

CONFERENCE REPORT

Second, to permit the Secretary time to determine if there are other public land areas in Alaska which should be withdrawn, classified, or reclassified before they are opened to unlimited and uncontrolled entry, location and leasing under the public land laws. Subsection 9(g) of the House passed bill and subsection 24(c) of the Senate amendment did not limit the time of the withdrawal authority for this second purpose.

The language recommended by the conference committee deals in greater detail with the withdrawal and study of National interest areas and contingencies not dealt with in the House passed bill and the Senate amendment and thus obviates any necessity for providing for a withdrawal of all public lands in Alaska for an unlimited period of time.

The "classification" and "reclassification" authority granted under subsection 7(d)(1) is new legislative authority. The authority is limited to Alaska and to the purposes provided for in subsection 17(d). It is, however, a very broad and important delegation of discretion and authority and the conference committee anticipates that the Secretary will use this authority to insure that the purposes of this Act and the land claims settlement are achieved, that the larger public interest in the public lands of Alaska is protected, and that the immediate and unrestricted operation of all the public land laws 90 days after date of enactment—absent affirmative action by the Secretary under his existing authority—does not result in a land rush, in massive filings under the Mineral Leasing Act, and in competing and conflicting entries and mineral locations.

Subsection 17(d)(2) of the conference report directs the Secretary to withdraw up to 80 million acres of unreserved public lands including lands previously classified such as lands within the Iliamna, Copper River, Brooks Range, White Mountain and other classification areas which he deems are suitable for consideration by the Congress for addition to or creation as new units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems. This subsection also provides a procedure and sets time limits for terminating withdrawals, for transmitting recommendations to the Congress, and for in lieu selections by the State and Regional Corporations in the event that Congress enacts legislation setting aside these areas for public use and enjoyment.

Subsection 17(d)(3) of the conference report continues the Secretary's full authority over and responsibility for any lands withdrawn by this section and to make contracts and to grant leases, permits and rights-of-way, or easements over any lands withdrawn under this section by the affirmative action of the Secretary after the date of the enactment of this Act. This authority is necessary to protect the lands involved, to provide for their proper administration, and to insure that the Secretary continues to have the full authority he now possesses under existing law with respect to contracts, leases, permits, rights-of-way, and easements. A similar section on the Secretary's authority to administer lands withdrawn by the operation of this Act is found in subsection 22(f) of the conference report.

A major purpose of both of these provisions is, of course, to insure that the Secretary has the authority to grant any contracts, leases, permits, rights-of-way, or easements which may in the future be necessary in connection with Village and Regional construction and local improvement projects. State or local highways and roads, electrical transmission lines, and other types of activities and projects which may involve the use of some withdrawn areas. This language would also permit the Secretary, if he should so decide in the future, to grant the necessary rights-of-way, permits, and other legal authority necessary for the construction of the proposed trans-Alaska oil pipeline. The conference committee did not consider the proposed pipeline in connection with the resolution of the differences between the bills, nor did the House or Senate Committees consider the proposed pipeline in connection with hearings on this subject. Accordingly, the conference committee takes no position on what action the Secretary should take with respect to the pending application. The conference committee does, however, want it clearly understood that if the Secretary should, after full and careful evaluation, and after completion of the environmental impact statement required by the National Environmental Policy Act, decide to grant the necessary permits, nothing in this conference report is intended to, nor should be construed in any manner to limit, diminish, or condition the Secretary's existing authority to take any action required to implement this decision.

Language similar to the provisions discussed above is found in section 24(c)(3) of the Senate amendment and in the House passed bill.

Section 18. Revocation of Indian allotment authority in Alaska

Subsection 19 of the conference report is taken from the House passed bill and requires an election by Natives with respect to whether to pursue their allotment or to take under the provisions of the conference report providing for a grant of title to the lands on which their primary place of residence is located. The companion provision in the Senate amendment is section 20.

Section 19. Revocation of reservations

Subsection 19 of the conference report is, with a few modifications, taken from the House passed bill. The parallel language of the Senate amendment is found in section 22 and, if adopted by the conference committee, would have permitted participation in monetary benefits granted by the Act even if a Native village decided to acquire title to their existing reservation.

Section 20. Attorney and consultant fees

Section 20 of the conference report provides for the payment of attorney and consultant fees. The parallel language of the Senate amendment is section 26. The Senate language is substantially the same, except that the total amount of fees granted has been reduced to \$2 million. In addition, the conference report authorizes the \$600,000 granted by subsection 5(g)(1) of the Senate amendment in this section.

Section 21. Taxation

Section 21 of the conference report provides for the tax treatment to be accorded lands and revenues granted by this Act for the settlement of the Alaska Native claims. It parallels section 27 of the Senate amendment and with some deletions and modifications is substantially the same.

The conference committee in Section 22 added a miscellaneous section to the conference report to pick up a number of provisions from both the House passed bill and the Senate amendment and to deal with problems created by the action of the conference committee in combining the two. Set out below is a discussion of those provisions which are not self-explanatory.

(a) Subsection (a) provides that none of the revenues or lands granted by this Act may be subject to any contract, present or future, which is based on a percentage fee of the value of all or some of the settlement granted. The purpose is, of course, to protect the Native people. This provision would not apply to future percentage fee contracts which are not related to the value of the settlement and which are to be paid out of investment earnings.

(j) Subsection (j) provides for adjustments in deeds to conform to the United States Land Survey System when the lands conveyed have not been adequately surveyed at the time of conveyance. No similar provision was included in either the House or Senate bill, but the conference committee adopted the language to correct this oversight, and to prevent the delay of conveyance which could occur without this provision. The language was deemed necessary in view of the short period provided for the selection and conveyance of lands to the Natives.

(k) Subsection (k) provides that sales and timber management of lands granted to the Natives from the National Forests shall, for a period of five years, continue to be in accordance with rules and regulations of the Secretary of Agriculture (sustained yield). A similar provision was contained in the Senate bill.

Section 23. Review by Congress

Both the House and the Senate bills provided for an annual report to Congress on the implementation of the Act; however, the Senate bill provided for reports to be submitted on March 1 of each year for thirteen years. The conference report requires an annual report until 1984, but does not specify a reporting date. The conference report requires a final report in 1985 in lieu of 1992 as required by the House bill. The Senate bill contemplated detailed reports from the Alaska Native Commission, but this provision was deleted as unnecessary since the conference report does not provide for the Commission.

Section 24. Appropriations

The provision adopted by the conference committee is a simple authorization to appropriate "such sums as are necessary to carry out the provisions of this Act." It is recognized that the Secretary will require additional personnel and other funds in complying with the directives contained in the conference report, and such sums may be appropriated under this provision. The Senate bill also requested the President to advance moneys from his contingency fund for "start-up" of the various corporations authorized by the Senate bills. Due to the different corporate structure and the provision for a \$12.5 million appropriation for 1972, such provisions were not deemed appropriate.

The appropriations for the Federal payments into the Alaska Native Fund are already limited by the provisions of subsection 6(a).

Section 25. Publication

The conference committee adopted the House language as section 25 of its report, which is almost identical to the Senate language, and is of similar intent.

Section 26. Saving clause

The conference committee adopted the House language as section 26 of its report. The Senate provision contained the statement: "Except as specifically provided for in this Act, nothing in this Act shall be construed as repealing any other provision of Federal law applicable to Alaska." That sentence was eliminated as being unnecessary.

Section 27. Separability

The provisions of the House and Senate bills concerning separability were identical, and are included in the conference report as section 21.

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