's surface estate in the SW¹/₄
10 of section 21, T. 6 N., R. 9 W., Seward Merid-
11 ian, Alaska.

12 (G) The conveyance of approximately 100
13 acres within the Beaver Creek Patented Tract,
14 which is contiguous to lands being retained by
15 the United States contiguous to the Beaver
16 Creek Patented Tract, in exchange for 180
17 acres of Service lands currently situated within
18 the Beaver Creek Selected Tract.

19 (2) LANDS TO BE CONVEYED TO KNA.—The
20 rights provided or lands to be conveyed by the
21 United States to KNA, are the following:

22 (A) The surface and subsurface estate to
23 approximately 5 acres, subject to reservations
24 of easements for existing roads and utilities, lo-
25 cated within the city of Kenai, Alaska, identi-

1 fied as United States Survey 1435, withdrawn
2 by Executive Order 2934, and known as the old
3 Fish and Wildlife Service Headquarters site.

4 (B) The remaining subsurface estate held
5 by the United States to approximately 13,811
6 acres, including portions of the Beaver Creek
7 Patented Tract, the Beaver Creek Selected
8 Tract, and portions of the Swanson River Road
9 West Tract and the Swanson River Road East
10 Tract, where the surface was previously or will
11 be conveyed to KNA pursuant to this Act. The
12 conveyance of these subsurface interests will be
13 subject to the rights of CIRI to the coal, oil,
14 and gas, and to all rights CIRI, its successors,
15 and assigns would have under paragraph 1(B)
16 of the Terms and Conditions, including the
17 right to sand and gravel, to construct facilities,
18 to have rights-of-way, and to otherwise develop
19 its subsurface interests.

20 (C)(i) The nonexclusive right to use sand
21 and gravel which is reasonably necessary for on-
22 site development without compensation or per-
23 mit on those portions of the Swanson River
24 Road East Tract, comprising approximately
25 1,738.04 acres; where the entire subsurface of

1 the land is presently owned by the United
2 States. The United States shall retain the own-
3 ership of all other sand and gravel located with-
4 in the subsurface and KNA shall not sell or dis-
5 pose of such sand and gravel.

6 (ii) The right to excavate within the sub-
7 surface estate as reasonably necessary for
8 structures, utilities, transportation systems, and
9 other development of the surface estate.

10 (D) The nonexclusive right to excavate
11 within the subsurface estate as reasonably nec-
12 essary for structures, utilities, transportation
13 systems, and other development of the surface
14 estate on the SW¹/₄, section 21, T. 6 N., R. 9
15 W., Seward Meridian, Alaska, where the entire
16 subsurface of the land is owned by the United
17 States and which public lands shall continue to
18 be withdrawn from mining following their re-
19 moval from the Refuge boundary under sub-
20 section (c)(1)(B). The United States shall re-
21 tain the ownership of all other sand and gravel
22 located within the subsurface of this parcel.

23 (E) The surface estate of approximately
24 280 acres known as the Beaver Creek Selected
25 Tract. This tract shall be conveyed to KNA in

1 exchange for lands conveyed to the United
2 States as described in subsection (b)(1)(B).

3 (3) PAYMENT.—The United States shall make
4 a total cash payment to KNA for the above-de-
5 scribed lands of \$4,443,000, contingent upon the ap-
6 propriate approvals of the Federal or State of Alas-
7 ka EVOS Trustees (or both) necessary for any ex-
8 penditure of the EVOS settlement funds.

9 (4) NATIONAL REGISTER OF HISTORIC
10 PLACES.—Upon completion of the acquisition au-
11 thorized in subsection (a), the Secretary shall, at no
12 cost to KNA, in coordination with KNA, promptly
13 undertake to nominate the Stephanka Tract to the
14 National Register of Historic Places, in recognition
15 of the archaeological artifacts from the original
16 Dena'ina Settlement. If the Department of the Inte-
17 rior establishes a historical, cultural, or archaeologi-
18 cal interpretive site, KNA shall have the exclusive
19 right to operate a Dena'ina interpretive site on the
20 Stephanka Tract under the regulations and policies
21 of the department. If KNA declines to operate such
22 a site, the department may do so under its existing
23 authorities. Prior to the department undertaking
24 any archaeological activities whatsoever on the
25 Stephanka Tract, KNA shall be consulted.

1 (c) GENERAL PROVISIONS.—

2 (1) REMOVAL OF KNA LANDS FROM THE NA-
3 TIONAL WILDLIFE REFUGE SYSTEM.—

4 (A) Effective on the date of closing for the
5 Acquisition Lands identified in subsection
6 (b)(2), all lands retained by or conveyed to
7 KNA pursuant to this Act, and the subsurface
8 interests of CIRI underlying such lands shall be
9 automatically removed from the National Wild-
10 life Refuge System and shall neither be consid-
11 ered as part of the Refuge nor subject to any
12 laws pertaining solely to lands within the
13 boundaries of the Refuge. The conveyance re-
14 strictions imposed by section 22(g) of ANCSA
15 (i) shall then be ineffective and cease to apply
16 to such interests of KNA and CIRI, and (ii)
17 shall not be applicable to the interests received
18 by KNA in accordance with subsection (b)(2) or
19 to the CIRI interests underlying them. The Sec-
20 retary shall adjust the boundaries of the Refuge
21 so as to exclude all interests in lands retained
22 or received in exchange by KNA in accordance
23 with this Act, including both surface and sub-
24 surface, and shall also exclude all interests cur-
25 rently held by CIRI. On lands within the Swan-

1 son River Road East Tract, the boundary ad-
2 justment shall only include the surface estate
3 where the subsurface estate is retained by the
4 United States.

5 (B)(i) The Secretary, KNA, and CIRI
6 shall execute an agreement within 45 days of
7 the date of enactment of this Act which pre-
8 serves CIRI's rights under paragraph 1(B)(1)
9 of the Terms and Conditions, addresses CIRI's
10 obligations under such paragraph, and ade-
11 quately addresses management issues associated
12 with the boundary adjustment set forth in this
13 Act and with the differing interests in land re-
14 sulting from enactment of this Act.

15 (ii) In the event that no agreement is exe-
16 cuted as provided for in clause (i), solely for the
17 purposes of administering CIRI's rights under
18 paragraph 1(B)(1) of the Terms and Condi-
19 tions, the Secretary and CIRI shall be deemed
20 to have retained their respective rights and obli-
21 gations with respect to CIRI's subsurface inter-
22 ests under the requirements of the Terms and
23 Conditions in effect on June 18, 1996. Notwith-
24 standing the boundary adjustments made pur-
25 suant to this Act, conveyances to KNA shall be

1 deemed to remain subject to the Secretary's
2 and CIRI's rights and obligations under para-
3 graph 1(B)(1) of the Terms and Conditions.

4 (C) The Secretary is authorized to acquire
5 by purchase or exchange, on a willing seller
6 basis only, any lands retained by or conveyed to
7 KNA. In the event that any lands owned by
8 KNA are subsequently acquired by the United
9 States, they shall be automatically included in
10 the Refuge System. The laws and regulations
11 applicable to Refuge lands shall then apply to
12 these lands and the Secretary shall then adjust
13 the boundaries accordingly.

14 (D) Nothing in this Act is intended to en-
15 large or diminish the authorities, rights, duties,
16 obligations, or the property rights held by CIRI
17 under the Terms and Conditions, or otherwise
18 except as set forth in this Act. In the event of
19 the purchase by the United States of any lands
20 from KNA in accordance with paragraph
21 (1)(B), the United States shall reassume from
22 KNA the rights it previously held under the
23 Terms and Conditions and the provisions in any
24 patent implementing section 22(g) of ANCSA
25 will again apply.

1 (E) By virtue of implementation of this
2 Act, CIRI is deemed entitled to 1,207 acres of
3 in-lieu subsurface entitlement under section
4 12(a)(1) of ANCSA. Such entitlement shall be
5 fulfilled in accordance with paragraph
6 1(B)(2)(A) of the Terms and Conditions.

7 (2) MAPS AND LEGAL DESCRIPTIONS.—Maps
8 and a legal description of the lands described above
9 shall be on file and available for public inspection in
10 the appropriate offices of the United States Depart-
11 ment of the Interior, and the Secretary shall, no
12 later than 90 days after enactment of this Act, pre-
13 pare a legal description of the lands described in
14 subsection (b)(1)(G). Such maps and legal descrip-
15 tion shall have the same force and effect as if in-
16 cluded in the Act, except that the Secretary may
17 correct clerical and typographical errors.

18 (3) ACCEPTANCE.—KNA may accept the offer
19 made in this Act by notifying the Secretary in writ-
20 ing of its decision within 180 days of receipt of the
21 offer. In the event the offer is rejected, the Secretary
22 shall notify the Committee on Resources of the
23 House of Representatives and the Committee on En-
24 ergy and Natural Resources and the Committee on
25 Environment and Public Works of the Senate.

1 (4) FINAL MAPS.—Not later than 120 days
2 after the conclusion of the acquisition authorized by
3 subsection (a), the Secretary shall transmit a final
4 report and maps accurately depicting the lands
5 transferred and conveyed pursuant to this Act and
6 the acreage and legal descriptions of such lands to
7 the Committee on Resources of the House of Rep-
8 resentatives and the Committee on Energy and Nat-
9 ural Resources and the Committee on Environment
10 and Public Works of the Senate.

11 **SEC. 5. ADJUSTMENTS TO NATIONAL WILDERNESS SYSTEM.**

12 Upon acquisition of lands by the United States pur-
13 suant to section 4(b)(1), that portion of the Stephanka
14 Tract lying south and west of the Kenai River, consisting
15 of approximately 592 acres, shall be included in and man-
16 aged as part of the Kenai Wilderness and such lands shall
17 be managed in accordance with the applicable provisions
18 of the Wilderness Act and ANILCA.

19 **SEC. 6. DESIGNATION OF LAKE TODATONTEN SPECIAL**
20 **MANAGEMENT AREA.**

21 (a) PURPOSE.—To balance the potential effects on
22 fish, wildlife, and habitat of the removal of KNA lands
23 from the Refuge System, the Secretary is hereby directed
24 to withdraw, subject to valid existing rights, from location,
25 entry, and patent under the mining laws and to create

1 as a special management unit for the protection of fish,
2 wildlife, and habitat, certain unappropriated and unre-
3 served public lands, totaling approximately 37,000 acres
4 adjacent to the west boundary of the Kanuti National
5 Wildlife Refuge to be known as the “Lake Todatonten
6 Special Management Area”, as depicted on the map enti-
7 tled Proposed: Lake Todatonten Special Management
8 Area, dated June 13, 1996, and to be managed by the
9 Bureau of Land Management.

10 (b) MANAGEMENT.—

11 (1) Such designation is subject to all valid ex-
12 isting rights as well as the subsistence preferences
13 provided under title VIII of ANILCA. Any lands
14 conveyed to the State of Alaska shall be removed
15 from the Lake Todatonten Special Management
16 Area.

17 (2) The Secretary may permit any additional
18 uses of the area, or grant easements, only to the ex-
19 tent that such use, including leasing under the min-
20 eral leasing laws, is determined to not detract from
21 nor materially interfere with the purposes for which
22 the Special Management Area is established.

23 (3)(A) The BLM shall establish the Lake
24 Todatonten Special Management Area Committee.

1 The membership of the Committee shall consist of
2 11 members as follows:

3 (i) Two residents each from the villages of
4 ALatna, Allakaket, Hughes, and Tanana.

5 (ii) One representative from each of Doyon
6 Corporation, the Tanana Chiefs Conference,
7 and the State of Alaska.

8 (B) Members of the Committee shall serve with-
9 out pay.

10 (C) The BLM shall hold meetings of the Lake
11 Todatonten Special Management Area Committee at
12 least once per year to discuss management issues
13 within Special Management Area. The BLM shall
14 not allow any new type of activity in the Special
15 Management Area without first conferring with the
16 Committee in a timely manner.

17 (c) ACCESS.—The Secretary shall allow the following:

18 (1) Private access for any purpose, including
19 economic development, to lands within the bound-
20 aries of the Special Management Area which are
21 owned by third parties or are held in trust by the
22 Secretary for third parties pursuant to the Alaska
23 Native Allotment Act (25 U.S.C. 336). Such rights
24 may be subject to restrictions issued by the BLM to

1 protect subsistence uses of the Special Management
2 Area.

3 (2) Existing public access across the Special
4 Management Area. Section 1110(a) of ANILCA
5 shall apply to the Special Management Area.

6 (c) SECRETARIAL ORDER AND MAPS.—The Secretary
7 shall file with the Committee on Resources of the House
8 of Representatives and the Committee on Energy and
9 Natural Resources and the Committee on Environment
10 and Public Works of the Senate, the Secretarial Order and
11 maps setting forth the boundaries of the Area within 90
12 days of the completion of the acquisition authorized by
13 this Act. Once established, this Order may only be amend-
14 ed or revoked by Act of Congress.

15 (d) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated such sums as may be
17 necessary to carry out the purposes of this Act.

○