

Calendar No. 593

104TH CONGRESS
2^D SESSION
S. 1889

A BILL

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SEPTEMBER 13, 1996

Reported with an amendment

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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

SEPTEMBER 13, 1996

Reported by Mr. MURKOWSKI, with an amendment

[Omit the part struck through and insert the part printed in italics]

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Kenai Natives Associa-
3 tion Equity Act Amendments of 1996”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

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

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

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

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

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

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

9 **SEC. 3. DEFINITIONS.**

10 For purposes of this Act, the term—

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

13 (2) “ANILCA” means the Alaska National In-
14 terest Lands Conservation Act (Public Law 96–487;
15 94 Stat. 2371 et seq.);

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

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

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

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

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

3 (8) “Refuge” means the Kenai National Wild-
4 life Refuge;

5 (9) “Secretary” means the Secretary of the In-
6 terior;

7 (10) “Service” means the United States Fish
8 and Wildlife Service; and

9 (11) “Terms and Conditions” means the Terms
10 and Conditions for Land Consolidation and Manage-
11 ment in the Cook Inlet Area, as clarified on August
12 31, 1976, ratified by section 12 of Public Law 94-
13 204 (43 U.S.C. 1611 note).

14 **SEC. 4. ACQUISITION OF LANDS.**

15 (a) OFFER TO KNA.—

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

1 tingent upon KNA's acceptance of the entire convey-
2 ance outlined herein.

3 (2) LIMITATION.—The Secretary may not con-
4 vey any lands or make payment to KNA under this
5 section unless title to the lands to be conveyed by
6 KNA under this Act has been found by the United
7 States to be sufficient in accordance with the provi-
8 sions of section 355 of the Revised Statutes (40
9 U.S.C. 255).

10 (b) ACQUISITION LANDS.—

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

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

19 (B) The conveyance of approximately
20 1,243 acres located along the Moose River,
21 known as the Moose River Patented Lands
22 Tract.

23 (C) The relinquishment of KNA's selection
24 known as the Moose River Selected Tract, con-

1 taining approximately 753 acres located along
2 the Moose River.

3 (D) The relinquishment of KNA's remain-
4 ing ANCSA entitlement of approximately 454
5 acres.

6 (E) The relinquishment of all KNA's re-
7 maining overselections. Upon completion of all
8 relinquishments outlined above, all KNA's enti-
9 tlement shall be deemed to be extinguished and
10 the completion of this acquisition will satisfy all
11 of KNA's ANCSA entitlement.

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

17 (G) The conveyance of approximately 100
18 acres within the Beaver Creek Patented Tract,
19 which is contiguous to lands being retained by
20 the United States contiguous to the Beaver
21 Creek Patented Tract, in exchange for 180
22 acres of Service lands currently situated within
23 the Beaver Creek Selected Tract.

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

4 (A) The surface and subsurface estate to
5 approximately 5 acres, subject to reservations
6 of easements for existing roads and utilities, lo-
7 cated within the city of Kenai, Alaska, identi-
8 fied as United States Survey 1435, withdrawn
9 by Executive Order 2934, and known as the old
10 Fish and Wildlife Service Headquarters site.

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

1 to have rights-of-way, and to otherwise develop
2 its subsurface interests.

3 (C)(i) The nonexclusive right to use sand
4 and gravel which is reasonably necessary for on-
5 site development without compensation or per-
6 mit on those portions of the Swanson River
7 Road East Tract, comprising approximately
8 1,738.04 acres; where the entire subsurface of
9 the land is presently owned by the United
10 States. The United States shall retain the own-
11 ership of all other sand and gravel located with-
12 in the subsurface and KNA shall not sell or dis-
13 pose of such sand and gravel.

14 (ii) The right to excavate within the sub-
15 surface estate as reasonably necessary for
16 structures, utilities, transportation systems, and
17 other development of the surface estate.

18 (D) The nonexclusive right to excavate
19 within the subsurface estate as reasonably nec-
20 essary for structures, utilities, transportation
21 systems, and other development of the surface
22 estate on the SW $\frac{1}{4}$, section 21, T. 6 N., R. 9
23 W., Seward Meridian, Alaska, where the entire
24 subsurface of the land is owned by the United
25 States and which public lands shall continue to

1 be withdrawn from mining following their re-
2 removal from the Refuge boundary under sub-
3 section (c)(1)(B). The United States shall re-
4 tain the ownership of all other sand and gravel
5 located within the subsurface of this parcel.

6 (E) The surface estate of approximately
7 280 acres known as the Beaver Creek Selected
8 Tract. This tract shall be conveyed to KNA in
9 exchange for lands conveyed to the United
10 States as described in subsection (b)(1)(B).

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

17 (4) NATIONAL REGISTER OF HISTORIC
18 PLACES.—Upon completion of the acquisition au-
19 thorized in subsection (a), the Secretary shall, at no
20 cost to KNA, in coordination with KNA, promptly
21 undertake to nominate the Stephanka Tract to the
22 National Register of Historic Places, in recognition
23 of the archaeological artifacts from the original
24 Dena'ina Settlement. If the Department of the Inte-
25 rior establishes a historical, cultural, or archaeologi-

1 cal interpretive site, KNA shall have the exclusive
2 right to operate a Dena'ina interpretive site on the
3 Stephanka Tract under the regulations and policies
4 of the department. If KNA declines to operate such
5 a site, the department may do so under its existing
6 authorities. Prior to the department undertaking
7 any archaeological activities whatsoever on the
8 Stephanka Tract, KNA shall be consulted.

9 (c) GENERAL PROVISIONS.—

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

12 (A) Effective on the date of closing for the
13 Acquisition Lands identified in subsection
14 (b)(2), all lands retained by or conveyed to
15 KNA pursuant to this Act, and the subsurface
16 interests of CIRI underlying such lands shall be
17 automatically removed from the National Wild-
18 life Refuge System and shall neither be consid-
19 ered as part of the Refuge nor subject to any
20 laws pertaining solely to lands within the
21 boundaries of the Refuge. The conveyance re-
22 strictions imposed by section 22(g) of ANCSA
23 (i) shall then be ineffective and cease to apply
24 to such interests of KNA and CIRI, and (ii)
25 shall not be applicable to the interests received

1 by KNA in accordance with subsection (b)(2) or
2 to the CIRI interests underlying them. The Sec-
3 retary shall adjust the boundaries of the Refuge
4 so as to exclude all interests in lands retained
5 or received in exchange by KNA in accordance
6 with this Act, including both surface and sub-
7 surface, and shall also exclude all interests cur-
8 rently held by CIRI. On lands within the Swan-
9 son River Road East Tract, the boundary ad-
10 justment shall only include the surface estate
11 where the subsurface estate is retained by the
12 United States.

13 (B)(i) The Secretary, KNA, and CIRI
14 shall execute an agreement within 45 days of
15 the date of enactment of this Act which pre-
16 serves CIRI's rights under paragraph 1(B)(1)
17 of the Terms and Conditions, addresses CIRI's
18 obligations under such paragraph, and ade-
19 quately addresses management issues associated
20 with the boundary adjustment set forth in this
21 Act and with the differing interests in land re-
22 sulting from enactment of this Act.

23 (ii) In the event that no agreement is exe-
24 cuted as provided for in clause (i), solely for the
25 purposes of administering CIRI's rights under

1 paragraph 1(B)(1) of the Terms and Condi-
2 tions, the Secretary and CIRI shall be deemed
3 to have retained their respective rights and obli-
4 gations with respect to CIRI's subsurface inter-
5 ests under the requirements of the Terms and
6 Conditions in effect on June 18, 1996. Notwith-
7 standing the boundary adjustments made pur-
8 suant to this Act, conveyances to KNA shall be
9 deemed to remain subject to the Secretary's
10 and CIRI's rights and obligations under para-
11 graph 1(B)(1) of the Terms and Conditions.

12 (C) The Secretary is authorized to acquire
13 by purchase or exchange, on a willing seller
14 basis only, any lands retained by or conveyed to
15 KNA. In the event that any lands owned by
16 KNA are subsequently acquired by the United
17 States, they shall be automatically included in
18 the Refuge System. The laws and regulations
19 applicable to Refuge lands shall then apply to
20 these lands and the Secretary shall then adjust
21 the boundaries accordingly.

22 (D) Nothing in this Act is intended to en-
23 large or diminish the authorities, rights, duties,
24 obligations, or the property rights held by CIRI
25 under the Terms and Conditions, or otherwise

1 except as set forth in this Act. In the event of
2 the purchase by the United States of any lands
3 from KNA in accordance with paragraph
4 (1)(B), the United States shall reassume from
5 KNA the rights it previously held under the
6 Terms and Conditions and the provisions in any
7 patent implementing section 22(g) of ANCSA
8 will again apply.

9 (E) By virtue of implementation of this
10 Act, CIRI is deemed entitled to 1,207 acres of
11 in-lieu subsurface entitlement under section
12 12(a)(1) of ANCSA. Such entitlement shall be
13 fulfilled in accordance with paragraph
14 1(B)(2)(A) of the Terms and Conditions.

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

1 (3) ACCEPTANCE.—KNA may accept the offer
2 made in this Act by notifying the Secretary in writ-
3 ing of its decision within 180 days of receipt of the
4 offer. In the event the offer is rejected, the Secretary
5 shall notify the Committee on Resources of the
6 House of Representatives and the Committee on En-
7 ergy and Natural Resources and the Committee on
8 Environment and Public Works of the Senate.

9 (4) FINAL MAPS.—Not later than 120 days
10 after the conclusion of the acquisition authorized by
11 subsection (a), the Secretary shall transmit a final
12 report and maps accurately depicting the lands
13 transferred and conveyed pursuant to this Act and
14 the acreage and legal descriptions of such lands to
15 the Committee on Resources of the House of Rep-
16 resentatives and the Committee on Energy and Nat-
17 ural Resources and the Committee on Environment
18 and Public Works of the Senate.

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

20 Upon acquisition of lands by the United States pur-
21 suant to section 4(b)(1), that portion of the Stephanka
22 Tract lying south and west of the Kenai River, consisting
23 of approximately 592 acres, shall be included in and man-
24 aged as part of the Kenai Wilderness and such lands shall

1 be managed in accordance with the applicable provisions
 2 of the Wilderness Act and ANILCA.

3 **SEC. 6. DESIGNATION OF LAKE TODATONTEN SPECIAL**
 4 **MANAGEMENT AREA.**

5 (a) PURPOSE.—To balance the potential effects on
 6 fish, wildlife, and habitat of the removal of KNA lands
 7 from the Refuge System, the Secretary is hereby directed
 8 to withdraw, subject to valid existing rights, from location,
 9 entry, and patent under the mining laws and to create
 10 as a special management unit for the protection of fish,
 11 wildlife, and habitat, certain unappropriated and unre-
 12 served public lands, totaling approximately 37,000 acres
 13 adjacent to the west boundary of the Kanuti National
 14 Wildlife Refuge to be known as the “Lake Todatonten
 15 Special Management Area”, as depicted on the map enti-
 16 tled Proposed: Lake Todatonten Special Management
 17 Area, dated June 13, 1996, and to be managed by the
 18 Bureau of Land Management.

19 (b) MANAGEMENT.—

20 (1) Such designation is subject to all valid ex-
 21 isting rights as well as the subsistence preferences
 22 provided under title VIII of ANILCA. Any lands
 23 conveyed to the State of Alaska shall be removed
 24 from the Lake Todatonten Special Management
 25 Area.

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

7 (3)(A) The BLM shall establish the Lake
8 Todatonten Special Management Area Committee.
9 The membership of the Committee shall consist of
10 11 members as follows:

11 (i) Two residents each from the villages of
12 Alatna, Allakaket, Hughes, and Tanana.

13 (ii) One representative from each of Doyon
14 Corporation, the Tanana Chiefs Conference,
15 and the State of Alaska.

16 (B) Members of the Committee shall serve with-
17 out pay.

18 (C) The BLM shall hold meetings of the Lake
19 Todatonten Special Management Area Committee at
20 least once per year to discuss management issues
21 within Special Management Area. The BLM shall
22 not allow any new type of activity in the Special
23 Management Area without first conferring with the
24 Committee in a timely manner.

25 (e) ACCESS.—The Secretary shall allow the following:

1 (1) Private access for any purpose, including
2 economic development, to lands within the bound-
3 aries of the Special Management Area which are
4 owned by third parties or are held in trust by the
5 Secretary for third parties pursuant to the Alaska
6 Native Allotment Act (25 U.S.C. 336). Such rights
7 may be subject to restrictions issued by the BLM to
8 protect subsistence uses of the Special Management
9 Area.

10 (2) Existing public access across the Special
11 Management Area. Section 1110(a) of ANILCA
12 shall apply to the Special Management Area.

13 (c) ~~SECRETARIAL ORDER AND MAPS.~~—The Secretary
14 shall file with the Committee on Resources of the House
15 of Representatives and the Committee on Energy and
16 Natural Resources and the Committee on Environment
17 and Public Works of the Senate, the Secretarial Order and
18 maps setting forth the boundaries of the Area within 90
19 days of the completion of the acquisition authorized by
20 this Act. Once established, this Order may only be amend-
21 ed or revoked by Act of Congress.

22 (d) ~~AUTHORIZATION OF APPROPRIATIONS.~~—There
23 are authorized to be appropriated such sums as may be
24 necessary to carry out the purposes of this Act.

1 **SEC. 6. DESIGNATION OF LAKE TODATONTEN SPECIAL**
2 **MANAGEMENT AREA.**

3 (a) *PURPOSE.*—To offset the removal of KNA lands
4 from the Refuge System, the Secretary is hereby authorized
5 to withdraw, subject to valid existing rights, and to create
6 as a special management unit for uses other than wilder-
7 ness, including the protection of fish, wildlife, and habitat,
8 certain unappropriated and unreserved public lands, total-
9 ing approximately 15,500 acres adjacent to the west bound-
10 ary of the Kanuti National Wildlife Refuge to be known
11 as the “Lake Todatonten Special Management Area”, from
12 the 37,000 acres as depicted on the map entitled “Proposed:
13 Lake Todatonten Special Management Area”, dated June
14 13, 1996, and to be managed by the Bureau of Land Man-
15 agement. Such withdrawal shall not include any validly se-
16 lected land by the State of Alaska or Alaska Native Cor-
17 poration or any lands that the Secretary determines has
18 mineral potential based on surveys conducted or to be con-
19 ducted by the United States Geological Survey. Such with-
20 draws shall not occur, however, until the Secretary has
21 complied with the requirements of subparagraphs (1)
22 through (12) of paragraph 204(c)(2) of FLPMA. The Sec-
23 retary may study the remaining lands within the area de-
24 picted on the map for future potential withdrawal pursuant
25 to section 204 of FLPMA.

26 (b) *MANAGEMENT.*—

1 (1) *Such designation is subject to all valid exist-*
2 *ing rights including R.S. 2477 Rights-of-Way, as well*
3 *as the subsistence preferences provided under title*
4 *VIII of ANILCA.*

5 (2)(A) *The Bureau of Land Management shall*
6 *establish the Lake Totatonten Special Management*
7 *Area Committee. The membership of the Committee*
8 *shall consist of 11 members as follows:*

9 (i) *Two residents each from the villages of*
10 *Alatna, Allakaket, Hughes, and Tanana.*

11 (ii) *One representative from each of Doyon*
12 *Corporation, the Tanana Chiefs Conference, and*
13 *the State of Alaska.*

14 (B) *Members of the Committee shall serve with-*
15 *out pay.*

16 (C) *The Bureau of Land Management shall*
17 *hold meetings of the Lake Totatonten Special*
18 *Management Area Committee at least once per*
19 *year to discuss management issues within the*
20 *Special Management Area. The Bureau of Land*
21 *Management shall not allow any new type of ac-*
22 *tivity in the Special Management Area without*
23 *first conferring with the Committee in a timely*
24 *manner.*

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

1 (1) *Private access for any purpose, including*
2 *economic development, to lands within the boundaries*
3 *of the Special Management Area which are owned by*
4 *third parties or are held in trust by the Secretary for*
5 *third parties pursuant to the Alaska Native Allotment*
6 *Act (25 U.S.C. 336). Such rights may be subject to*
7 *restrictions issued by the Bureau of Land Manage-*
8 *ment to protect subsistence uses of Special Manage-*
9 *ment Area.*

10 (2) *Section 1110 of ANILCA shall apply to the*
11 *Special Management Area.*

12 (d) *SECRETARIAL ORDER AND MAPS.—The Secretary*
13 *shall file with the Committee on Resources of the House of*
14 *Representatives and the Committee on Energy and Natural*
15 *Resources, the Secretarial Order and maps setting forth the*
16 *boundaries of the Area within 90 days of the completion*
17 *of the acquisition authorized by this Act. Once established,*
18 *this Order may only be amended or revoked by Act of Con-*
19 *gress.*

20 (e) *AUTHORIZATION OF APPROPRIATIONS.—There are*
21 *authorized to be appropriated such sums as may be nec-*
22 *essary to carry out the purposes of this Act.*