

TITLE 43 - PUBLIC LANDS

CHAPTER 35 - FEDERAL LAND POLICY AND MANAGEMENT

SUBCHAPTER VI - DESIGNATED MANAGEMENT AREAS

§ 1784. Lands in Alaska; designation as wilderness; management by Bureau of Land Management pending Congressional action

Notwithstanding any other provision of law, section 1782 of this title shall not apply to any lands in Alaska. However, in carrying out his duties under sections 1711 and 1712 of this title and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.]. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provisions of law.

(Pub. L. 96–487, title XIII, § 1320, Dec. 2, 1980, 94 Stat. 2487.)

References in Text

The Wilderness Act, referred to in text, is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of Title 16 and Tables.

Codification

Section was enacted as part of the Alaska National Interest Lands Conservation Act, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

Kenai Natives Association Land Exchange

Pub. L. 104–333, div. I, title III, § 311, Nov. 12, 1996, 110 Stat. 4139, as amended by Pub. L. 106–176, title I, § 105, Mar. 10, 2000, 114 Stat. 25, provided that:

“(a) Short Title.—This section may be cited as the ‘Kenai Natives Association Equity Act Amendments of 1996’.

“(b) Findings and Purpose.—

“(1) Findings.—The Congress finds the following:

“(A) 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 [106 Stat. 2267].

“(B) 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.

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

“(D) It is in the public interest to complete the conveyances provided for in this section.

“(2) Purpose.—The purpose of this section is to authorize and direct the Secretary, at the election of KNA, to complete the conveyances provided for in this section.

“(c) Definitions.—For purposes of this section, the term—

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

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“(2) ‘ANILCA’ means the Alaska National Interest Lands Conservation Act (Public Law 96–487; 94 Stat. 2371 et seq. [see Short Title note set out under section 3101 of Title 16, Conservation]);

“(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).

“(d) Acquisition of Lands.—

“(1) Offer to KNA.—

“(A) In general.—Subject to the availability of the funds identified in paragraph (2)(C), no later than 90 days after the date of enactment of this section [Nov. 12, 1996], the Secretary shall offer to convey to KNA the interests in land and rights set forth in paragraph (2)(B), 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 paragraph (2)(A). Payment for the lands conveyed to the United States by KNA is contingent upon KNA’s acceptance of the entire conveyance outlined herein.

“(B) 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 section 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) [now 40 U.S.C. 3111, 3112].

“(2) Acquisition lands.—

“(A) 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:

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

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

“(iii) The relinquishment of KNA’s selection known as the Moose River Selected Tract, containing approximately 753 acres located along the Moose River.

“(iv) The relinquishment of KNA’s remaining ANCSA entitlement of approximately 454 acres.

“(v) 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.

“(vi) The conveyance of an access easement providing the United States and its assigns access across KNA’s surface estate in the SW1/4 of section 21, T. 6 N., R. 9 W., Seward Meridian, Alaska.

“(vii) 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.

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

“(i) 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 2943 and known as the old Fish and Wildlife Service Headquarters site.

“(ii) The remaining subsurface estate held by the United States to approximately 13,651 acres, including portions of the Beaver Creek Patented Tract, the Beaver Creek Selected Tract, and portions of the Swanson River Road West Tract and

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the Swanson River Road East Tract, where the surface was previously or will be conveyed to KNA pursuant to this Act but excluding the SW1/4 of section 21, T. 6 N., R. 9 W., Seward Meridian, Alaska, which will be retained by the United States. The conveyance of these subsurface interests will be subject to the rights of CIRI to the coal, oil, 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.

“(iii)(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.

“(iv) 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 SW1/4, 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 paragraph (3)(A)(ii). The United States shall retain the ownership of all other sand and gravel located within the subsurface of this parcel.

“(v) 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 paragraph (2)(A)(ii).

“(C) 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.

“(D) National register of historic places.—Upon completion of the acquisition authorized in paragraph (1), 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.

“(3) General provisions.—

“(A) Removal of KNA lands from the national wildlife refuge system.—

“(i) Effective on the date of closing for the Acquisition Lands identified in paragraph (2)(B), all lands retained by or conveyed to KNA pursuant to this section, 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 [43 U.S.C. 1621 (g)] (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 paragraph (2)(B) 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 section, 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.

“(ii)(I) The Secretary, KNA, and CIRI shall execute an agreement within 45 days of the date of enactment of this section [Nov. 12, 1996] 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 section and with the differing interests in land resulting from enactment of this section.

“(II) In the event that no agreement is executed as provided for in subclause (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 section, 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.

“(iii) 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.

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“(iv) Nothing in this section 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 section. In the event of the purchase by the United States of any lands from KNA in accordance with subparagraph (A)(ii), 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 [43 U.S.C. 1621 (g)] will again apply.

“(v) By virtue of implementation of this section, CIRI is deemed entitled to 1,207 acres of in-lieu subsurface entitlement under section 12(a)(1) of ANCSA [43 U.S.C. 1611 (a)(1)]. Such entitlement shall be fulfilled in accordance with paragraph 1(B)(2)(A) of the Terms and Conditions.

“(B) Maps and legal descriptions.—Maps and a legal description of the lands described above shall be on file and available for public 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 section, prepare a legal description of the lands described in paragraph (2)(A)(vii). Such maps and legal description shall have the same force and effect as if included in the section, except that the Secretary may correct clerical and typographical errors.

“(C) Acceptance.—KNA may accept the offer made in this section 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 [now Committee on Natural 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.

“(D) Final maps.—Not later than 120 days after the conclusion of the acquisition authorized by paragraph (1), the Secretary shall transmit a final report and maps accurately depicting the lands transferred and conveyed pursuant to this section and the acreage and legal descriptions of such lands to the Committee on Resources [now Committee on Natural 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.

“(e) Adjustments to National Wilderness System.—Upon acquisition of lands by the United States pursuant to subsection (d)(2)(A), 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.

“(f) Designation of Lake Totdatonten Special Management Area.—

“(1) 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 Totdatonten Special Management Area’, as depicted on the map entitled ‘Proposed: Lake Totdatonten Special Management Area’, dated June 13, 1996, and to be managed by the Bureau of Land Management.

“(2) Management.—

“(A) Such designation is subject to all valid existing rights as well as the subsistence preferences provided under title VIII of ANILCA [16 U.S.C. 3111 et seq.]. Any lands conveyed to the State of Alaska shall be removed from the Lake Totdatonten Special Management Area.

“(B) 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.

“(C)(i) The BLM shall establish the Lake Totdatonten 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.

“(ii) Members of the Committee shall serve without pay.

“(iii) The BLM shall hold meetings of the Lake Totdatonten Special Management Area Committee at least once per year to discuss management issues within the 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.

“(3) Access.—The Secretary shall allow the following:

“(A) 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.

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“(B) Existing public access across the Special Management Area. Section 1110(a) of ANILCA [16 U.S.C. 3170 (a)] shall apply to the Special Management Area.

“(4) Secretarial order and maps.—The Secretary shall file with the Committee on Resources [now Committee on Natural 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 section. Once established, this Order may only be amended or revoked by Act of Congress.

“(5) Authorization of appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.”