

104TH CONGRESS  
2D SESSION

# H. R. 401

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 5, 1996

Received; read twice and referred to the Committee on Energy and Natural  
Resources

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## AN ACT

Entitled the “Kenai Natives Association Equity Act”.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Kenai Natives Associa-  
5 tion Equity Act Amendments of 1996”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—The Congress finds the following:

3 (1) The United States Fish and Wildlife Service  
4 and Kenai Natives Association, Inc., have agreed to  
5 transfers of certain land rights, in and near the  
6 Kenai National Wildlife Refuge, negotiated as di-  
7 rected by Public Law 102–458.

8 (2) The lands to be acquired by the Service are  
9 within the area impacted by the Exxon Valdez oil  
10 spill of 1989, and these lands included important  
11 habitat for various species of fish and wildlife for  
12 which significant injury resulting from the spill has  
13 been documented through the EVOS Trustee Coun-  
14 cil restoration process. This analysis has indicated  
15 that these lands generally have value for the restora-  
16 tion of such injured natural resources as pink salm-  
17 on, dolly varden, bald eagles, river otters, and cul-  
18 tural and archaeological resources. This analysis has  
19 also indicated that these lands generally have high  
20 value for the restoration of injured species that rely  
21 on these natural resources, including wilderness  
22 quality, recreation, tourism, and subsistence.

23 (3) Restoration of the injured species will bene-  
24 fit from acquisition and the prevention of disturb-  
25 ances which may adversely affect their recovery.

1           (4) It is in the public interest to complete the  
2           conveyances provided for in this Act.

3           (b) PURPOSE.—The purpose of this Act is to author-  
4           ize and direct the Secretary, at the election of KNA, to  
5           complete the conveyances provided for in this Act.

6   **SEC. 3. DEFINITIONS.**

7           For purposes of this Act, the term—

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

10          (2) “ANILCA” means the Alaska National In-  
11          terest Lands Conservation Act (Public Law 96–487;  
12          94 Stat. 2371 et seq.);

13          (3) “conservation system unit” has the same  
14          meaning as in section 102(4) of ANILCA (16  
15          U.S.C. 3102(4));

16          (4) “CIRI” means the Cook Inlet Region, Inc.,  
17          a Native Regional Corporation incorporated in the  
18          State of Alaska pursuant to the terms of ANCSA;

19          (5) “EVOS” means the Exxon Valdez oil spill;

20          (6) “KNA” means the Kenai Natives Associa-  
21          tion, Inc., an urban corporation incorporated in the  
22          State of Alaska pursuant to the terms of ANCSA;

23          (7) “lands” means any lands, waters, or inter-  
24          ests therein;

1           (8) “Refuge” means the Kenai National Wild-  
2 life Refuge;

3           (9) “Secretary” means the Secretary of the In-  
4 terior;

5           (10) “Service” means the United States Fish  
6 and Wildlife Service; and

7           (11) “Terms and Conditions” means the Terms  
8 and Conditions for Land Consolidation and Manage-  
9 ment in the Cook Inlet Area, as clarified on August  
10 31, 1976, ratified by section 12 of Public Law 94-  
11 204 (43 U.S.C. 1611 note).

12 **SEC. 4. ACQUISITION OF LANDS.**

13       (a) OFFER TO KNA.—

14           (1) IN GENERAL.—Subject to the availability of  
15 the funds identified in subsection (b)(3), no later  
16 than 90 days after the date of enactment of this  
17 Act, the Secretary shall offer to convey to KNA the  
18 interests in land and rights set forth in subsection  
19 (b)(2), subject to valid existing rights, in return for  
20 the conveyance by KNA to the United States of the  
21 interests in land or relinquishment of ANCSA selec-  
22 tions set forth in subsection (b)(1). Payment for the  
23 lands conveyed to the United States by KNA is con-  
24 tingent upon KNA’s acceptance of the entire convey-  
25 ance outlined herein.

1           (2) LIMITATION.—The Secretary may not con-  
2           vey any lands or make payment to KNA under this  
3           section unless title to the lands to be conveyed by  
4           KNA under this Act has been found by the United  
5           States to be sufficient in accordance with the provi-  
6           sions of section 355 of the Revised Statutes (40  
7           U.S.C. 255).

8           (b) ACQUISITION LANDS.—

9           (1) LANDS TO BE CONVEYED TO THE UNITED  
10          STATES.—The lands to be conveyed by KNA to the  
11          United States, or the valid selection rights under  
12          ANCSA to be relinquished, all situated within the  
13          boundary of the Refuge, are the following:

14                (A) The conveyance of approximately 803  
15                acres located along and on islands within the  
16                Kenai River, known as the Stephanka Tract.

17                (B) The conveyance of approximately  
18                1,243 acres located along the Moose River,  
19                known as the Moose River Patented Lands  
20                Tract.

21                (C) The relinquishment of KNA's selection  
22                known as the Moose River Selected Tract, con-  
23                taining approximately 753 acres located along  
24                the Moose River.

1 (D) The relinquishment of KNA's remain-  
2 ing ANCSA entitlement of approximately 454  
3 acres.

4 (E) The relinquishment of all KNA's re-  
5 maining overselections. Upon completion of all  
6 relinquishments outlined above, all KNA's enti-  
7 tlement shall be deemed to be extinguished and  
8 the completion of this acquisition will satisfy all  
9 of KNA's ANCSA entitlement.

10 (F) The conveyance of an access easement  
11 providing the United States and its assigns ac-  
12 cess across KNA's surface estate in the SW<sup>1</sup>/<sub>4</sub>  
13 of section 21, T. 6 N., R. 9 W., Seward Merid-  
14 ian, Alaska.

15 (G) The conveyance of approximately 100  
16 acres within the Beaver Creek Patented Tract,  
17 which is contiguous to lands being retained by  
18 the United States contiguous to the Beaver  
19 Creek Patented Tract, in exchange for 280  
20 acres of Service lands currently situated within  
21 the Beaver Creek Selected Tract.

22 (2) LANDS TO BE CONVEYED TO KNA.—The  
23 rights provided or lands to be conveyed by the Unit-  
24 ed States to KNA, are the following:

1           (A) The surface and subsurface estate to  
2 approximately 5 acres, subject to reservations  
3 of easements for existing roads and utilities, lo-  
4 cated within the city of Kenai, Alaska, identi-  
5 fied as United States Survey 1435, withdrawn  
6 by Executive Order 2934, and known as the old  
7 Fish and Wildlife Service Headquarters site.

8           (B) The remaining subsurface estate held  
9 by the United States to approximately 13,811  
10 acres, including portions of the Beaver Creek  
11 Patented Tract, the Beaver Creek Selected  
12 Tract, and portions of the Swanson River Road  
13 West Tract and the Swanson River Road East  
14 Tract, where the surface was previously or will  
15 be conveyed to KNA pursuant to this Act. The  
16 conveyance of these subsurface interests will be  
17 subject to the rights of CIRI to the coal, oil,  
18 and gas, and to all rights CIRI, its successors,  
19 and assigns would have under paragraph 1(B)  
20 of the Terms and Conditions, including the  
21 right to sand and gravel, to construct facilities,  
22 to have rights-of-way, and to otherwise develop  
23 its subsurface interests.

24           (C)(i) The nonexclusive right to use sand  
25 and gravel which is reasonably necessary for on-

1 site development without compensation or per-  
2 mit on those portions of the Swanson River  
3 Road East Tract, comprising approximately  
4 1,738.04 acres; where the entire subsurface of  
5 the land is presently owned by the United  
6 States. The United States shall retain the own-  
7 ership of all other sand and gravel located with-  
8 in the subsurface and KNA shall not sell or dis-  
9 pose of such sand and gravel.

10 (ii) The right to excavate within the sub-  
11 surface estate as reasonably necessary for  
12 structures, utilities, transportation systems, and  
13 other development of the surface estate.

14 (D) The nonexclusive right to excavate  
15 within the subsurface estate as reasonably nec-  
16 essary for structures, utilities, transportation  
17 systems, and other development of the surface  
18 estate on the SW<sup>1</sup>/<sub>4</sub>, section 21, T. 6 N., R. 9  
19 W., Seward Meridian, Alaska, where the entire  
20 subsurface of the land is owned by the United  
21 States and which public lands shall continue to  
22 be withdrawn from mining following their re-  
23 moval from the Refuge boundary under sub-  
24 section (c)(1)(B). The United States shall re-

1           tain the ownership of all other sand and gravel  
2           located within the subsurface of this parcel.

3           (E) The surface estate of approximately  
4           280 acres known as the Beaver Creek Selected  
5           Tract. This tract shall be conveyed to KNA in  
6           exchange for lands conveyed to the United  
7           States as described in subsection (b)(1)(B).

8           (3) PAYMENT.—The United States shall make  
9           a total cash payment to KNA for the above-de-  
10          scribed lands of \$4,443,000, contingent upon the ap-  
11          propriate approvals of the Federal or State of Alas-  
12          ka EVOS Trustees (or both) necessary for any ex-  
13          penditure of the EVOS settlement funds.

14          (4) NATIONAL REGISTER OF HISTORIC  
15          PLACES.—Upon completion of the acquisition au-  
16          thorized in subsection (a), the Secretary shall, at no  
17          cost to KNA, in coordination with KNA, promptly  
18          undertake to nominate the Stephanka Tract to the  
19          National Register of Historic Places, in recognition  
20          of the archaeological artifacts from the original  
21          Dena'ina Settlement. If the Department of the Inte-  
22          rior establishes a historical, cultural, or archaeologi-  
23          cal interpretive site, KNA shall have the exclusive  
24          right to operate a Dena'ina interpretive site on the  
25          Stephanka Tract under the regulations and policies

1 of the department. If KNA declines to operate such  
2 a site, the department may do so under its existing  
3 authorities. Prior to the department undertaking  
4 any archaeological activities whatsoever on the  
5 Stephanka Tract, KNA shall be consulted.

6 (c) GENERAL PROVISIONS.—

7 (1) REMOVAL OF KNA LANDS FROM THE NA-  
8 TIONAL WILDLIFE REFUGE SYSTEM.—

9 (A) Effective on the date of closing for the  
10 Acquisition Lands identified in subsection  
11 (b)(2), all lands retained by or conveyed to  
12 KNA pursuant to this Act, and the subsurface  
13 interests of CIRI underlying such lands shall be  
14 automatically removed from the National Wild-  
15 life Refuge System and shall neither be consid-  
16 ered as part of the Refuge nor subject to any  
17 laws pertaining solely to lands within the  
18 boundaries of the Refuge. The conveyance re-  
19 strictions imposed by section 22(g) of ANCSA  
20 (i) shall then be ineffective and cease to apply  
21 to such interests of KNA and CIRI, and (ii)  
22 shall not be applicable to the interests received  
23 by KNA in accordance with subsection (b)(2) or  
24 to the CIRI interests underlying them. The Sec-  
25 retary shall adjust the boundaries of the Refuge

1 so as to exclude all interests in lands retained  
2 or received in exchange by KNA in accordance  
3 with this Act, including both surface and sub-  
4 surface, and shall also exclude all interests cur-  
5 rently held by CIRI. On lands within the Swan-  
6 son River Road East Tract, the boundary ad-  
7 justment shall only include the surface estate  
8 where the subsurface estate is retained by the  
9 United States.

10 (B)(i) The Secretary, KNA, and CIRI  
11 shall execute an agreement within 45 days of  
12 the date of enactment of this Act which pre-  
13 serves CIRI's rights under paragraph 1(B)(1)  
14 of the Terms and Conditions, addresses CIRI's  
15 obligations under such paragraph, and ade-  
16 quately addresses management issues associated  
17 with the boundary adjustment set forth in this  
18 Act and with the differing interests in land re-  
19 sulting from enactment of this Act.

20 (ii) In the event that no agreement is exe-  
21 cuted as provided for in clause (i), solely for the  
22 purposes of administering CIRI's rights under  
23 paragraph 1(B)(1) of the Terms and Condi-  
24 tions, the Secretary and CIRI shall be deemed  
25 to have retained their respective rights and obli-

1 gations with respect to CIRI's subsurface inter-  
2 ests under the requirements of the Terms and  
3 Conditions in effect on June 18, 1996. Notwith-  
4 standing the boundary adjustments made pur-  
5 suant to this Act, conveyances to KNA shall be  
6 deemed to remain subject to the Secretary's  
7 and CIRI's rights and obligations under para-  
8 graph 1(B)(1) of the Terms and Conditions.

9 (C) The Secretary is authorized to acquire  
10 by purchase or exchange, on a willing seller  
11 basis only, any lands retained by or conveyed to  
12 KNA. In the event that any lands owned by  
13 KNA are subsequently acquired by the United  
14 States, they shall be automatically included in  
15 the Refuge System. The laws and regulations  
16 applicable to Refuge lands shall then apply to  
17 these lands and the Secretary shall then adjust  
18 the boundaries accordingly.

19 (D) Nothing in this Act is intended to en-  
20 large or diminish the authorities, rights, duties,  
21 obligations, or the property rights held by CIRI  
22 under the Terms and Conditions, or otherwise  
23 except as set forth in this Act. In the event of  
24 the purchase by the United States of any lands  
25 from KNA in accordance with paragraph

1 (1)(B), the United States shall reassume from  
2 KNA the rights it previously held under the  
3 Terms and Conditions and the provisions in any  
4 patent implementing section 22(g) of ANCSA  
5 will again apply.

6 (E) By virtue of implementation of this  
7 Act, CIRI is deemed entitled to 1,207 acres of  
8 in-lieu subsurface entitlement under section  
9 12(a)(1) of ANCSA. Such entitlement shall be  
10 fulfilled in accordance with paragraph  
11 1(B)(2)(A) of the Terms and Conditions.

12 (2) MAPS AND LEGAL DESCRIPTIONS.—Maps  
13 and a legal description of the lands described above  
14 shall be on file and available for public inspection in  
15 the appropriate offices of the United States Depart-  
16 ment of the Interior, and the Secretary shall, no  
17 later than 90 days after enactment of this Act, pre-  
18 pare a legal description of the lands described in  
19 subsection (b)(1)(G). Such maps and legal descrip-  
20 tion shall have the same force and effect as if in-  
21 cluded in the Act, except that the Secretary may  
22 correct clerical and typographical errors.

23 (3) ACCEPTANCE.—KNA may accept the offer  
24 made in this Act by notifying the Secretary in writ-  
25 ing of its decision within 180 days of receipt of the

1 offer. In the event the offer is rejected, the Secretary  
2 shall notify the Committee on Resources of the  
3 House of Representatives and the Committee on En-  
4 ergy and Natural Resources and the Committee on  
5 Environment and Public Works of the Senate.

6 (4) FINAL MAPS.—Not later than 120 days  
7 after the conclusion of the acquisition authorized by  
8 subsection (a), the Secretary shall transmit a final  
9 report and maps accurately depicting the lands  
10 transferred and conveyed pursuant to this Act and  
11 the acreage and legal descriptions of such lands to  
12 the Committee on Resources of the House of Rep-  
13 resentatives and the Committee on Energy and Nat-  
14 ural Resources and the Committee on Environment  
15 and Public Works of the Senate.

16 **SEC. 5. ADJUSTMENTS TO NATIONAL WILDERNESS SYSTEM.**

17 Upon acquisition of lands by the United States pur-  
18 suant to section 4(b)(1), that portion of the Stephanka  
19 Tract lying south and west of the Kenai River, consisting  
20 of approximately 592 acres, shall be included in and man-  
21 aged as part of the Kenai Wilderness and such lands shall  
22 be managed in accordance with the applicable provisions  
23 of the Wilderness Act and ANILCA.

1 **SEC. 6. DESIGNATION OF LAKE TODATONTEN SPECIAL**  
2 **MANAGEMENT AREA.**

3 (a) **PURPOSE.**—To balance the potential effects on  
4 fish, wildlife, and habitat of the removal of KNA lands  
5 from the Refuge System, the Secretary is hereby directed  
6 to withdraw, subject to valid existing rights, from location,  
7 entry, and patent under the mining laws and to create  
8 as a special management unit for the protection of fish,  
9 wildlife, and habitat, certain unappropriated and unre-  
10 served public lands, totaling approximately 37,000 acres  
11 adjacent to the west boundary of the Kanuti National  
12 Wildlife Refuge to be known as the “Lake Todatonten  
13 Special Management Area”, as depicted on the map enti-  
14 tled Proposed: Lake Todatonten Special Management  
15 Area, dated June 13, 1996, and to be managed by the  
16 Bureau of Land Management.

17 (b) **MANAGEMENT.**—

18 (1) Such designation is subject to all valid ex-  
19 isting rights as well as the subsistence preferences  
20 provided under title VIII of ANILCA. Any lands  
21 conveyed to the State of Alaska shall be removed  
22 from the Lake Todatonten Special Management  
23 Area.

24 (2) The Secretary may permit any additional  
25 uses of the area, or grant easements, only to the ex-  
26 tent that such use, including leasing under the min-

1 eral leasing laws, is determined to not detract from  
2 nor materially interfere with the purposes for which  
3 the Special Management Area is established.

4 (3)(A) The BLM shall establish the Lake  
5 Todatonten Special Management Area Committee.  
6 The membership of the Committee shall consist of  
7 11 members as follows:

8 (i) Two residents each from the villages of  
9 ALatna, Allakaket, Hughes, and Tanana.

10 (ii) One representative from each of Doyon  
11 Corporation, the Tanana Chiefs Conference,  
12 and the State of Alaska.

13 (B) Members of the Committee shall serve with-  
14 out pay.

15 (C) The BLM shall hold meetings of the Lake  
16 Todatonten Special Management Area Committee at  
17 least once per year to discuss management issues  
18 within Special Management Area. The BLM shall  
19 not allow any new type of activity in the Special  
20 Management Area without first conferring with the  
21 Committee in a timely manner.

22 (c) ACCESS.—The Secretary shall allow the following:

23 (1) Private access for any purpose, including  
24 economic development, to lands within the bound-  
25 aries of the Special Management Area which are

1 owned by third parties or are held in trust by the  
2 Secretary for third parties pursuant to the Alaska  
3 Native Allotment Act (25 U.S.C. 336). Such rights  
4 may be subject to restrictions issued by the BLM to  
5 protect subsistence uses of the Special Management  
6 Area.

7 (2) Existing public access across the Special  
8 Management Area. Section 1110(a) of ANILCA  
9 shall apply to the Special Management Area.

10 (d) SECRETARIAL ORDER AND MAPS.—The Sec-  
11 retary shall file with the Committee on Resources of the  
12 House of Representatives and the Committee on Energy  
13 and Natural Resources and the Committee on Environ-  
14 ment and Public Works of the Senate, the Secretarial  
15 Order and maps setting forth the boundaries of the Area  
16 within 90 days of the completion of the acquisition author-  
17 ized by this Act. Once established, this Order may only  
18 be amended or revoked by Act of Congress.

19 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
20 are authorized to be appropriated such sums as may be  
21 necessary to carry out the purposes of this Act.

Passed the House of Representatives September 4,  
1996.

Attest:

ROBIN H. CARLE,

*Clerk.*