

**Calendar No. 570**

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 2383**

**[Report No. 103-335]**

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**A BILL**

To authorize the sale of the Alaska Power  
Administration.

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AUGUST 12 (legislative day, AUGUST 11), 1994

Read twice and placed on the calendar

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## IN THE SENATE OF THE UNITED STATES

AUGUST 12 (legislative day, AUGUST 11), 1994

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, reported the following original bill; which was read twice and placed on the calendar

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## **A BILL**

To authorize the sale of the Alaska Power Administration.

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 Power Adminis-

5       tration Sale Authorization Act”.

6       **SEC. 2. SALE OF SNETTISHAM AND EKLUTNA HYDRO-**  
7       **ELECTRIC PROJECTS.**

8       (a) The Secretary of Energy may sell the Snettisham  
9       Hydroelectric Project (referred to in this Act as

1 “Snettisham”) to the State of Alaska Power Authority  
2 (now known as Alaska Industrial Development and Export  
3 Authority, and referred to in this Act as the “Authority”),  
4 or its successor, in accordance with the February 10,  
5 1989, Snettisham Purchase Agreement between the Alas-  
6 ka Power Administration of the Department of Energy  
7 and the Authority.

8 (b) The Secretary of Energy may sell the Eklutna  
9 Hydroelectric Project (referred to in this Act as  
10 “Eklutna”) to the Municipality of Anchorage doing busi-  
11 ness as Municipal Light and Power, the Chugach Electric  
12 Association, Inc., and the Matanuska Electric Association,  
13 Inc. (referred to in this Act as “Eklutna Purchasers”),  
14 in accordance with the August 2, 1989, Eklutna Purchase  
15 Agreement between the Department of Energy and the  
16 Eklutna Purchasers.

17 (c) The heads of other affected Federal departments  
18 and agencies, including the Secretary of the Interior, shall  
19 assist the Secretary of Energy in implementing the sales  
20 authorized by this section.

21 (d) The Secretary of Energy shall deposit sale pro-  
22 ceeds in the Treasury of the United States to the credit  
23 of miscellaneous receipts.

24 (e) There are authorized to be appropriated such  
25 sums as are necessary to prepare or acquire Eklutna and

1 Snettisham assets for sale and conveyance. Such prepara-  
2 tion shall provide sufficient title to ensure the beneficial  
3 use, enjoyment, and occupancy to the purchasers assets  
4 to be sold.

5 (f) The sales authorized in this section shall occur  
6 not later than 1 year after the date of enactment of legis-  
7 lation defining “first use” of Snettisham for purposes of  
8 section 147(d) of the Internal Revenue Code of 1986, to  
9 be considered to occur pursuant to acquisition of the prop-  
10 erty by or behalf of the State of Alaska.

11 **SEC. 3. EXEMPTION.**

12 (a)(1) After the sales authorized by section 2 occur,  
13 Eklutna and Snettisham, including future modifications,  
14 shall continue to be exempt from the requirements of the  
15 Federal Power Act (15 U.S.C. 79a et seq.) including its  
16 requirements with respect to applications, permits, li-  
17 censes, and fees, unless a future modification of Eklutna  
18 or Snettisham affects Federal lands not used for the two  
19 projects when this Act takes effect.

20 (2) The exemptions in paragraph (1) are subject to  
21 the Memorandum of Agreement entered into between the  
22 State of Alaska, the Eklutna Purchasers, the Authority,  
23 and Federal fish and wildlife agencies regarding the pro-  
24 tection, mitigation of, damages to, and enhancement of

1 fish and wildlife, dated August 7, 1991, remaining in full  
2 force and effect.

3 (3) Nothing in this Act or Federal Power Act pre-  
4 empts the State of Alaska from carrying out the respon-  
5 sibilities and authorities of the Memorandum of Agree-  
6 ment.

7 (b)(1) The United States District Court for the Dis-  
8 trict of Alaska has jurisdiction to review decisions made  
9 under the Memorandum of Agreement and enforce the  
10 provisions of the Memorandum of Agreement, including  
11 the remedy of specific performance.

12 (2) An action seeking review of a Fish and Wildlife  
13 Program of the Governor of Alaska under the Memoran-  
14 dum of Agreement or challenging actions of any of the  
15 parties to the Memorandum of Agreement prior to the  
16 adoption of the program shall be brought not later than  
17 90 days after the date on which the program is adopted  
18 by the Governor of Alaska, or be barred.

19 (3) An action seeking review of implementation of the  
20 program shall be brought not later than 90 days after the  
21 challenged act implementing the program, or be barred.

22 (c) With respect to Eklutna lands described in Ex-  
23 hibit A of the Eklutna Purchase Agreement:

24 (1) The Secretary of the Interior shall issue  
25 rights-of-way to the Alaska Power Administration

1 for subsequent reassignment to the Eklutna Pur-  
2 chasers—

3 (A) at no cost to Eklutna Purchasers;

4 (B) to remain effective for a period equal  
5 to the life of Eklutna as extended by improve-  
6 ments, repairs, renewals, or replacements; and

7 (C) sufficient for operation, maintenance,  
8 repair, and replacement of, and access to,  
9 Eklutna facilities located on military lands and  
10 lands managed by the Bureau of Land Manage-  
11 ment, including land selected by the State of  
12 Alaska.

13 (2) If the Eklutna Purchasers subsequently sell  
14 or transfer Eklutna to private ownership, the Bu-  
15 reau of Land Management may assess reasonable  
16 and customary fees for continued use of the rights-  
17 of-way on lands managed by the Bureau of Land  
18 Management and military lands in accordance with  
19 current law.

20 (3) Fee title to lands at Anchorage Substation  
21 shall be transferred to Eklutna Purchasers at no ad-  
22 ditional cost if the Secretary of the Interior deter-  
23 mines that pending claims to and selection of those  
24 lands are invalid or relinquished.

1           (4) With respect only to approximately 853  
2           acres of Eklutna lands identified in paragraph 1. a,  
3           b, and c. of Exhibit A of the Eklutna Purchase  
4           Agreement, the State of Alaska may select and the  
5           Secretary of the Interior shall convey to the State  
6           improved lands under the selection entitlements in  
7           section 6(a) of the Act of July 7, 1958 (Public Law  
8           85-508; 79 Stat. 339) and the North Anchorage  
9           Land Agreement of January 31, 1983. The convey-  
10          ance is subject to the rights-of-way provided to the  
11          Eklutna Purchasers under paragraph (1).

12          (d) With respect to the approximately 2,671 acres of  
13          Snettisham lands identified in paragraphs 1. a. and b. of  
14          Exhibit A of the Snettisham Purchase Agreement, the  
15          State of Alaska may select and the Secretary of the Inte-  
16          rior shall convey to the State improved lands under the  
17          selection entitlement in section 6(a) of the Act of July 7,  
18          1958.

19          (e) Not later than 1 year after both of the sales au-  
20          thorized in section 2 have occurred, as measured by the  
21          transaction dates stipulated in the Purchase Agreements  
22          and by section 2(f), the Secretary of Energy shall—

23                  (1) complete the business of, and close out, the  
24          Alaska Power Administration;

1           (2) prepare and submit to Congress a report  
2           documenting the sales; and

3           (3) return unused balances of funds appro-  
4           priated for the Alaska Power Administration to the  
5           Treasury of the United States.

6           (f) The Act of July 31, 1950 (64 Stat. 382) is re-  
7           pealed effective on the date, as determined by the Sec-  
8           retary of Energy, when all Eklutna assets have been con-  
9           veyed to the Eklutna Purchasers.

10          (g) Section 204 of the Flood Control Act of 1962  
11          (Public Law 87-874; 76 Stat. 1193) is repealed effective  
12          on the date, as determined by the Secretary of Energy,  
13          when all Snettisham assets have been conveyed to the Au-  
14          thority.

15          (h) As of the later of the two dates determined in  
16          subsections (f) and (g), section 302(a) of the Department  
17          of Energy Organization Act (42 U.S.C. 7152(a)) is  
18          amended—

19                 (1) in paragraph (1)—

20                         (A) by striking out subparagraph (C); and

21                         (B) by redesignating subparagraphs (D),  
22                         (E), and (F) as subparagraphs (C), (D), and  
23                         (E) respectively; and

24                 (2) in paragraph (2), by striking out “the Bon-  
25                 neville Power Administration, and the Alaska Power

1 Administration” and inserting in lieu thereof “and  
2 the Bonneville Power Administration”.

3 (i) The Act of August 9, 1955 (69 Stat. 618), con-  
4 cerning water resources investigations in Alaska, is re-  
5 pealed.

6 (j) The sales of Eklutna and Snettisham under this  
7 Act are not considered a disposal of Federal surplus prop-  
8 erty under the following provisions of law:

9 (1) Section 203 of the Federal Property and  
10 Administrative Services Act of 1949 (40 U.S.C.  
11 484).

12 (2) Section 13 of the Surplus Property Act of  
13 1944 (50 U.S.C. App. 1622).