

Public Law 107-239
107th Congress

An Act

Oct. 11, 2002
[S. 1325]

Alaska.
16 USC 668dd
note.

To ratify an agreement between The Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes.

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

SECTION 1. FINDINGS.

Congress finds that:

(1) Adak Island is an isolated island located 1,200 miles southwest of Anchorage, Alaska, between the Pacific Ocean and the Bering Sea. The Island, with its unique physical and biological features, including a deep water harbor and abundant marine-associated wildlife, was recognized early for both its natural and military values. In 1913, Adak Island was reserved and set aside as a Preserve because of its value to seabirds, marine mammals, and fisheries. Withdrawals of portions of Adak Island for various military purposes date back to 1901 and culminated in the 1959 withdrawal of approximately half of the Island for use by the Department of the Navy for military purposes.

(2) By 1990, military development on Adak Island supported a community of 6,000 residents. Outside of the Adak Naval Complex, there was no independent community on Adak Island.

(3) As a result of the Defense Base Closure and Realignment Act of 1990 (104 Stat. 1808), as amended, the Adak Naval Complex has been closed by the Department of Defense.

(4) The Aleut Corporation is an Alaskan Native Regional Corporation incorporated in the State of Alaska pursuant to the Alaska Native Claims Settlement Act (ANCSA), as amended (43 U.S.C. 1601, et seq.). The Aleut Corporation represents the indigenous people of the Aleutian Islands who prior to the Russian exploration and settlement of the Aleutian Islands were found throughout the Aleutian Islands which includes Adak Island.

(5) None of Adak Island was available for selection by The Aleut Corporation under section 14(h)(8) of ANCSA (43 U.S.C. 1613(h)(8)) because it was part of a National Wildlife Refuge and because the portion comprising the Adak Naval Complex was withdrawn for use by the United States Navy for military purposes prior to the passage of ANCSA in December 1971.

(6) The Aleut Corporation is attempting to establish a community on Adak and has offered to exchange ANCSA land

selections and entitlements for conveyance of certain lands and interests therein on a portion of Adak formerly occupied by the Navy.

(7) Removal of a portion of the Adak Island land from refuge status will be offset by the acquisition of high quality wildlife habitat in other Aleut Corporation selections within the Alaska Maritime National Wildlife Refuge, maintaining a resident human population on Adak to control caribou, and making possible a continued United States Fish and Wildlife Service presence in that remote location to protect the natural resources of the Aleutian Islands Unit of the Alaska Maritime National Wildlife Refuge.

(8) It is in the public interest to promote reuse of the Adak Island lands by exchanging certain lands for lands selected by The Aleut Corporation elsewhere in the Alaska Maritime National Wildlife Refuge. Experience with environmental problems associated with formerly used defense sites in the State of Alaska suggests that the most effective and efficient way to avoid future environmental problems on Adak is to support and encourage active reuse of Adak.

SEC. 2. RATIFICATION OF AGREEMENT.

The document entitled the "Agreement Concerning the Conveyance of Property at the Adak Naval Complex" (hereinafter "the Agreement"), and dated September 20, 2000, executed by The Aleut Corporation, the Department of the Interior and the Department of the Navy, together with any technical amendments or modifications to the boundaries that may be agreed to by the parties is hereby ratified, confirmed, and approved and the terms, conditions, procedures, covenants, reservations, indemnities and other provisions set forth in the Agreement are declared to be obligations and commitments of the United States and The Aleut Corporation: *Provided*, That modifications to the maps and legal descriptions of lands to be removed from the National Wildlife Refuge System within the military withdrawal on Adak Island set forth in Public Land Order 1949 may be made only upon agreement of all Parties to the Agreement and notification given to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate: *Provided further*, That the acreage conveyed to the United States by The Aleut Corporation under the Agreement, as modified, shall be at least 36,000 acres.

SEC. 3. REMOVAL OF LANDS FROM REFUGE.

Effective on the date of conveyance to The Aleut Corporation of the Adak Exchange Lands as described in the Agreement, all such lands shall be removed from the National Wildlife Refuge System and shall neither be considered as part of the Alaska Maritime National Wildlife Refuge nor be subject to any laws pertaining to lands within the boundaries of the Alaska Maritime National Wildlife Refuge, including the conveyance restrictions imposed by section 22(g) of ANCSA (43 U.S.C. 1621(g)), for land in the National Wildlife Refuge System. The Secretary shall adjust the boundaries of the Refuge so as to exclude all interests in lands and land rights, surface and subsurface, received by The Aleut Corporation in accordance with this Act and the Agreement.

Effective date.

SEC. 4. ALASKA NATIVE CLAIMS SETTLEMENT ACT.

Lands and interests therein exchanged and conveyed by the United States pursuant to this Act shall be considered and treated as conveyances of lands or interests therein under the Alaska Native Claims Settlement Act, except that receipt of such lands and interests therein shall not constitute a sale or disposition of land or interests received pursuant to such Act. The public easements for access to public lands and waters reserved pursuant to the Agreement are deemed to satisfy the requirements and purposes of section 17(b) of the Alaska Native Claims Settlement Act.

SEC. 5. REACQUISITION OF LANDS.

The Secretary of the Interior is authorized to acquire by purchase or exchange, on a willing seller basis only, any land conveyed to The Aleut Corporation under the Agreement and this Act. In the event any of the lands 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.

SEC. 6. GENERAL.

(a) Notwithstanding the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 483–484) and the Defense Base Closure and Realignment Act of 1990, as amended (10 U.S.C. 2687), and for the purposes of the transfer of property authorized by this Act, Department of Navy personal property that remains on Adak Island is deemed related to the real property and shall be conveyed by the Department of the Navy to The Aleut Corporation at no additional cost when the related real property is conveyed by the Department of the Interior.

(b) The Secretary of the Interior shall convey to The Aleut Corporation those lands identified in the Agreement as the former landfill sites without charge to The Aleut Corporation's entitlement under the Alaska Native Claims Settlement Act.

(c) Any property, including, but not limited to, appurtenances and improvements, received pursuant to this Act shall, for purposes of section 21(d) of the Alaska Native Claims Settlement Act, as amended, and section 907(d) of the Alaska National Interest Lands Conservation Act, as amended, be treated as not developed until such property is actually occupied, leased (other than leases for nominal consideration to public entities) or sold by The Aleut Corporation, or, in the case of a lease or other transfer by The Aleut Corporation to a wholly owned development subsidiary, actually occupied, leased, or sold by the subsidiary.

(d) Upon conveyance to The Aleut Corporation of the lands described in Appendix A of the Agreement, the lands described in Appendix C of the Agreement will become unavailable for selection under ANCSA.

Applicability.

(e) The maps included as part of Appendix A to the Agreement depict the lands to be conveyed to The Aleut Corporation. The maps shall be left on file at the Region 7 Office of the United States Fish and Wildlife Service and the offices of Alaska Maritime National Wildlife Refuge in Homer, Alaska. The written legal descriptions of the lands to be conveyed to The Aleut Corporation are also part of Appendix A. In case of any discrepancies, the maps shall be controlling.

Approved October 11, 2002.

LEGISLATIVE HISTORY—S. 1325:

SENATE REPORTS: No. 107-180 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 148 (2002):

Aug. 1, considered and passed Senate.
Sept. 24, considered and passed House.