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REFERENCE: Vol. 142 No. 119

TITLE: KENAI NATIVES ASSOCIATION EQUITY ACT AMENDMENTS OF 1996

SPEAKER: Mr. DOOLITTLE

TEXT: [*H9958]

Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 401) entitled the "Kenai Natives Association Equity Act," as amended.

The Clerk read as follows:

H.R. 401

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kenai Natives Association Equity Act Amendments of 1996".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.--The Congress finds the following:

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

(2) The lands to be acquired by the Service are within the area impacted by the Exxon Valdez oil spill of 1989, and these lands included important habitat for various species of fish and wildlife for which significant injury resulting from

the spill has been documented through the EVOS Trustee Council restoration process. This analysis has indicated that these lands generally have value for the restoration of such injured natural resources as pink salmon, dolly varden, bald eagles, river otters, and cultural and archaeological resources. This analysis has also indicated that these lands generally have high value for the restoration of injured species that rely on these natural resources, including **wilderness** quality, recreation, tourism, and subsistence.

(3) Restoration of the injured species will benefit from acquisition and the prevention of disturbances which may adversely affect their recovery.

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

(b) Purpose.--The purpose of this Act is to authorize and direct the Secretary, at the election of KNA, to complete the conveyances provided for in this Act.

SEC. 3. DEFINITIONS.

For purposes of this Act, the term--

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

(2) "ANILCA" means the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371 et seq.);

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

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

(5) "EVOS" means the Exxon Valdez oil spill;

(6) "KNA" means the Kenai Natives Association, Inc., an urban corporation incorporated in the State of Alaska pursuant to the terms of ANCSA;

(7) "lands" means any lands, waters, or interests therein;

(8) "Refuge" means the Kenai National Wildlife Refuge;
(9) "Secretary" means the Secretary of the Interior;
(10) "Service" means the United States Fish and Wildlife Service; and

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

SEC. 4. ACQUISITION OF LANDS.

(a) Offer to KNA.--

(1) In general.--Subject to the availability of the funds identified in subsection (b)(3), no later than 90 days after the date of enactment of this Act, the Secretary shall offer to convey to KNA the interests in land and rights set forth in subsection (b)(2), subject to valid existing rights, in return for the conveyance by KNA to the United States of the interests in land or relinquishment of ANCSA selections set forth in subsection (b)(1). Payment for the lands conveyed to the United States by KNA is contingent upon KNA's acceptance of the entire conveyance outlined herein.

(2) Limitation.--The Secretary may not convey any lands or make payment to KNA under this section unless title to the lands to be conveyed by KNA under this Act has been found by the United States to be sufficient in accordance with the provisions of section 355 of the Revised Statutes (40 U.S.C. 255).

(b) Acquisition Lands.--

(1) Lands to be conveyed to the United States.--The lands to be conveyed by KNA to the United States, or the valid selection rights under ANCSA to be relinquished, all situated within the boundary of the Refuge, are the following:

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

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

(C) The relinquishment of KNA's selection known as the Moose River Selected Tract, containing approximately 753

acres located along the Moose River.

(D) The relinquishment of KNA's remaining ANCSA entitlement of approximately 454 acres.

(E) The relinquishment of all KNA's remaining overselections. Upon completion of all relinquishments outlined above, all KNA's entitlement shall be deemed to be extinguished and the completion of this acquisition will satisfy all of KNA's ANCSA entitlement.

(F) The conveyance of an access easement providing the United States and its assigns access across KNA's surface estate in the SW 1/4 of section 21, T. 6 N., R. 9 W., Seward Meridian, Alaska.

(G) The conveyance of approximately 100 acres within the Beaver Creek Patented Tract, which is contiguous to lands being retained by the United States contiguous to the Beaver Creek Patented Tract, in exchange for 280 acres of Service lands currently situated within the Beaver Creek Selected Tract.

(2) Lands to be conveyed to KNA.--The rights provided or lands to be conveyed by the United States to KNA, are the following:

(A) The surface and subsurface estate to approximately 5 acres, subject to reservations of easements for existing roads and utilities, located within the city of Kenai, Alaska, identified as United States Survey 1435, withdrawn by Executive Order 2934, and known as the old Fish and Wildlife Service Headquarters site.

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

(C)(i) The nonexclusive right to use sand and gravel which is reasonably necessary for on-site development without compensation or permit on those portions of the Swanson River Road East Tract, comprising approximately 1,738.04 acres; where the entire subsurface of the land is presently owned by the United States. The United States shall retain the ownership of all other sand and gravel located within the subsurface and KNA shall not sell or dispose of such sand and gravel.

(ii) The right to excavate within the subsurface estate as reasonably necessary for structures, utilities, transportation systems, and other development of the surface estate.

(D) The nonexclusive right to excavate within the subsurface estate as reasonably necessary for structures, utilities, transportation systems, and other development of the surface estate on the SW 1/4 , section 21, T. 6 N., R. 9 W., Seward Meridian, Alaska, where the entire subsurface of the land is owned by the United States and which public lands shall continue to be withdrawn from mining following their removal from the Refuge boundary under subsection (c)(1)(B). The United States shall retain the ownership of all other sand and gravel located within the subsurface of this parcel.

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

(3) Payment.--The United States shall make a total cash payment to KNA for the above-described lands of \$4,443,000, contingent upon the appropriate approvals of the Federal or State of Alaska EVOS Trustees (or both) necessary for any expenditure of the EVOS settlement funds.

(4) National register of historic places.--Upon completion of the acquisition authorized in subsection (a), the Secretary shall, at no cost to KNA, in coordination with KNA, promptly undertake to nominate the Stephanka Tract to the National Register of Historic Places, in recognition of the archaeological artifacts from the original Dena'ina Settlement. If the Department of the Interior establishes a historical, cultural, or archaeological interpretive site, KNA shall have the exclusive right to operate a Dena'ina interpretive site on the Stephanka Tract under the regulations and policies of the department. If KNA declines

to operate such a site, the department may do so under its existing authorities. Prior to the department undertaking any archaeological activities whatsoever on the Stephanka Tract, KNA shall be consulted.

(c) General Provisions.--

(1) Removal of KNA lands from the national wildlife refuge system.--

(A) Effective on the date of closing for the Acquisition Lands identified in subsection (b)(2), all lands retained by or conveyed to KNA pursuant to this Act, and the subsurface interests of CIRI underlying such lands shall be automatically removed from the National Wildlife Refuge System and shall neither be considered as part of the Refuge nor subject to any laws pertaining solely to lands within the boundaries of the Refuge. The conveyance restrictions imposed by section 22(g) of ANCSA (i) shall then be ineffective and cease to apply to such interests of KNA and CIRI, and (ii) shall not be applicable to the interests received by KNA in accordance with subsection (b)(2) or to the CIRI interests underlying them. The Secretary shall adjust the boundaries of the Refuge so as to exclude all interests in lands retained or received in exchange by KNA in accordance with this Act, including both surface and subsurface, and shall also exclude all interests currently held by CIRI. On lands within the Swanson River Road East Tract, the boundary adjustment shall only include the surface estate where the subsurface estate is retained by the United States.

(B)(i) The Secretary, KNA, and CIRI shall execute an agreement within 45 days of the date of enactment of this Act which preserves CIRI's rights under paragraph 1(B)(1) of the Terms and Conditions, addresses CIRI's obligations under such paragraph, and adequately addresses management issues associated with the boundary adjustment set forth in this Act and with the differing interests in land resulting from enactment of this Act.

(ii) In the event that no agreement is executed as provided for in clause (i), solely for the purposes of administering CIRI's rights under paragraph 1(B)(1) of the Terms and Conditions, the Secretary and CIRI shall be deemed to have retained their respective rights and obligations with respect to CIRI's subsurface interests under the requirements of the Terms and Conditions in effect on June 18, 1996. Notwithstanding the boundary adjustments made pursuant to this Act, conveyances to KNA shall be deemed to remain

subject to the Secretary's and CIRI's rights and obligations under paragraph 1(B)(1) of the Terms and Conditions.

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

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

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

(2) Maps and legal descriptions.--Maps and a legal description of the lands described above shall be on file and available for public

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inspection in the appropriate offices of the United States Department of the Interior, and the Secretary shall, no later than 90 days after enactment of this Act, prepare a legal description of the lands described in subsection (b)(1)(G). Such maps and legal description shall have the same force and effect as if included in the Act, except that the Secretary may correct clerical and typographical errors.

(3) Acceptance.--KNA may accept the offer made in this Act by notifying the Secretary in writing of its decision within 180 days of receipt of the offer. In the event the offer is rejected, the Secretary shall notify the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

(4) Final maps.--Not later than 120 days after the conclusion of the acquisition authorized by subsection (a), the Secretary shall transmit a final report and maps accurately depicting the lands transferred and conveyed pursuant to this Act and the acreage and legal descriptions of such lands to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

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

Upon acquisition of lands by the United States pursuant to section 4(b)(1), that portion of the Stephanka Tract lying south and west of the Kenai River, consisting of approximately 592 acres, shall be included in and managed as part of the Kenai **Wilderness** and such lands shall be managed in accordance with the applicable provisions of the **Wilderness** Act and ANILCA.

SEC. 6. DESIGNATION OF LAKE TODATONTEN SPECIAL MANAGEMENT AREA.

(a) Purpose.--To balance the potential effects on fish, wildlife, and habitat of the removal of KNA lands from the Refuge System, the Secretary is hereby directed to withdraw, subject to valid existing rights, from location, entry, and patent under the mining laws and to create as a special management unit for the protection of fish, wildlife, and habitat, certain unappropriated and unreserved public lands, totaling approximately 37,000 acres adjacent to the west boundary of the Kanuti National Wildlife Refuge to be known as the "Lake Todatonten Special Management Area", as depicted on the map entitled Proposed: Lake Todatonten Special Management Area, dated June 13, 1996, and to be managed by the Bureau of Land Management.

(b) Management.--

(1) Such designation is subject to all valid existing rights as well as the subsistence preferences provided under title VIII of ANILCA. Any lands conveyed to the State of Alaska shall be removed from the Lake Todatonten Special Management Area.

(2) The Secretary may permit any additional uses of the area, or grant easements, only to the extent that such use,

including leasing under the mineral leasing laws, is determined to not detract from nor materially interfere with the purposes for which the Special Management Area is established.

(3)(A) The BLM shall establish the Lake Totatonten Special Management Area Committee. The membership of the Committee shall consist of 11 members as follows:

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

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

(B) Members of the Committee shall serve without pay.

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

(c) Access.--The Secretary shall allow the following:

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

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

(d) Secretarial Order and Maps.--The Secretary shall file with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate, the Secretarial Order and maps setting forth the boundaries of the Area within 90 days of the completion of the acquisition authorized by this Act. Once established, this Order may only be amended or revoked by Act of Congress.

(e) Authorization of Appropriations.--There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. Doolittle) and the gentleman from California (Mr. Miller) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. Doolittle).

(Mr. DOOLITTLE asked and was given permission to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 401 was reported by the Resources Committee by a voice vote on June 19. The bill enjoys broad bipartisan support, including the support of the Department of the Interior.

H.R. 401 does several things, a few of which I will briefly mention.

First, the bill solves a longstanding dispute between the U.S. Fish and Wildlife Service and the Kenai Natives Association (KNA) over lands owned by KNA that are located within the Kenai Wildlife Refuge. KNA has been precluded from developing approximately 15,500 acres that were conveyed to them pursuant to passage of the Alaska Native Claims Settlement Act in 1971. Under H.R. 401, those 15,500 acres of KNA-owned land will be removed from the Refuge and all associated development restrictions will be lifted.

Second, H.R. 401 will allow the Fish and Wildlife Service to acquire three highly desirable parcels of land owned by KNA and KNA's remaining land entitlement at appraised value. A total of 2,253 acres of KNA lands will be acquired with Exxon Valdez oil spill settlement funds for approximately \$4.5 million.

Finally, KNA will receive title to the old Kenai National Wildlife Refuge headquarters site in downtown Kenai, Alaska, which consists of a building and a 5-acre parcel--KNA would like to use this site for economic development purposes.

The Fish and Wildlife Service has proposed in order to maintain natural resource protection and values, that Congress designate approximately 37,000 acres as a BLM Special Management Area in exchange for removing 15,500 acres from the Refuge. This proposal has been incorporated into H.R. 401. The Special Management Area would be created adjacent to an existing refuge in north-central Alaska. Management of the area will be subject to existing subsistence preferences and valid existing rights. Furthermore, public access will be protected and residents of surrounding villages will be given the ability to participate in decisions relative to management of the area.

The Kenai Natives have waited long enough to resolve these land use issues. Hopefully the Senate will move similar legislation prior to the end of this legislative session. I urge Members support for this noncontroversial legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation. I thank the gentleman from Alaska, the chairman of the Committee on Resources, for his sponsorship of this bill and his long-standing interest in the concerns of the Kenai Native Association.

This bill would ratify an agreement negotiated between KNA and the Department of the Interior. The bill provides the Native corporation with clear title to lands received under the Alaska Native Claims Settlement Act which are within the boundaries of the Kenai National Wildlife Refuge and subject to development restrictions. To equalize values in the exchange, KNA also would receive \$4.4 million from the Exxon Valdez oil spill trust fund. Accordingly, this bill has no negative impact on the Federal budget.

In return, the Kenai National Wildlife Refuge would benefit by the acquisition of over 3,000 acres of prime fish and wildlife habitat along the Kenai River, one of the most important fishing and recreational watersheds in Alaska. About 592 acres of these acquired lands would be designated part of the refuge **wilderness**. The habitat values of the lands have been evaluated and their acquisition approved by the State-Federal trustee council which administers the Exxon Valdez trust fund. I have long supported prudent use of the Exxon Valdez monies for habitat protection in the region affected by the oil spill and I commend both Interior Secretary Babbitt and Alaska Governor Tony Knowles for their leadership within the council.

In addition, to help compensate for the removal of KNA lands from the refuge boundaries, a 37,000 acre special fish and wildlife management area would be designated adjacent to the Kanuti National Wildlife Refuge in
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northern Alaska and administered by the BLM.

Mr. Speaker, this legislation provides significant opportunities for a Native corporation that has struggled for well over a decade to find an accommodation between the economic interests of its shareholders and the land management interests of the Fish and Wildlife Service. While other administrations have been indifferent to KNA's plight, the Interior Department has attempted in this bill to strike a reasonable balance between the interests of Native Alaskans and fish and wildlife protection. I urge the other body to avoid the temptation to rewrite the environmental designations or otherwise generate controversy and opposition. It is clearly in the best interests of KNA to have this legislation enacted into law this Congress.

Mr. Speaker, I yield back the balance of my time.

Mr. DOOLITTLE. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I urge passage of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Doolittle) that the House suspend the rules and pass the bill, H.R. 401, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.