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REPORT
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ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS

MARCH 9, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources, submitted the following

REPORT

[To accompany H.R. 402]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 402) to amend the Alaska Native Claims Settlement Act, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 402 is to make a number of technical changes to the Alaska Native Claims Settlement Act of 1971 (ANCSA, Public Law 92–203) and the Alaska National Interest Lands Conservation Act (ANILCA, Public Law 96–487) to resolve issues not envisioned at the time of passage of these acts and to provide for the conveyance of certain lands within the State of Alaska.

BACKGROUND AND NEED FOR LEGISLATION

The Alaska Native Claims Settlement Act of 1971 (ANCSA) helped settle aboriginal land claims of Alaska Natives. The goals of ANCSA were two-fold: (1) to establish property rights of Alaska Natives to their aboriginal lands; and (2) to secure an economic base for their long-term survival as a people. ANCSA created 13 regional corporations and 200 village corporations, and granted these entities 44 million acres of land and $926.5 million to implement the goals of the Act. This bill is the result of the cooperative efforts of the Alaska Federation of Natives, the State of Alaska, the Ad-

ministration and other interested parties to address some technical problems which have arisen since the passage of ANCSA and ANILCA.

COMMITTEE ACTION

H.R. 402 was introduced by Chairman Don Young of Alaska on January 4, 1995, and referred to the Committee on Resources. All the provisions contained in H.R. 402 (except for section 8) were also included in H.R. 3612 introduced by Congressman Young in the 103rd Congress. H.R. 3612 passed the House of Representatives but was not acted on by the Senate.

On February 8, 1995, the full Committee on Resources met to mark up H.R. 402. The bill was ordered reported (with no amendments) on that day in the presence of a quorum by voice vote.

SECTION-BY-SECTION ANALYSIS

SECTION 1. RATIFICATION OF CERTAIN CASWELL AND MONTANA CREEK NATIVE ASSOCIATION CONVEYANCES

Section 1 adopts and ratifies as a matter of Federal law an agreement between Cook Inlet Region, Inc., Caswell Native Association, Inc., and Montana Creek Native Association, Inc. This agreement conveys 11,520 acres to each Native association in fulfillment of their ANCSA land selections.

Under section 14(h)(2) of ANCSA, Native groups that did not qualify as Native villages, such as Montana Creek and Caswell, were entitled to receive "not more than 23,040 acres [of land] surrounding the Native group's locality". In 1974, the Alaska Native Claims Appeal Board, Office of Hearings and Appeals certified Caswell and Montana Creek as Native groups, thus settling their village eligibility disputes. In addition, the Appeals Board held that Caswell and Montana Creek each were entitled to receive 11,520 acres of land under section 14(h)(2). In February 1976, Cook Inlet Region, Inc. (CIRI) entered into an agreement with the two Native associations to convey 11,520 acres to each association.

Ratification of this agreement will make the lands eligible for fire protection under section 22(e) of ANSCA and offer additional protection to underdeveloped lands under section 907 of ANILCA. The ratification of this agreement will not adversely impact the section 14(h) entitlements of other ANCSA corporations, nor will it be the basis for any claim by the Caswell or Montana Creek Native associations or any other ANCSA corporation, including CIRI, against the State of Alaska, the United States or CIRI.

SECTION 2. MINING CLAIMS AFTER LANDS CONVEYED TO ALASKA REGIONAL CORPORATION

This section amends ANCSA to clarify mining regulatory authority and administration of mining claims on lands conveyed to a regional corporation. This section directs the Secretary of Interior, acting through the Bureau of Land Management (BLM), to transfer the administration of certain mining claims entirely within lands conveyed to a regional corporation to the regional corporation.

When lands were transferred to regional corporations under ANCSA sections 11(a)(1), 11(a)(2) and 16, they were conveyed sub-

ject to valid existing rights, including rights to mineral entry. According to the Department of the Interior, miners who failed to meet deadlines in ANCSA to patent their mining claims also lost the right to obtain a patent from the Federal Government under the Federal Land Policy and Management Act (FLPMA). Following a 1981 court case, the BLM took the position that it no longer had jurisdiction to administer Federal mining claims on conveyed land under ANCSA. At the same the, ANCSA does not clearly authorize a regional corporation to take over the administration of mining claims on these lands. This inefficiency in Federal law resulted in confusion for BLM, the regional corporations as well as mining claimants.

This section would address this void in Federal law by expressly transferring administration of mining claims from BLM to a regional corporation on lands withdrawn under sections 11(a)(1), 11(a)(2) and 16 of ANCSA. The regional Native corporation would administer the mining claims pursuant to applicable Federal law, including the requirements of the general mining laws and section 314 of FLPMA.

The regional corporation would receive revenues from the mining claims otherwise due the United States. For mining claims not totally within the boundaries of lands conveyed to a regional corporation, the regional corporation is entitled only to that portion of revenues, other than administrative fees, reasonably allocated to that portion of the mining claim.

SECTION 3. SETTLEMENT OF CLAIMS ARISING FROM HAZARDOUS SUBSTANCE CONTAMINATION OF TRANSFERRED LANDS

This section adds a new section 40 to ANCSA. Under this new section, the Secretary of the Interior, in consultation with the Secretary of Agriculture, the State of Alaska and appropriate Alaska Native corporations and organizations, shall submit a report to Congress addressing issues presented by the presence of hazardous substances on lands conveyed or prioritized for conveyance to ANCSA corporations. The report is due 18 months after the date of enactment of H.R. 402.

The report shall: (1) provide existing information concerning the nature and types of contaminants present on such lands prior to conveyance to Alaska Native corporations; (2) provide existing information identifying the existence and availability of potentially responsible parties for the removal or amelioration of the effects of such contaminants; (3) identify existing remedies; and (4) make recommendations for any additional legislation necessary to remedy the problem of contaminants on such lands.

This report will provide Congress with additional background information to consider further corrective measures, if any, for Alaska Native corporations which contend they have selected or received title to contaminants on such lands.

This report will provide Congress with additional background information to consider further corrective measures, if any, for Alaska Native corporations which contend they selected or received title to contaminated lands in fulfillment of their ANCSA land entitlement.

SECTION 4. AUTHORIZATION OF APPROPRIATIONS FOR THE PURPOSES OF IMPLEMENTING REQUIRED RECONVEYANCES

Section 4 of the bill amends ANCSA to authorize appropriations to provide technical assistance to village corporations so they may implement required reconveyances under section 14(c) of the Act. This section authorizes the Secretary of Interior to provide funds for technical assistance through a grant program to any ANCSA corporation or non-profit corporations, provided they maintain in-house land planning and management capabilities.

ANCSA mandated that village corporations who are eligible to select lands under section 14(c) must reconvey various surface estates to third parties who have prior existing rights to those lands. There are 209 village who are eligible to select ANCSA lands, but to date none of these villages have received their full land entitlements. Of those village which have received partial transfers of land, between seven and 15 have completed the required reconveyances. The cost of ANCSA reconveyances will vary from village to village based on the complexities of land ownership patterns. However, the Evansville village corporation expended approximately $10,000 to fully implement its ANCSA section 14(c) obligations. While Evansville is one of the smaller villages, other estimated total costs range from $35,000 to $60,000 per village to complete all necessary reconveyances. Based on its experiences with land reconveyances in the past, the Alaska Federation of Natives estimates the implementation cost of section 14(c) to be approximately $400,000 to $450,000 per year.

SECTION 5. NATIVE ALLOTMENTS

Section 5 amends ANILCA to allow the Arctic Slope Regional Corporation (ASRC) to select the subsurface estate beneath Native allotments that are completely surrounded by Kuukpik Corporation selected lands within the National Petroleum Reserve-Alaska (NPR–A).

Two Native allotments in the NPR–A are surrounded by lands conveyed to the village corporation of Nuiqsut, the Kuukpik Corporation. The subsurface estate under the Nuiqsut lands has been conveyed to ASRC under ANILCA, while the subsurface estate (including rights to oil and gas) in the two Native allotments remains in control of the Untied States. Section 5 of H.R. 402 permits ASRC, at its option, to relinquish to the United States a portion of its entitlement under section 12(a)(1) of ANCSA in exchange for the reserved oil and gas interests of the United States beneath the two Native allotments in the NPR–A.

Any selections which would include oil and gas rights and all rights and privileges reserved to the U.S. would reduce ASRC's ANCSA section 12(a)(1) entitlement on an acre-for-acre basis. These two native allotments in the NPR-A total less than 240 acres and the exercise of this option by ASRC would consolidate ownership of the subsurface estate and eliminate isolated tracts of Federal oil and gas interests.

SECTION 6. REPORT CONCERNING OPEN SEASON FOR CERTAIN ALASKAN VETERANS FOR ALLOTMENTS

This section directs the Secretary of Interior to submit to Congress within six months of the date of enactment of H.R. 402 a report on the number of Vietnam-era veterans who were eligible but did not receive an allotment of up to 160 acres of land under the Native Allotment Act of 1906. In addition, the report is to include recommendations for any additional necessary legislation. The Secretary of Veterans Affairs is to cooperate fully with the Secretary of the Interior by releasing any relevant information necessary to prepare the required report.

Under the Native Allotment Act of 1906, only 200 allotment applications were received by the Bureau of Indian Affairs (BIA) in Alaska before 1970. Late in 1969, the Rural Alaska Community Action Program and Alaska Legal Services along with others made a conscious effort to educate Alaska Natives on the program and assisted qualified Alaska Natives in filing applications. Over 8,000 additional applications were filed before the Act was repealed by ANCSA on December 18, 1971.

Many Alaska Natives were serving in the Armed Services during the late 60's and early 70's when the BIA opened the application process to Alaska Natives. Consequently, many of those Alaska Native veterans on active duty in Vietnam were unreachable, and missed their opportunity to apply for their Native allotments. This section would start the process to rectify this inequity.

SECTION 7. TRANSFER OF WRANGELL INSTITUTE

Section 7 authorizes Cook Inlet Region, Inc. (CIRI) to transfer to the General Services Administration the Wrangell Institute in Wrangell, Alaska, which CIRI originally received in fulfillment of its ANCSA land entitlement in exchange for property bidding credits.

In return, CIRI will receive $382,305 in bidding credits that will be restored to the Cook Inlet Region, Inc. property account in the Treasury Department established under section 12(b) of the Act of January 2, 1976 (Public Law 94–204). These property bidding credits shall be used in the same fiscal year as received by CIRI.

The United States shall defend and hold CIRI and its subsidiaries harmless in all claims arising from ownership of the land and structures prior to their return to the United States. This provision is intended to prohibit the United States from seeking to recover from CIRI the costs of cleaning up or reclaiming the land and structures on the 10-acre Wrangell Institute site which existed prior to the transfer to CIRI.

SECTION 8. SHISHMAREF AIRPORT AMENDMENT

This section directs the Secretary of the Interior to reacquire the interests originally conveyed pursuant to a patent of airport land in Shishmaref, Alaska, from the State of Alaska, and then transfer all right, title and interest in this airport to the Shishmaref Native Corporation. This transfer does not relieve the United States, the State of Alaska or any other potentially responsible party from liability under existing law for clean up of hazardous or solid wastes.

In addition, neither the United States nor the Shishmaref Native Corporation is liable for any clean up of the site merely by virtue of acquiring title from the State or the United States under this section.

This conveyance of approximately 30 acres will allow for expansion of the village. The Committee intends that this transfer should not be charged to the entitlement of Shishmaref Native Corporation under any provision of ANCSA.

The transfer of all right, title and interest of the United States in the subject lands includes both the surface and subsurface estate.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(l)(3) of rule XI of the Rules of the House of Representatives and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 402 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 402. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 402 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 402.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 402 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 8, 1995.

Hon. DON YOUNG,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 402, a bill to amend the Alaska Native Claims Settlement Act, and for other purposes.

Enactment of H.R. 402 would affect direct spending. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 402.

2. Bill title: A bill to amend the Alaska Native Claims Settlement Act, and for other purposes.

3. Bill status: As ordered reported by the House Committee on Resources on February 15, 1995.

4. Bill purpose: H.R. 402 would amend several sections of the Alaska Native Claims Settlement Act to allow the reconveyance of land among Alaska Native corporations and to require the transfer of mining claims from the federal government to Native corporations. The bill would authorize Cook Inlet Region, Inc. (CIRI), to transfer to the United States certain lands in exchange for property bidding credits and would relieve the corporation from any liability associated with the property. The bill also would require the Department of the Interior (DOI) to conduct a number of studies, and would authorize the appropriation of such sums as may be necessary for DOI to provide technical assistance to village corporations.

5. Estimated cost to the Federal Government: Enactment of H.R. 402 would increase discretionary spending, subject to appropriations of the necessary funds, and would result in a loss of offsetting receipts (thereby increasing direct spending) as shown in the following table.

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000
Authorizations:					
Estimated authorization level	1.2	0.4	0.4	0.4	0.4
Estimated outlays	0.9	0.5	0.4	0.4	0.4
Direct spending:					
Estimated budget authority	0.4	0	0	0	0
Estimated outlays	0.4	0	0	0	0

The costs of this bill fall within budget function 300.

CBO assumes that H.R. 402 would be enacted by the end of fiscal year 1995 and that funds would be appropriated as estimated to carry out the required activities.

Section 2 of H.R. 402 would amend the Alaska Native Claims Settlement Act (ANCSA) to clarify that Native corporations have the authority to regulate activities on mining claims located on lands conveyed to them by the federal government. DOI estimates that in the process of transferring authority to regulate the claims to the corporations, the agency would incur a cost of about $100,000 in 1996. Final conveyance of the claims to the corporations would also mean that the federal government would no longer collect any fees associated with these claims. Because DOI is currently collecting little, if anything, in fees from the claims affected by this section, we do not expect such losses to be significant.

Section 3 would require DOI to submit a report to the Congress on the presence of hazardous substances on lands conveyed to Native corporations under ANCSA. Based on information provided by DOI, we estimate that this report would cost about $750,000 and would be completed over an 18-month period beginning in 1996.

Section 4 would authorize the appropriation of such sums as may be necessary for DOI to provide technical assistance to village corporations as they reconvey land as required under ANCSA. Based on information provided by DOI and the Alaska Federation of Natives, we estimate that technical assistance would cost about $400,000 annually.

Section 7 would allow Cook Inlet Region, Incorporated (CIRI), a native corporation, to give back to the federal government certain land and structures conveyed to CIRI in 1977 as part of its entitlement under ANCSA. In exchange, the General Services Administration (GSA) would issue monetary credits equal to $382,305—the property's estimated value at the time of the original conveyance. CIRI would be authorized to use the monetary credits to acquire any federal property. Section 7 also would absolve CIRI from any liability for damage claims that might result from hazardous substances found on this property.

The value of these credits would count as direct spending in the year they were issued. Correspondingly, their use by CIRI to acquire federal properties would count as offsetting receipts in the year they were used. However, because the use of these credits would likely displace cash sales of federal properties, their use by CIRI would result in a net loss of offsetting receipts of $382,305.

By relieving CIRI from sharing liability for damage claims that might arise from contamination on the returned property, enactment of this provision could increase federal exposure to liability suits. Because we have no way to predict whether such suits will in fact arise, or whether claimants would prevail in court, CBO cannot estimate either the likelihood or magnitude of such potential costs.

We do not expect enactment of the other sections of H.R. 402 to result in significant additional costs to the federal government.

6. Comparison with spending under current law: The requirements set forth in this bill are new and would increase DOI's costs by the amounts shown in the previous table.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of H.R. 402 would increase direct spending by $382,305 in fiscal year 1996. Enactment of section 2 could result in a loss of offsetting receipts from mining claim fees but such losses would be negligible.

The following table shows the estimated pay-as-you-go impact of this bill (The estimated outlay increase in 1996 is less than $500,000; hence, it rounds to zero.)

[By fiscal years, in millions of dollars]

	1996	1997	1998
Change in outlays	0	0	0
Change in receipts	(1)	(1)	(1)

[1] Not applicable.

8. Estimated cost to State and local governments: None.

9. Estimate comparison: None.

10. Previous CBO estimate: None.

11. Estimate prepared by: Theresa Gullo.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

DEPARTMENTAL REPORTS

The Committee has a departmental report on H.R. 402 from the Department of the Interior dated February 8, 1995. The Committee has received no other departmental reports.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, February 8, 1995.

Hon. DON YOUNG,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to provide views of this Department concerning two bills which are expected to be marked up in the near future by your Committee. They are H.R. 402, ''To amend the Alaska Native Claims Settlement Act, and for other purposes,'' and H.R. 421, ''To amend the Alaska Native Claims Settlement Act to provide for the purchase of common stock of Cook Inlet Region, Inc., and for other purposes.''

These bills were considered in the 103rd Congress but were not passed. The bills represent areas where a great deal has already been accomplished through informal discussion and cooperative efforts among the Congress, the affected Native groups, the State, and the Department, and we appreciate the efforts of the Committee and the progress that has been shown in this legislation to date. While we do have some concerns with the bills, a substantial amount of agreement has been achieved on them through the cooperative efforts.

We will consider first H.R. 402. The bill would amend various provisions of the Alaska Native Claims Settlement Act ("ANCSA") (42 U.S.C. § 1601 et seq.) and would otherwise provide for certain conveyances of land or interests therein. We reported on the predecessor bill in the 103rd Congress, H.R. 3612. Several of the provisions of that bill have been removed and are not included in H.R. 402 because agreement has been reached and/or because the Alaska Federation of Natives (AFN) has withdrawn them. Most of the provisions in H.R. 402 reflect suggestions this Department made to H.R. 3612.

Comments are as follows:

Section 1. Ratification of certain Caswell Creek and Montana Creek conveyances

In 1974, Montana Creek Native Association, Inc. (MCNA) and Caswell Native Association, Inc. (CNA) withdrew their applications for village status then pending before the Department. Instead of applying for a withdrawal and selecting lands, the two groups and Cook Inlet Region, Inc. (CIRI) entered into an agreement. CIRI conveyed 11,520 acres to each group. Under the Department's regulations, each group would have been eligible for a maximum of 7,680 acres. CIRI has requested that the conveyances from it to the groups be ratified by Congress and that the groups' lands be treated as lands conveyed pursuant to ANCSA. This amendment would make the lands eligible for fire protection under section 22(e) of ANCSA, 43 U.S.C. § 1621(e), and eligible for a land bank status under section 907 of the Alaska National Interest Lands Conservation Act (ANILCA)(43 U.S.C. § 1636, as amended). The Department supports the ratification of CIRI's transfer. We note that two changes were made to the bill last year based on Interior's comments, and those changes have been retained in H.R. 402. They are included at page 2, lines 8–17.

We do have an additional amendment which we believe is necessary in connection with the earlier changes. In the second sentence, page 2, the reference to section 14(h)(2) of ANCSA (43 U.S.C. § 1613(h)(2)) should be deleted, and the reference to § 1613(h)(2) in line 4 should be changed to simply § 1601 et seq. The lands should be deemed as ANCSA conveyances in order to have all the protection of § 21 of ANCSA (43 U.S.C. § 1620) and § 907 of ANLICA. Without the deletion, it could be argued that 23,000 acres must be deleted from lands available to other regions under § 14(H)(8) of ANCSA (43 U.S.C. § 1613(h)(8)), which would be inconsistent with the agreed goal of making these lands available to the other regions.

Sec. 2. Mining claims after lands conveyed to Alaska Regional Corporation

When lands were patented to the regional corporations under the provisions of ANCSA sections 11(a)(1), 11(a)(2) and 16, they were conveyed "subject to valid existing rights." This included valid mining claims. Under the holding in *Alaska Miners* v. *Andrus,* 662 F.2d 577 (9th Cir. 1981), miners were not compelled to file for pat-

ent on such claims, but by failing to apply for a patent in the time permitted by ANCSA, mining claimants lost the right to obtain a patent to their mining claims for the federal government. Accordingly, BLM has taken the position that after the transfer of title it cannot accept FLPMA filings on such mining claims, nor has BLM been wiling to accept annual rental payments. This has created confusion about mining regulatory authority over these mining claims.

The purpose of this amendment is to clarify who has mining regulatory authority over these claims. Under the amendment, the regional corporations are explicitly given the authority to regulate the mining claims under the mining laws of the United States, as such laws are amended. Adoption of this legislation would have the desired effect of bringing clarity to the relationship between the miner/inholder and the Regional Corporation.

The Department supports an amendment to ANILCA on this subject. We proposed substitute language last year to that which was proposed in H.R. 3612. That proposed substitute language, which more clearly gives management authority to the Regional Corporations, has not been adopted in H.R. 402. We endorse this section with the new language.

Sec. 3. Settlement of claims arising from hazardous substance contamination of transferred lands

Native corporations have selected and the United States has conveyed lands which contain contaminants. The nature of the contamination may come in various forms including residue from abandoned upstream mining operations, and in many cases substances now considered contaminants were not so considered at the time of the transfer. AFN contends that it is unfair for the regional corporations to shoulder the entire burden of cleaning up contaminated sites where the contamination is not the fault of the Native corporations. However, we have insufficient information at this time to address this issue. We support the provision for a study to develop recommendations on how to deal with the problem. We appreciate that the current provision represents a substantial change from settlement provisions in earlier versions of the bill which we strongly opposed.

While we support the basic terms of the section, we recommend refinements which we believe are important to the effectiveness of the provision. We believe the section should be consistent with terms in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. § 9601, et seq.). Two different terms are used in the operable portion of the study, "contaminants", which is defined in the proposed revision to ANCSA subsection 40(a)(1), and "hazardous substances", which is not defined. Since both terms are already defined and understood in environmental law, it makes sense to adopt those definitions for both terms. Subsection (a)(1) should read:

> "(1) The term "contaminant" means hazardous substance(s), pollutants, or contaminants as defined in Public Law 96–510, Title I, § 101, Dec. 11, 1980, 94 Stat. 2767, as amended, 42 U.S.C. § 9601(14) and (33)."

Subsection (b) should be amended, for consistency and because the required report must address contaminants and not just hazardous substances, to replace the term "hazardous substances" on pages 5, line 4, with the term "contaminants."

We recommend the definition of term "lands" be deleted in section 40(a) on page 4. We believe it is unnecessary and potentially confusing because the word "lands" is fully described in subsection 40(b), and subsections 40(b)(1)–(4) refer back to that description through the use of the term "such lands".

Section (b)(2) should be amended by adding the word "on" after "existing information". This small but important word makes a big difference in terms of personnel time and money. With the word, the report is required to state where the information is located. Without the word, the statutory directive will be to list all available information in the report, wherever it may exist.

Subsection (b)(2), page 5, line 12, should be amended by changing the term "amelioration" to "remediation", since "remediation", like "removal", is a term used in CERCLA, while "amelioration" is not.

Sec. 4. Authorization of appropriations for the purpose of implementing required reconveyances

ANCSA section 14(c) requires village corporations to reconvey certain land within their patented selections. The problems associated with the reconveyance of lands to individuals and municipalities within the village patents are complex and technically difficult.

This proposed amendment would constitute an authorization for appropriations to provide technical assistance to villages 14(c) reconveyances.

The Department notes that the provision has been amended substantially as suggested by the Department in its report of last year. It is our understanding that AFN concurs with these changes.

Sec. 5. Native allotments

Two native allotments in the National Petroleum Reserve—Alaska (NPR–A), totalling less than 240 acres, are surrounded by lands conveyed to the village corporation of Nuiqsut. The subsurface estate under Nuiqsut village lands have been conveyed to Arctic Slope Regional Corporation (ASRC) pursuant to Section 1431(o) of Alaska National Interest Lands Conservation Act. In the absence of this amendment, the United States is expected to own the oil and gas estate under the two allotments.

This amendment would permit conveyance to ASRC of the federally owned oil and gas estate under the Native allotments for the purpose of consolidating subsurface interests in the area and eliminating isolated tracts of public land. Any oil and gas recoverable from the Native allotment subsurface would, in all likelihood, have only a limited market in Nuiqsut. The lands have not been deemed valuable for coal. The State of Alaska has consented to the transfer of the reserved minerals to the Corporation. Furthermore, this amendment would not result in a net loss of subsurface estate to the United States. We support this technical amendment. As we suggested in our report of last year, the bill has been amended to delete the words "a Village" and substitute the world "Kuukpik"

(the name of the ANCSA corporation at Nuiqsut) in the first sentence of proposed Section 1431(o)(5).

Sec. 6. Report concerning open season for certain Native Alaskan veterans for allotments

The Alaska Native Allotment Act of 1906 was repealed by ANCSA on December 18, 1971. During 1970 and 1971, a concerted effort was made by the Bureau of Indian Affairs, Ruralcap and Alaska Legal Services to notify as many Alaskan Natives as possible of the upcoming repeal and the need to apply for an allotment. Individuals who were otherwise entitled to apply for an allotment but who were on active military duty during 1970 and 1971 may have been deprived of an opportunity to apply for such allotments.

We note that the bill has been amended from last year's bill to reduce the eligible parties and to provide for a report on the problem and suggested solutions. We believe this is far preferable to the original provision in earlier bills, and we support the provision. However we strongly recommend that the time for the report be extended to 12 months. We do not think it can be done in 6 months.

Sec. 7. Transfer of Wrangell Institute

The Wrangell Institute was originally withdrawn in 1956 for the administration of Native Affairs. That use terminated with the passage of ANCSA. The property was excessed by BIA to GSA in 1975 and subsequently 31 acres were transferred to the city of Wrangell. In 1977 CIRI requested that the remaining 140 acres be made available for selection. CIRI was issued a revocable license on May 11, 1977. In August 1978, this land and the buildings thereon were the subject of an interim conveyance to CIRI.

This amendment would cause ten acres of that conveyance together with the structures to be returned to the United States. The section would also hold CIRI harmless for any and all claims arising from either federal or CIRI ownership of the land prior to its return to the United States. CIRI is seeking a credit to its property account in the amount of $382,305, the estimated worth of the property. In addition to the costs of supplementing the CIRI property account, the U.S. would have to assume the liability for the clean up of the property which could include the destruction and removal of all buildings on the property which have deteriorated since the cessation of maintenance by CIRI.

Asbestos products were properly used in construction of the buildings and were properly maintained at the time of conveyance; and this fact is not unique to CIRI. It is specifically the Department's position that the asbestos was not considered a pollutant at the time of transfer, and it was not friable. CIRI had the option of containing the asbestos as opposed to abandoning the building, but did not do so. It is our understanding that the asbestos became friable after the building was abandoned.

Furthermore, CIRI had specifically requested that the property be made available for selection and had the fullest opportunity to evaluate the Wrangell property prior to selecting it, having held a revocable license to the property for over one year prior to conveyance, for this purpose.

The Department cannot support the relief sought for CIRI. Under the facts we do not believe CIRI is entitled to the relief sought, and to do so would require relief for others similarly situated. We are not in a position to assume that very extensive liability at this time. It is the Department's understanding, for example, that there are over 200 other conveyed buildings which contained non-friable asbestos. We do not believe that as a matter of law the United States must reimburse CIRI for its investment or hold them harmless for the time of their ownership. Moreover, it is not feasible to reimburse all entities to whom the United States has conveyed buildings that contained non-friable asbestos or who may not be satisfied with their land. We do not support this amendment. It is our understanding that GSA also opposes this amendment for similar reasons.

We have serious concerns with this section, both on the facts of the particular case, and because of the precedent it would set.

Although we do not support section 7, the Department does support reviewing the Wrangell Institute situation in the context of the section 3 contamination study discussed earlier in these comments. The section 3 study will provide a comprehensive review of the problem of the presence of contaminants on conveyed lands. We believe that this is the more appropriate course of action under the circumstances, and it would place CIRI in the same position as other Alaska Native corporations with respect to consideration of the circumstances involving the presence of any contaminants, and identification of possible remedies.

Sec. 8. Shishmaref airport amendment

This section of the bill would allow the Department to reacquire Shishmaref Airport, originally conveyed to the State of Alaska, and to immediately transfer it to the Shishmaref Native Corporation. The bill attempts to apportion fairly and potential liability for cleanup of hazardous or solid wastes on the property.

We recommend the following amendment to section 8, beginning at line 13: delete all after "airport." on line 13, through "and," on line 15, and revise to read as follows: [new matter in italic] "* * * airport. *The Administrator of the Federal Aviation Administration is hereby directed to exercise said reverter in Patent No. 1240529 in favor of the United States within 12 months of the date of enactment of this section. Upon revesting of title,* notwithstanding any other provision of law, the Secretary shall.* * *"

This is a preferable means of executing the transfer, and the Secretary is not called upon to reacquire the land.

With this amendment, the Department supports the section.

With the amendments proposed above, including the deletion of section 7 as written, the Department supports the enactment of H.R. 402

H.R. 421

H.R. 421 would amend the Alaska Native Claims Settlement Act to provide for the purchase of common stock of the Cook Inlet Corporation.

In 1971, the Alaska Native Claims Settlement Act (ANCSA) was enacted to settle and resolve the claims of Alaska Natives to most

of the State of Alaska. The settlement recognized title to 44 million acres of land to be held for Native Corporations and approximately $1 billion in monetary compensation for the loss of the remaining lands. Under ANCSA, 12 geographic regions were created with five incorporators authorized under each region. Each regional corporation was formed under the laws of Alaska to conduct business for profit and was managed by a board of directors. Alaska Natives, living on the date of enactment, were issued stock in the corporations and the right to vote in elections for the board of director and on other issues of importance to the stockholders.

ANCSA provided that for a period of 20 years Native corporation stock could not be sold, transferred, pledged, subjected to a lien or judgement execution, assigned in present or future or otherwise alienated; and could only be transferred through inheritance or in limited cases of court decree. In 1987, Congress amended the restrictions on stock sale, instead of expiring at the end of 20 years (1991), the stock restrictions on alienability would continue automatically until the shareholders of a Native corporations voted to remove them.

H.R. 421 amends ANSCA, authorizing the Cook Inlet Regional Corporation, with approval of the shareholders, to offer shareholders a repurchase of corporation stock from those who want to sell their stock to the corporation.

Our understanding is that the Cook Inlet Regional Corporation has conducted a poll of its shareholders and found them to be in favor of this action. Once legislation is passed, the bill provides that the issue will be put to a formal vote of the shareholders for their approval. In light of this, we have no objection to the passage of H.R. 421. We do have two recommendations, however.

Paragraph (J)(ii) on page 6 would hold harmless any director of Cook Inlet Regional Corporation and any firm or member of a firm of investment bankers or valuation experts who assist in the determination of the terms of an offer to purchase, from damages for terms made in an offer. We are opposed to this provision. As to directors we do not believe that we should change through a federal act the terms of state law as to the standards of responsibility for directors of corporations, particularly as to Native corporations in which shareholders cannot as easily shed their interests as shareholders in most corporations can do. We should not weaken the protections afforded shareholders. Moreover, we fail to see the rationale for absolving bankers and valuation experts from responsibility for doing precisely what they are hired and well paid to do, and we believe this holds unnecessary risks to the shareholders.

Paragraph (L) on page 7 provides that proceeds from sale of stock shall not be excluded from eligibility determinations for needs-based government programs. We approve of the provision, but would defer to the views of other agencies more directly affected. We recommend, however, the inclusion in line 13, after the word "Proceeds", the following, "* * * in excess of $2,000 received by any individual stockholder * * *" This would exclude from eligibility determinations the first $2,000 received by a shareholder. The purpose of this provision is simply to clarify that the bill is consistent with the provision and policy enacted by the Congress

in section 15 of the 1991 Amendments to section 29 of ANCSA (43 U.S.C. 1607(c)).

This concludes our comments.

The Office of Management and Budget advises that it has no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GEORGE T. FRAMPTON, Jr.,
Assistant Secretary,
Fish and Wildlife and Parks.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ALASKA NATIVE CLAIMS SETTLEMENT ACT

* * * * * * *

CONVEYANCE OF LANDS

SEC. 14. (a) * * *

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(c) Each patent issued pursuant to subsections (a) and (b) shall be subject to the requirements of this subsection. Upon receipt of a patent or patents:

(1) * * *

* * * * * * *

There is authorized to be appropriated such sums as may be necessary for the purpose of providing technical assistance to Village Corporations established pursuant to this Act in order that they may fulfill the reconveyance requirements of section 14(c) of this Act. The Secretary may make funds available as grants to ANCSA or nonprofit corporations that maintain in-house land planning and management capabilities.

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MISCELLANEOUS

SEC. 22. (a) * * *

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(c)(1) * * *

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(3) This section shall apply to lands conveyed by interim conveyance or patent to a regional corporation pursuant to this Act which are made subject to a mining claim or claims located under the general mining laws, including lands conveyed prior to enactment of this paragraph. Effective upon the date of the enactment of this paragraph, the Secretary, acting through the Bureau of Land Management and in a manner consistent with section 14(g) of this Act,

shall transfer to the regional corporation administration of all mining claims determined to be entirely within lands conveyed to that corporation. Any person holding such mining claim or claims shall meet such requirements of the general mining laws and section 314 of the Federal Land Management and Policy Act of 1976 (43 U.S.C. 1744), except that any filings which would have been made with the Bureau of Land Management if the lands were within Federal ownership shall be timely made to the appropriate regional corporation. The validity of any such mining claim or claims may be contested by the regional corporation, in the place of the United States. All contest proceedings and appeals by the mining claimants of adverse decisions made by the regional corporation shall be brought in Federal District Court for the District of Alaska. Neither the United States nor any Federal agency or official shall be named or joined as a party in such proceedings or appeals. All revenues from such mining claims received after passage of this paragraph shall be remitted to the regional corporation subject to distribution pursuant to section 7(i) of this Act, except that in the event that the mining claim or claims are not totally within the lands conveyed to the regional corporation, the regional corporation shall be entitled only to that proportion of revenues, other than administrative fees, reasonably allocated to the portion of the mining claim or claims so conveyed.

* * * * * * *

CLAIMS ARISING FROM CONTAMINATION OF TRANSFERRED LANDS

SEC. 40. (a) As used in this section:

(1) The term "contaminant" means hazardous substances harmful to public health or the environment, including asbestos.

(2) The term "lands" means real property transferred to an Alaska Native Corporation pursuant to this Act.

(b) Within 18 months of enactment of this section, and after consultation with the Secretary of Agriculture, State of Alaska, and appropriate Alaska Native corporations and organizations, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report addressing issues presented by the presence of hazardous substances on lands conveyed or prioritized for conveyance to such corporations pursuant to this Act. Such report shall consist of—

(1) existing information concerning the nature and types of contaminants present on such lands prior to conveyance to Alaska Native corporations;

(2) existing information identifying the existence and availability of potentially responsible parties for the removal or amelioration of the effects of such contaminants;

(3) identification of existing remedies; and

(4) recommendations for any additional legislation that the Secretary concludes is necessary to remedy the problem of contaminants on such lands.

SECTION 1431 OF THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

ARCTIC SLOPE REGIONAL CORPORATION LANDS

SEC. 1431. (a) * * *

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(o) FUTURE OPTION TO EXCHANGE, ETC.—(1) * * *

* * * * * * *

(5) Following the exercise by Arctic Slope Regional Corporation of its option under paragraph (1) to acquire the subsurface estate beneath lands within the National Petroleum Reserve—Alaska selected by Kuukpik Corporation, where such subsurface estate entirely surrounds lands subject to a Native allotment application approved under section 905 of this Act, and the oil and gas in such lands have been reserved to the United States, Arctic Slope Regional Corporation, at its further option, shall be entitled to receive a conveyance of the reserved oil and gas, including all rights and privileges therein reserved to the United States, in such lands. Upon the receipt of a conveyance of such oil and gas interests, the entitlement of Arctic Slope Regional Corporation to in-lieu subsurface lands under section 12(a)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(a)(1)) shall be reduced by the amount of acreage determined by the Secretary to be conveyed to Arctic Slope Regional Corporation pursuant to this paragraph.

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