

AFN responds

Meeting this Monday in Anchorage, the Alaska Federation of Natives drafted its response to the Department of the Interior's Environmental Impact Statement on administrative actions regarding d-2 lands in Alaska.

In a letter sent to President Jimmy Carter, Governor Hammond, Secretary Andrus, and the state's Congressional Delegation, AFN President Byron Mallott said,

"On Thursday, Nov. 16, 1978 the Secretary of the Interior withdrew large amounts of land in Alaska pursuant to Section 204(e) (of the Bureau of Land Management Organic Act). This withdrawal removes lands from appropriation under the general land laws and the Alaska Statehood Act and thus protects these lands pending Congressional action."

"This withdrawal, while possibly creating some prejudice to the interests of Alaska Natives, is nonetheless viewed by AFN as an acceptable means of preserving the lands pending Congressional action. The question that

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must now be addressed is whether any further action by the Secretary, in particular withdrawal of these lands under the Antiquities Act, is necessary or justifiable."

"AFN is gravely concerned that an Antiquities Act withdrawal would jeopardize the Natives' rights to engage in subsistence hunting and fishing. The DEIS recognizes the critical role that subsistence hunting plays in the Native life and culture in

many areas of Alaska, but under an Antiquities Act/National Park withdrawal it may be impossible to ensure that subsistence hunting is allowed."

"AFN is also deeply concerned that Antiquities Act withdrawals may jeopardize the rights to lands that the Natives were promised and guaranteed under the Alaska Native Claims Settlement Act. For example, an Antiquities Act withdrawal would create many difficulties regarding access to Native inhol-

dings, access to Native subsurface holdings within withdrawal units, access across withdrawal areas to reach Native holdings, and access to federal lands for the purpose of conducting geologic tests to evaluate adjoining lands selected by or available for selection by the Natives. An Antiquities Act withdrawal may also jeopardize the very right of Natives to receive the land they have been promised under ANCSA and nomination agreements, such as the land within the so-called "dual withdrawal" areas and lands available for nomination by CIRI under P.L. 94-204."

"As is evident by this brief listing of the legal difficulties and uncertainties that result from an Antiquities Act withdrawal, Congressional action is clearly necessary to establish a conservation management sys-

tem in Alaska that protects all existing rights and meets the needs of all people. AFN believes that Congress has been and continues to be able to formulate a solution acceptable to all parties that will not prejudice the rights of anyone, including the Natives."

"AFN can perceive no practical benefits, however, to an additional Antiquities Act withdrawal, except the benefit of giving the Secretary a lever to wield against Congress when Congress comes next to consider the question of Alaska lands. AFN firmly believes that withdrawal of lands to the detriment of Native interests for the mere purpose of political expediency is unlawful and constitutes a breach of trust on the part of

the United States and the Department of the Interior. AFN further believes that if an Antiquities Act withdrawal is made and the Natives' interests are thereby prejudiced the United States will become liable for monetary damages for the illegal acts and breach of trust."

"AFN urges most strongly that the Administration not undertake Antiquities Act withdrawals of Alaska lands prior to consideration of the Alaska lands issue by the next Congress."