

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 566

To authorize the Secretary of the Interior to consolidate the surface and subsurface estates of certain lands within three conservation system units on the Alaska Peninsula, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 19, 1995

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To authorize the Secretary of the Interior to consolidate the surface and subsurface estates of certain lands within three conservation system units on the Alaska Peninsula, and for other purposes.

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 “Alaska Peninsula Sub-  
5       surface Consolidation Act of 1995”.

6       **SEC. 2. DEFINITIONS.**

7       As used in this Act:

8               (1) AGENCY.—The term “agency”—

1 (A) means—

2 (i) any Executive agency (as defined  
3 in section 105 of title 5, United States  
4 Code), except as provided in clause (iii) of  
5 this paragraph;

6 (ii) any instrumentality of the United  
7 States; and

8 (iii) any Government corporation (as  
9 defined in section 9101(1) of title 31,  
10 United States Code); and

11 (B) includes any element of an agency.

12 (2) ALASKA NATIVE CORPORATION.—The term  
13 “Alaska Native Corporation” has the same meaning  
14 given the term “Native Corporation” in section 3(m)  
15 of the Alaska Native Claims Settlement Act (43  
16 U.S.C. 1602(m)).

17 (3) KONIAG.—The term “Koniag” means  
18 Koniag, Incorporated, which is a Regional Corpora-  
19 tion.

20 (4) KONIAG ACCOUNT.—The term “Koniag Ac-  
21 count” means the account established under section  
22 5.

23 (5) PROPERTY.—The term “property” has the  
24 same meaning given such term by section

1 12(b)(7)(vii) of Public Law 94–204, as amended (43  
2 U.S.C. 1611 note).

3 (6) REGIONAL CORPORATION.—The term “Re-  
4 gional Corporation” has the same meaning given  
5 such term by section 3(g) of the Alaska Native  
6 Claims Settlement Act (43 U.S.C. 1602(g)).

7 (7) SECRETARY.—Except as otherwise provided  
8 in this Act, the term “Secretary” means the Sec-  
9 retary of the Interior.

10 (8) SELECTION RIGHTS.—The term “selection  
11 rights” means those rights granted to Koniag pursu-  
12 ant to subsections (a) and (b) of section 12 and sec-  
13 tion 14(h)(8) of the Alaska Native Claims Settle-  
14 ment Act (43 U.S.C. 1611 and 1613(h)(8)) to re-  
15 ceive title to the oil and gas rights and other inter-  
16 ests in the subsurface estate of the approximately  
17 275,000 acres of public lands in the State of Alaska  
18 identified as “Koniag Selections” on the map enti-  
19 tled “Koniag Interest Lands, Alaska Peninsula” and  
20 dated May 1989.

21 **SEC. 3. VALUATION OF KONIAG SELECTION RIGHTS.**

22 (a) IN GENERAL.—Pursuant to the provisions of sub-  
23 section (b), the Secretary shall value the selection rights  
24 which Koniag possesses within the boundaries of  
25 Aniakchak National Monument and Preserve, Alaska Pe-

1 ninsula National Wildlife Refuge, and Becharof National  
2 Wildlife Refuge.

3 (b) VALUE.—

4 (1) IN GENERAL.—The value of the selection  
5 rights shall be equal to the fair market value of—

6 (A) the oil and gas interests in the lands  
7 or interests in lands that are the subject of the  
8 selection rights; and

9 (B) in the case of the lands or interests in  
10 lands for which Koniag is to receive the entire  
11 subsurface estate, the subsurface estate of the  
12 lands or interests in lands that are the subject  
13 of the selection rights.

14 (2) APPRAISAL.—

15 (A) SELECTION OF APPRAISER.—

16 (i) IN GENERAL.—Not later than 90  
17 days after the date of enactment of this  
18 Act, the Secretary and Koniag shall meet  
19 to select a qualified appraiser to conduct  
20 an appraisal of the selection rights. Sub-  
21 ject to clause (ii), the appraiser shall be se-  
22 lected by the mutual agreement of the Sec-  
23 retary and Koniag.

24 (ii) FAILURE TO AGREE.—If the Sec-  
25 retary and Koniag fail to agree on an ap-

1 praiser by the date that is 60 days after  
2 the date of the initial meeting referred to  
3 in clause (i), the Secretary and Koniag  
4 shall, by the date that is not later than 90  
5 days after the date of the initial meeting,  
6 each designate an appraiser who is quali-  
7 fied to perform the appraisal. The two ap-  
8 praisers so identified shall select a third  
9 qualified appraiser who shall perform the  
10 appraisal.

11 (B) STANDARDS AND METHODOLOGY.—

12 The appraisal shall—

13 (i) be conducted in conformity with  
14 the standards of the Appraisal Foundation  
15 (as defined in section 1121(9) of the Fi-  
16 nancial Institutions Reform, Recovery, and  
17 Enforcement Act of 1989 (12 U.S.C.  
18 3350(9)); and

19 (ii) utilize the risk adjusted dis-  
20 counted cash flow methodology.

21 (C) SUBMISSION OF APPRAISAL REPORT.—

22 Not later than 180 days after the selection of  
23 an appraiser or appraisers pursuant to subpara-  
24 graph (A), the appraiser shall submit to the  
25 Secretary and to Koniag a written appraisal re-

1 port specifying the value of the selection rights  
2 and the methodology used to arrive at the  
3 value.

4 (3) DETERMINATION OF VALUE.—

5 (A) DETERMINATION BY THE SEC-  
6 RETARY.—Not later than 60 days after the date  
7 of the receipt of the appraisal report under  
8 paragraph (2)(C), the Secretary shall determine  
9 the value of the selection rights and shall notify  
10 Koniag of the determination.

11 (B) ALTERNATIVE DETERMINATION OF  
12 VALUE.—If Koniag does not agree with the  
13 value determined by the Secretary under sub-  
14 paragraph (A), the procedures specified in sec-  
15 tion 206(d) of the Federal Land Policy and  
16 Management Act of 1976 (43 U.S.C. 1716(d))  
17 shall be used to establish the value.

18 (4) AVERAGE VALUE LIMITATION.—The aver-  
19 age value per acre of the selection rights determined  
20 under this subsection shall not be more than \$300.

21 **SEC. 4. KONIAG EXCHANGE.**

22 (a) AGREEMENT.—The Secretary shall enter into ne-  
23 gotiations for an agreement or agreements to exchange  
24 Federal lands or interests therein which are in the State  
25 of Alaska for the selection rights.

1 (b) LIMITATION.—If the value of the Federal prop-  
2 erty to be exchanged is less than the value of the selection  
3 rights determined under section 3, then the Secretary may  
4 exchange the Federal property for that portion of the se-  
5 lection rights having a value equal to that of the Federal  
6 property. The remaining selection rights shall remain  
7 available for additional exchanges.

8 (c) DEFINITION.—For the purposes of this section,  
9 the term “Federal lands or interests therein” shall include  
10 any lands or properties owned by the United States which  
11 lands or interests therein have been determined to be suit-  
12 able for disposal through exchange by the Secretary pursu-  
13 ant to the Federal Land Policy and Management Act of  
14 1976, or which have been made available to the Secretary  
15 for exchange under this section through the concurrence  
16 of the director of the agency administering such lands or  
17 property. Such term does not include those lands which  
18 are within an existing conservation system unit and those  
19 lands which are subject to a mineral lease.

20 **SEC. 5. KONIAG ACCOUNT.**

21 (a) ESTABLISHMENT.—

22 (1) IN GENERAL.—With respect to any selection  
23 rights for which an exchange has not been completed  
24 by October 1, 2005 (hereafter in this section re-  
25 ferred to as “remaining selection rights”), the Sec-

1       retary of the Treasury, in consultation with the Sec-  
2       retary, shall, notwithstanding any other provision of  
3       law, establish a Koniag Account. Upon the relin-  
4       quishment of the remaining selection rights to the  
5       United States, the Secretary shall credit the Koniag  
6       Account in the amount of the appraised value of the  
7       remaining selection rights.

8           (2) INITIAL BALANCE.—The initial balance of  
9       the Koniag Account shall be equal to the value of  
10      the remaining selection rights as determined pursu-  
11      ant to section 3(b).

12           (3) USE OF ACCOUNT.—

13           (A) IN GENERAL.—Amounts in the Koniag  
14      Account shall—

15           (i) be made available by the Secretary  
16           of the Treasury to Koniag or its assignees  
17           for bidding on and purchasing property  
18           sold at public sale, subject to the condi-  
19           tions described in this paragraph; and

20           (ii) remain available until expended.

21           (B) ASSIGNMENT.—

22           (i) IN GENERAL.—Subject to clause  
23           (ii) and notwithstanding any other provi-  
24           sion of law, the right to request the Sec-  
25           retary of the Treasury to withdraw funds

1 from the Koniag Account shall be assign-  
2 able in whole or in part by Koniag.

3 (ii) NOTICE OF ASSIGNMENT.—No as-  
4 signment shall be recognized by the Sec-  
5 retary of the Treasury until Koniag files  
6 written notice of the assignment with the  
7 Secretary of the Treasury and the Sec-  
8 retary.

9 (C) BIDDING AND PURCHASING.—

10 (i) IN GENERAL.—Koniag and its as-  
11 signees to the extent of any assignee may  
12 use the Koniag Account to—

13 (I) bid, in the same manner as  
14 any other bidder, for any property at  
15 any public sale by an agency; and

16 (II) purchase the property in ac-  
17 cordance with applicable laws, includ-  
18 ing the regulations of the agency of-  
19 fering the property for sale.

20 (ii) REQUIREMENTS FOR AGENCIES.—  
21 In conducting a transaction described in  
22 clause (i), an agency shall accept, in the  
23 same manner as cash, an amount tendered  
24 from the Koniag Account.

1                   (ii) ADJUSTMENT OF BALANCE.—The  
2                   Secretary of the Treasury shall adjust the  
3                   balance of the Koniag Account to reflect  
4                   each transaction under clause (i).

5                   (4) SPECIAL PROCEDURES.—The Secretary of  
6                   the Treasury, in consultation with the Secretary,  
7                   shall establish procedures to permit the Koniag Ac-  
8                   count to—

9                   (A) receive deposits;

10                  (B) make deposits into escrow when an es-  
11                  crow is required for the sale of any property;  
12                  and

13                  (C) reinstate to the Koniag Account any  
14                  unused escrow deposits if a sale is not con-  
15                  summated.

16                  (b) TREATMENT OF AMOUNTS FROM ACCOUNT.—  
17                  The Secretary of the Treasury shall—

18                  (1) deem as a cash payment any amount ten-  
19                  dered from the Koniag Account and received by an  
20                  agency as a proceed from a public sale or property;  
21                  and

22                  (2) make any transfer necessary to permit the  
23                  agency to use the proceed in the event an agency is  
24                  authorized by law to use the proceed for a specific  
25                  purpose.

1 (c) REQUIREMENT FOR THE ADMINISTRATION OF  
2 SALES.—

3 (1) IN GENERAL.—In any case in which Koniag  
4 has not made an assignment under subsection  
5 (a)(3)(B) with respect to a sale, subject to para-  
6 graph (2), the Secretary of the Treasury and the  
7 heads of agencies shall administer sales described in  
8 subsection (a)(3)(C) in the same manner as is pro-  
9 vided for any other Alaska Native Corporation  
10 that—

11 (A) is authorized by law as of the date of  
12 enactment of this Act; and

13 (B) has an account similar to the Koniag  
14 Account for bidding on and purchasing property  
15 sold for public sale.

16 (2) PROHIBITION.—Amounts in an account es-  
17 tablished for the benefit of a specific Alaska Native  
18 Corporation may not be used to satisfy the property  
19 purchase obligations of any other Alaska Native Cor-  
20 poration.

21 (d) REVENUES.—The Koniag Account shall be  
22 deemed to be an interest in the subsurface for purposes  
23 of section 7(i) of the Alaska Native Claims Settlement Act  
24 (43 U.S.C. 1601 et seq.).

1 **SEC. 6. CERTAIN CONVEYANCES.**

2 (a) INTERESTS IN LAND.—For the purpose of section  
3 21(c) of the Alaska Native Claims Settlement Act (43  
4 U.S.C. 1620(c)), the following shall be deemed to be an  
5 interest in land:

6 (1) The establishment of the Koniag Account  
7 and the right of Koniag to request the Secretary of  
8 the Treasury to withdraw funds from the Koniag  
9 Account.

10 (2) The receipt by a Settlement Trust (as de-  
11 fined in section 3(t) of such Act (43 U.S.C. 1602(t))  
12 of a conveyance by Koniag of any right in the  
13 Koniag Account.

14 (b) AUTHORITY TO APPOINT TRUSTEES.—In estab-  
15 lishing a Settlement Trust under section 39 of such Act  
16 (43 U.S.C. 1629e), Koniag may delegate the authority  
17 granted to Koniag under subsection (b)(2) of such section  
18 to any entity that Koniag may select without affecting the  
19 status of the Settlement Trust under such section.

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