

CONFERENCE REPORT

(e) Attorney and consultant fees

Fees to attorneys and consultants are limited to \$2 million. All contracts based on a percentage fee related to the value of the lands and revenues granted by this Act are declared unenforceable.

(f) Valid existing rights

All valid existing rights, including inchoate rights of entrymen and mineral locators, are protected.

(g) National petroleum reserve No. 4 and wildlife refuges

No subsurface estate is granted in Naval Petroleum Reserve Numbered 4 or in the National Wildlife Refuges, but an in lieu selection to subsurface estate in an equal amount of acreage outside these areas is provided for the Regional Corporations.

(h) National forests

Appropriate limitations are placed on the amount of lands which may be granted from National Forests to Native villages located in the National Forests.

C. OTHER ISSUES

1. In sections 7 and 8 of the conference report authorizing the creation of Regional and Village Corporations, the conference committee has adopted a policy of self-determination on the part of the Alaska Native people. The conference committee anticipates that there will be responsible action by the board members and officers of the corporations and that there will not be any abuses of the intent of this Act. The conference committee does not contemplate that the Regional and Village Corporations will allow unreasonable staff, officer, board member, consultant, attorney, or other salaries, expenses and fees. The conference committee also contemplates that the Regional and Village Corporations will not expend funds for purposes other than those reasonably necessary in the course of ordinary business operations.

2. The Senate amendment to the House bill provided for the protection of the Native peoples' interest in and use of subsistence resources on the public lands. The conference committee, after careful consideration, believes that all Native interests in subsistence resource lands can and will be protected by the Secretary through the exercise of his existing withdrawal authority. The Secretary could, for example, withdraw appropriate lands and classify them in a manner which would protect Native subsistence needs and requirements by closing appropriate lands to entry by non-residents when the subsistence resources of these lands are in short supply or otherwise threatened. The Conference Committee expects both the Secretary and the State to take any action necessary to protect the subsistence needs of the Natives.

3. Villages located on the Pribilof Islands present a special problem because the fur seals which frequent the islands are the subject of an International Treaty. It is the conference committee's recommendation that the Secretary, after consultation with the Secretary of Commerce, the State and the Planning Commission, reserve the appropriate rights and interests in land to insure the fulfillment of the United States' obligations under the Treaty.

4. Under the provisions of subsection 12(c) (3) "... the Regional Corporation may select only even numbered townships in even numbered ranges, and only odd numbered townships in odd numbered ranges." This language is meant to insure "checkerboard" selections by the Regional Corporations. The State of Alaska would then be permitted to concurrently select lands in the alternate townships not subject to selection by the Regional Corporations.

The effect of this provision of the bill is to limit the selections of the Regional Corporation to townships 2, 4, 6, 8, 10, et cetera, North or South of a principal or special base line, in ranges 2, 4, 6, 8, 10, et cetera, East or West of a principal or special meridian. With respect to odd numbered ranges, East or West of a principal or special meridian, i.e. Range 1 West, Range 1 East, Range 3 West, Range 3 East, et cetera, the Regional Corporation could select from townships 1, 3, 5, 7, 9, et cetera, North or South of a principal or special base line. The numbering system of the townships and ranges is the system used by the United States Land Survey System.

It is recognized that if a principal or special meridian or base line should intersect an area withdrawn for selection, a slightly modified selection pattern might result; however, those cases seemed so limited as to not do substantial violence to the intended "checkerboard" selection system contemplated.

5. Section 20 provides for the compensation of attorneys and consultants for services and expenses in the representation of Natives, Native Villages, or Native Associations in claims pending before any state or Federal court or the Indian Claims Commission which are dismissed pursuant to this Act, or in the preparation of this Act and previously proposed legislation to settle the Alaska Native claims based upon aboriginal title, use, or occupancy. The Chief Commissioner of the Court of Claims must determine the amount of the claims, within the limits of funds authorized. It is intended that payment for such services shall only be compensated from the funds provided therefor by this section, and penalties are provided in the event other reimbursement is paid.

Under the provisions of subsection 20(g), the Chief Commissioner is also authorized to allow and certify for payment such amounts as he determines are reasonable, but not more than \$600,000 in the aggregate, for actual costs incurred by Native Association in advancing land claims legislation. Attorney or consultant fees or expenses may not be paid from this sum. The penalty provisions of subsection 20(f) (2) would be applicable to any violation of this section. An attorney or consultant who has already been paid by a Native Association could of course return the payment and submit a claim under the attorney/consultant part of the section.

II. MAJOR DIFFERENCES BETWEEN THE CONFERENCE REPORT AND THE BILL PASSED BY THE HOUSE

1. Land

Both bills provided for a conveyance to the Natives of 40 million acres. In the House bill, the Natives would have first choice of approximately 18½ million acres from the 25 townships surrounding each Village. The State would then complete its selections under the Statehood Act (about 103½ million acres). After that the Natives

would select the rest of the 40 million acres, but selections would not be limited to the 25 township areas.

In the conference report, the State does not make its selection before all of the Native lands have been selected, but the State's interests are recognized as follows:

(a) State selections made before the date of the Secretarial Order imposing a "land freeze", amounting to about 26 million acres, are protected against Native selection, except that a Native Village (not the Regional Corporations) may select from the area surrounding the Village not to exceed three townships of the lands previously selected by the State.

(b) The Regional Corporations can select lands within the 25 township areas only on a checkerboard pattern of odd and even numbers, and the State may select the checkerboarded townships not available to the Regional Corporations.

(c) The withdrawal of land to facilitate Native selections will terminate in four years, and State selections will not thereafter be impeded.

(d) State selections may proceed immediately in areas outside the 25 township areas around Native Villages, and in lieu selection areas.

2. Money

The House bill provided for a grant of \$425,000,000 from the U.S. Treasury over a ten year period, and \$500,000,000 from mineral revenues most of which would otherwise go to the State.

In the conference report, the \$425,000,000 grant is increased to \$462,500,000, which is half way between the House figure and the Senate figure.

3. Corporate organization

The Conferees retained the provisions of the House bill providing for twelve Regional Corporations and a Village Corporation for each Native Village, but made one addition and one modification. The addition is the option of the Natives who are not permanent residents of Alaska to organize a 13th Regional Corporation which will receive and administer their share of the \$962,500,000 grant. The modification is the restriction of membership in the Village Corporations to Natives, rather than all residents.

4. Land-use planning

The House bill withdraws all unreserved public lands in Alaska for an indefinite period, and permits the Secretary of the Interior to classify the withdrawn areas and reopen them to entry when he determines that such action is desirable in the public interest.

The Conferees retained the substance of this provision, but made the statutory withdrawal for only ninety days and directed the Secretary to make any further withdrawal that may be needed under his existing authority.

In addition, the Conferees authorized the Secretary to withdraw not to exceed 80 million acres of unreserved public land that he thinks may be suitable for addition to the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems. The withdrawal is for a maximum of seven years. The Secretary must submit recommendations to Congress each six months, for two years, and the lands recommended for addition to the Federal Systems will remain withdrawn until Congress acts, but not to exceed five years. The withdrawal will not affect the right of the Village Corporations and the State to select and get title to lands within the 25 township areas. The withdrawal will prevent the Regional Corporations from getting title to land within the 25 township areas, and the State from getting title to any of the withdrawal areas.

In addition, the Conferees provided for a Joint Federal-State Land Use Planning Commission for Alaska, with a life of five years. The Commission has no regulatory authority.

III. MAJOR DIFFERENCES BETWEEN THE CONFERENCE REPORT AND THE SENATE'S AMENDMENT IN THE NATURE OF A SUBSTITUTE TO THE HOUSE PASSED BILL

Set forth below is a brief explanation of the major differences between the conference report recommended by the conference committee and the amendment in the nature of a substitute to the House bill which was adopted by the Senate. The section references below are to the conference report and the discussion following each section indicates the action taken by the conference committee with respect to the appropriate provisions of the Senate passed amendment.

Section 2. Declaration of policy

The substance of the conference report language is the same as section 2 of the Senate amendment. Subsection 2(g) of the conference report is to be strictly construed and the conference committee does not intend that lands granted to Natives under this Act be considered "Indian reservation" lands for purposes other than those specified in this Act. The lands granted by this Act are not "in trust" and the Native villages are not Indian "reservations."

Subsection 2(e) is from the Senate amendment and makes clear that no change in the present policy with respect to Naval Petroleum Reserve Numbered 4 is intended. Native villages located in the Reserve would receive title to surface estate lands only. All mineral and other subsurface rights within the Reserve remain in the ownership of the United States. To insure that a total of 40 million acres of land in fee title is granted to the Native people by this Act, the appropriate Regional Corporation for these villages is granted the right to select the subsurface estate in an equal amount of acreage outside of the boundaries of the Reserve.

Section 3. Definitions

The language of the Senate amendment defining "public lands" was adopted by the conference committee. This language excludes from the definition lands selections by the State under the Statehood Act, but those lands are specifically dealt with elsewhere in the Act.

Section 4. Declaration of settlement

The conference report language is, in substance, the same as the language of the Senate amendment. It is the clear and direct intent of the conference committee to extinguish all aboriginal claims and all aboriginal land titles, if any, of the Native people of Alaska and the language of settlement is to be broadly construed to eliminate such claims and titles as any basis for any form of direct or indirect challenge to land in Alaska. The conference committee added a reference