

108TH CONGRESS
1ST SESSION

H. R. 1899

To resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2003

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Resources

A BILL

To resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, 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 “Cape Fox Land Enti-
5 tlement Adjustment Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that:

1 (1) Cape Fox Corporation (Cape Fox) is an
2 Alaska Native Village Corporation organized pursu-
3 ant to the Alaska Native Claims Settlement Act
4 (ANCSA) (43 U.S.C. 1601 et seq.) for the Native
5 Village of Saxman.

6 (2) As with other ANCSA village corporations
7 in Southeast Alaska, Cape Fox was limited to select-
8 ing 23,040 acres under section 16 of ANCSA.

9 (3) Except for Cape Fox, all other Southeast
10 Alaska ANCSA village corporations were restricted
11 from selecting within two miles of a home rule city.

12 (4) To protect the watersheds in the vicinity of
13 Ketchikan, Cape Fox was restricted from selecting
14 lands within six miles from the boundary of the
15 home rule City of Ketchikan under section 22(1) of
16 ANCSA (43 U.S.C. 1621(1)).

17 (5) The six mile restriction damaged Cape Fox
18 by precluding the corporation from selecting valuable
19 timber lands, industrial sites, and other commercial
20 property, not only in its core township but in sur-
21 rounding lands far removed from Ketchikan and its
22 watershed.

23 (6) As a result of the 6 mile restriction, only
24 the remote mountainous northeast corner of Cape
25 Fox's core township, which is nonproductive and of

1 no known economic value, was available for selection
2 by the corporation. Selection of this parcel was, how-
3 ever, mandated by section 16(b) of ANCSA (43
4 U.S.C. 1615(b)).

5 (7) Cape Fox's land selections were further lim-
6 ited by the fact that the Annette Island Indian Res-
7 ervation is within its selection area, and those lands
8 were unavailable for ANCSA selection. Cape Fox is
9 the only ANCSA village corporation affected by this
10 restriction.

11 (8) Adjustment of Cape Fox's selections and
12 conveyances of land under ANCSA requires adjust-
13 ment of Sealaska Corporation's (Sealaska) selections
14 and conveyances to avoid creation of additional split
15 estate between National Forest System surface lands
16 and Sealaska subsurface lands.

17 (9) There is an additional need to resolve exist-
18 ing areas of Sealaska/Tongass split estate, in which
19 Sealaska holds title or conveyance rights to several
20 thousand acres of subsurface lands that encumber
21 management of Tongass National Forest surface
22 lands.

23 (10) The Tongass National Forest lands identi-
24 fied in this Act for selection by and conveyance to
25 Cape Fox and Sealaska, subject to valid existing

1 rights, provide a means to resolve some of the Cape
 2 Fox and Sealaska ANCSA land entitlement issues
 3 without significantly affecting Tongass National
 4 Forest resources, uses or values.

5 (11) Adjustment of Cape Fox's selections and
 6 conveyances of land under ANCSA through the pro-
 7 visions of this Act, and the related adjustment of
 8 Sealaska's selections and conveyances hereunder, are
 9 in accordance with the purposes of ANCSA and oth-
 10 erwise in the public interest.

11 **SEC. 3. WAIVER OF CORE TOWNSHIP REQUIREMENT FOR**
 12 **CERTAIN LANDS.**

13 Notwithstanding the provisions of section 16(b) of
 14 ANCSA (43 U.S.C. 1615(b)), Cape Fox shall not be re-
 15 quired to select or receive conveyance of approximately
 16 160 acres of Federal unconveyed lands within Section 1,
 17 T. 75 S., R. 91 E., C.R.M.

18 **SEC. 4. SELECTION OUTSIDE EXTERIOR SELECTION**
 19 **BOUNDARY.**

20 (a) SELECTION AND CONVEYANCE OF SURFACE ES-
 21 TATE.—In addition to lands made available for selection
 22 under ANCSA, within 24 months after the date of enact-
 23 ment of this Act, Cape Fox may select, and, upon receiv-
 24 ing written notice of such selection, the Secretary of the
 25 Interior shall convey approximately 99 acres of the surface

1 estate of Tongass National Forest lands outside Cape
2 Fox's current exterior selection boundary, specifically that
3 parcel described as follows:

4 (1) T. 73 S., R. 90 E., C.R.M.

5 (2) Section 33: SW portion of SE¹/₄: 38 acres.

6 (3) Section 33: NW portion of SE¹/₄: 13 acres.

7 (4) Section 33: SE¹/₄ of SE¹/₄: 40 acres.

8 (5) Section 33: SE¹/₄ of SW¹/₄: 8 acres.

9 (b) CONVEYANCE OF SUBSURFACE ESTATE.—Upon
10 conveyance to Cape Fox of the surface estate to the lands
11 identified in subsection (a), the Secretary of the Interior
12 shall convey to Sealaska the subsurface estate to the
13 lands.

14 (c) TIMING.—The Secretary of the Interior shall com-
15 plete the interim conveyances to Cape Fox and Sealaska
16 under this section within 180 days after the Secretary of
17 the Interior receives notice of the Cape Fox selection
18 under subsection (a).

19 **SEC. 5. EXCHANGE OF LANDS BETWEEN CAPE FOX AND**
20 **THE TONGASS NATIONAL FOREST.**

21 (a) GENERAL.—The Secretary of Agriculture shall
22 offer, and if accepted by Cape Fox, shall exchange the
23 Federal lands described in subsection (b) for lands and
24 interests therein identified by Cape Fox under subsection

1 (c) and, to the extent necessary, lands and interests there-
2 in identified under subsection (d).

3 (b) LANDS TO BE EXCHANGED TO CAPE FOX.—The
4 lands to be offered for exchange by the Secretary of Agri-
5 culture are Tongass National Forest lands comprising ap-
6 proximately 2,663.9 acres in T. 36 S., R. 62 E., C.R.M.
7 and T. 35 S., R. 62 E., C.R.M., as designated upon a
8 map entitled “Proposed Kensington Project Land Ex-
9 change”, dated March 18, 2002, and available for inspec-
10 tion in the Forest Service Region 10 regional office in Ju-
11 neau, Alaska.

12 (c) LANDS TO BE EXCHANGED TO THE UNITED
13 STATES.—Cape Fox shall be entitled, within 60 days after
14 the date of enactment of this Act, to identify in writing
15 to the Secretaries of Agriculture and the Interior the lands
16 and interests in lands that Cape Fox proposes to exchange
17 for the Federal lands described in subsection (b). The
18 lands and interests in lands shall be identified from lands
19 previously conveyed to Cape Fox comprising approxi-
20 mately 2,900 acres and designated as parcels A–1 to A–
21 3, B–1 to B–3, and C upon a map entitled “Cape Fox
22 Corporation ANCSA Land Exchange Proposal”, dated
23 March 15, 2002, and available for inspection in the Forest
24 Service Region 10 regional office in Juneau, Alaska.
25 Lands identified for exchange within each parcel shall be

1 contiguous to adjacent National Forest System lands and
2 in reasonably compact tracts. The lands identified for ex-
3 change shall include a public trail easement designated as
4 D on said map, unless the Secretary of Agriculture agrees
5 otherwise. The value of the easement shall be included in
6 determining the total value of lands exchanged to the
7 United States.

8 (d) VALUATION OF EXCHANGE LANDS.—The Sec-
9 retary of Agriculture shall determine whether the lands
10 identified by Cape Fox under subsection (c) are equal in
11 value to the lands described in subsection (b). If the lands
12 identified under subsection (c) are determined to have in-
13 sufficient value to equal the value of the lands described
14 in subsection (b), Cape Fox and the Secretary shall mutu-
15 ally identify additional Cape Fox lands for exchange suffi-
16 cient to equalize the value of lands conveyed to Cape Fox.
17 Such land shall be contiguous to adjacent National Forest
18 System lands and in reasonably compact tracts.

19 (e) CONDITIONS.—The offer and conveyance of Fed-
20 eral lands to Cape Fox in the exchange shall, notwith-
21 standing section 14(f) of ANCSA, be of the surface and
22 subsurface estate, but subject to valid existing rights and
23 all other provisions of section 14(g) of ANCSA.

24 (f) TIMING.—The Secretary of Agriculture shall at-
25 tempt, within 90 days after the date of enactment of this

1 Act, to enter into an agreement with Cape Fox to consum-
2 mate the exchange consistent with this Act. The lands
3 identified in the exchange agreement shall be exchanged
4 by conveyance at the earliest possible date after the ex-
5 change agreement is signed. Subject only to conveyance
6 from Cape Fox to the United States of all its rights, title,
7 and interests in the Cape Fox lands included in the ex-
8 change consistent with this Act, the Secretary of the Inte-
9 rior shall complete the interim conveyance to Cape Fox
10 of the Federal lands included in the exchange within 180
11 days after the execution of the exchange agreement by
12 Cape Fox and the Secretary of Agriculture.

13 **SEC. 6. EXCHANGE OF LANDS BETWEEN SEALASKA AND**
14 **THE TONGASS NATIONAL FOREST.**

15 (a) GENERAL.—Upon conveyance of the Cape Fox
16 lands included in the exchange under section 5 and con-
17 veyance and relinquishment by Sealaska in accordance
18 with this Act of the lands and interests in lands described
19 in subsection (c), the Secretary of the Interior shall convey
20 to Sealaska the Federal lands identified for exchange
21 under subsection (b).

22 (b) LANDS TO BE EXCHANGED TO SEALASKA.—The
23 lands to be exchanged to Sealaska are to be selected by
24 Sealaska from Tongass National Forest lands comprising
25 approximately 9,329 acres in T. 36 S., R. 62 E., C.R.M.,

1 T. 35 S., R. 62 E., C.R.M., and T. 34 S., Range 62 E.,
2 C.R.M., as designated upon a map entitled “Proposed
3 Sealaska Corporation Land Exchange Kensington Lands
4 Selection Area”, dated April 2002 and available for in-
5 spection in the Forest Service Region 10 Regional Office
6 in Juneau, Alaska. Within 60 days after receiving notice
7 of the identification by Cape Fox of the exchange lands
8 under section 5(c), Sealaska shall be entitled to identify
9 in writing to the Secretaries of Agriculture and the Inte-
10 rior the lands that Sealaska selects to receive in exchange
11 for the Sealaska lands described in subsection (c). Lands
12 selected by Sealaska shall be in no more than two contig-
13 uous and reasonably compact tracts that adjoin the lands
14 described for exchange to Cape Fox in section 5(b). The
15 Secretary of Agriculture shall determine whether these se-
16 lected lands are equal in value to the lands described in
17 subsection (c) and may adjust the amount of selected
18 lands in order to reach agreement with Sealaska regarding
19 equal value. The exchange conveyance to Sealaska shall
20 be of the surface and subsurface estate in the lands se-
21 lected and agreed to by the Secretary but subject to valid
22 existing rights and all other provisions of section 14(g)
23 of ANCSA.

24 (c) LANDS TO BE EXCHANGED TO THE UNITED
25 STATES.—The lands and interests therein to be exchanged

1 by Sealaska are the subsurface estate underlying the Cape
2 Fox exchange lands described in section 5(c), an addi-
3 tional approximately 2,506 acres of the subsurface estate
4 underlying Tongass National Forest surface estate, de-
5 scribed in Interim Conveyance No. 1673, and rights to be
6 additional approximately 2,698 acres of subsurface estate
7 of Tongass National Forest lands remaining to be con-
8 veyed to Sealaska from Group 1, 2 and 3 lands as set
9 forth in the Sealaska Corporation/United States Forest
10 Service Split Estate Exchange Agreement of November
11 26, 1991, at Schedule B, as modified on January 20,
12 1995.

13 (d) TIMING.—The Secretary of Agriculture shall at-
14 tempt, within 90 days after receipt of the selection of
15 lands by Sealaska under subsection (b), to enter into an
16 agreement with Sealaska to consummate the exchange
17 consistent with this Act. The lands identified in the ex-
18 change agreement shall be exchanged by conveyance at the
19 earliest possible date after the exchange agreement is
20 signed. Subject only to the Cape Fox and Sealaska convey-
21 ances and relinquishments described in subsection (a), the
22 Secretary of the Interior shall complete the interim con-
23 veyance to Sealaska of the Federal lands selected for ex-
24 change within 180 days after execution of the agreement
25 by Sealaska and the Secretary of Agriculture.

1 (e) MODIFICATION OF AGREEMENT.—The executed
2 exchange agreement under this section shall be considered
3 a further modification of the Sealaska Corporation/United
4 States Forest Service Split Estate Exchange Agreement,
5 as ratified in section 17 of Public Law 102–415 (October
6 14, 1992).

7 **SEC. 7. MISCELLANEOUS PROVISIONS.**

8 (a) EQUAL VALUE REQUIREMENT.—The exchanges
9 described in this Act shall be of equal value. Cape Fox
10 and Sealaska shall have the opportunity to present to the
11 Secretary of Agriculture estimates of value of exchange
12 lands with supporting information.

13 (b) TITLE.—Cape Fox and Sealaska shall convey and
14 provide evidence of title satisfactory to the Secretary of
15 Agriculture for their respective lands to be exchanged to
16 the United States under this Act, subject only to excep-
17 tions, reservations and encumbrances in the interim con-
18 veyance or patent from the United States or otherwise ac-
19 ceptable to the Secretary of Agriculture.

20 (c) HAZARDOUS SUBSTANCES.—Cape Fox, Sealaska,
21 and the United States each shall not be subject to liability
22 for the presence of any hazardous substance in land or
23 interests in land solely as a result of any conveyance or
24 transfer of the land or interests under this Act.

1 (d) EFFECT ON ANCSA SELECTIONS.—Any convey-
2 ance of Federal surface or subsurface lands to Cape Fox
3 or Sealaska under this Act shall be considered, for all pur-
4 poses, land conveyed pursuant to ANCSA. Nothing in this
5 Act shall be construed to change the total acreage of land
6 entitlement of Cape Fox or Sealaska under ANCSA. Cape
7 Fox and Sealaska shall remain charged for any lands they
8 exchange under this Act and any lands conveyed pursuant
9 to section 4, but shall not be charged for any lands re-
10 ceived under section 5 or section 6. The exchanges de-
11 scribed in this Act shall be considered, for all purposes,
12 actions which lead to the issuance of conveyances to Na-
13 tive Corporations pursuant to ANCSA. Lands or interests
14 therein transferred to the United States under this Act
15 shall become and be administered as part of the Tongass
16 National Forest.

17 (e) EFFECT ON STATEHOOD SELECTIONS.—Lands
18 conveyed to or selected by the State of Alaska under the
19 Alaska Statehood Act (Public Law 85–508; 72 Stat. 339;
20 48 U.S.C. note prec. 21) shall not be eligible for selection
21 or conveyance under this Act without the consent of the
22 State of Alaska.

23 (f) MAPS.—The maps referred to in this Act shall
24 be maintained on file in the Forest Service Region 10 Re-
25 gional Office in Juneau, Alaska. The acreages cited in this

1 Act are approximate, and if there is any discrepancy be-
2 tween cited acreage and the land depicted on the specified
3 maps, the maps shall control. The maps do not constitute
4 an attempt by the United States to convey State or private
5 land.

6 (g) EASEMENTS.—Notwithstanding section 17(b) of
7 ANCSA, Federal lands conveyed to Cape Fox or Sealaska
8 pursuant to this Act shall be subject only to the reserva-
9 tion of public easements mutually agreed to and set forth
10 in the exchange agreements executed under this Act. The
11 easements shall include easements necessary for access
12 across the lands conveyed under this Act for use of na-
13 tional forest or other public lands.

14 (h) OLD GROWTH RESERVES.—The Secretary of Ag-
15 riculture shall add an equal number of acres to old growth
16 reserves on the Tongass National Forest as are trans-
17 ferred out of Federal ownership as a result of this Act.

18 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) DEPARTMENT OF AGRICULTURE.—There are au-
20 thorized to be appropriated to the Secretary of Agriculture
21 such sums as may be necessary for value estimation and
22 related costs of exchanging lands specified in this Act, and
23 for road rehabilitation, habitat and timber stand improve-
24 ment, including thinning and pruning, on lands acquired
25 by the United States under this Act.

1 (b) DEPARTMENT OF THE INTERIOR.—There are au-
2 thORIZED to be appropriated to the Secretary of the Interior
3 such sums as may be necessary for land surveys and con-
4 veyances pursuant to this Act.

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