

Union Calendar No. 261

106TH CONGRESS
1ST SESSION

H. R. 3090

[Report No. 106-452]

A BILL

To amend the Alaska Native Claims Settlement Act to restore certain lands to the Elim Native Corporation, and for other purposes.

NOVEMBER 5, 1999

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 1999

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

NOVEMBER 5, 1999

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on October 18, 1999]

A BILL

To amend the Alaska Native Claims Settlement Act to restore certain lands to the Elim Native Corporation, 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,*

1 **SECTION 1. ELIM NATIVE CORPORATION LAND RESTORA-**
2 **TION.**

3 *The Alaska Native Claims Settlement Act (43 U.S.C.*
4 *1601 et seq.) is amended by adding at the end the following*
5 *new section:*

6 *“ELIM NATIVE CORPORATION LAND RESTORATION*

7 *“SEC. 42. (a) FINDINGS.—The Congress finds that—*

8 *“(1) approximately 350,000 acres of land were*
9 *withdrawn by Executive Orders in 1917 for the use*
10 *of the United States Bureau of Education and of the*
11 *Natives of Indigenous Alaskan race;*

12 *“(2) these lands comprised the Norton Bay Res-*
13 *ervation (later referred to as Norton Bay Native Re-*
14 *serve) and were set aside for the benefit of the Native*
15 *inhabitants of the Eskimo Village of Elim, Alaska;*

16 *“(3) in 1929, an Executive Order deleted 50,000*
17 *acres of land from the Norton Bay Reservation;*

18 *“(4) the lands were deleted from the Reservation*
19 *for the benefit of others;*

20 *“(5) the deleted lands were not available to the*
21 *Native inhabitants of Elim under section 19(b) of this*
22 *Act at the time of passage of this Act;*

23 *“(6) the deletion of these lands has been and con-*
24 *tinues to be a source of deep concern to the indigenous*
25 *people of Elim; and*

1 “(7) until this matter is dealt with, it will con-
2 tinue to be a source of great frustration and sense of
3 loss among the shareholders of the Elim Native Cor-
4 poration and their descendants.

5 “(b) *WITHDRAWAL AND AVAILABILITY FOR SELEC-*
6 *TION.—The lands described in subsection (c) are with-*
7 *drawn, subject to valid existing rights, from all forms of*
8 *appropriation or disposition under the public land laws,*
9 *including the mining and mineral leasing laws, for a pe-*
10 *riod of 2 years from the date of enactment of this section,*
11 *for selection by the Elim Native Corporation.*

12 “(c) *LANDS DESCRIBED.—The lands described in this*
13 *section are within the boundary of a parcel of land in the*
14 *vicinity of Elim, Alaska, more particularly depicted and*
15 *designated ‘Temporary Withdrawal Area’ on the map dated*
16 *October 19, 1999, on file with the Bureau of Land Manage-*
17 *ment, and entitled Land Withdrawal Elim Native Corpora-*
18 *tion.*

19 “(d) *AUTHORIZATION TO SELECT AND RECEIVE TITLE*
20 *TO LANDS; RESERVATION OF EASEMENTS.—The Elim Na-*
21 *tive Corporation is authorized to select and receive title to*
22 *50,000 acres of lands within the boundary of the lands de-*
23 *scribed in subsection (c). The Secretary is authorized and*
24 *directed to receive and adjudicate a selection application*
25 *filed by the Elim Native Corporation, and to convey the*

1 *surface and subsurface estate in the selected lands to the*
2 *Elim Native Corporation subject to the following rules, con-*
3 *ditions, and limitations:*

4 “(1) *The Elim Native Corporation shall have 2*
5 *years from the date of the enactment of this section*
6 *in which to file its selection of no more than 60,000*
7 *acres of land from the area described in subsection*
8 *(c). The selection application shall be filed with the*
9 *Bureau of Land Management, shall describe a single*
10 *tract adjacent to U.S. Survey No. 2548, Alaska, and*
11 *shall be reasonably compact, contiguous, and in whole*
12 *sections except when separated by unavailable land*
13 *or when the remaining entitlement is less than a*
14 *whole section. The Elim Native Corporation shall*
15 *prioritize its selections made pursuant to this section*
16 *at the time such selections are filed, and such*
17 *prioritization shall be irrevocable. Any lands selected*
18 *shall remain withdrawn until conveyed or full entitle-*
19 *ment has been achieved.*

20 “(2)(A) *The selection filed by the Elim Native*
21 *Corporation pursuant to this section shall be subject*
22 *to valid existing rights and may not supercede prior*
23 *selections of the State of Alaska, any Native corpora-*
24 *tion, or valid entries of any private individual unless*
25 *such selection or entry is relinquished prior to any se-*

1 lection by the Elim Native Corporation. Any lands
2 held within the exterior boundaries of lands conveyed
3 to the Elim Native Corporation shall have all rights
4 of ingress and egress to be vested in the inholder and
5 the inholder's agents, employees, co-venturers, licens-
6 ees, or subsequent grantees, and such easements shall
7 be reserved in the conveyance to the Elim Native Cor-
8 poration. Public Land Order 5563 of December 16,
9 1975, is hereby modified to extend to the lands with-
10 drawn pursuant to this section and the Secretary is
11 authorized, at the Secretary's discretion, to permit se-
12 lections and conveyances of hot or medicinal springs
13 (referred to herein as 'hot springs') pursuant to this
14 section.

15 “(B) If any lands are conveyed to Elim Native
16 Corporation which are also subject to withdrawal for
17 hot springs under this section, there shall be in the
18 conveyance the following rights reserved to the United
19 States, covenants, and conditions:

20 “(i) The right of ingress and egress over
21 easements under 17(b) of this Act for the public
22 to visit the hot springs for noncommercial pur-
23 poses and to use any part of the hot springs that
24 is not commercially developed.

1 “(ii) *The right of the United States to enter*
2 *upon the lands for the purpose of conducting sci-*
3 *entific research and to use the results of such re-*
4 *search without compensation to Elim Native*
5 *Corporation.*

6 “(iii) *A covenant running with the land*
7 *that commercial development of the hot springs*
8 *by Elim Native Corporation or its successors, as-*
9 *signs, or grantees shall include the right to de-*
10 *velop a maximum of 15 percent of the land upon*
11 *which the hot springs are located and the land*
12 *within 1/4 mile of the land upon which the hot*
13 *springs are located. Such commercial develop-*
14 *ment shall not alter the natural hydrologic or*
15 *thermal system associated with the hot springs*
16 *and not less than 85 percent of the lands within*
17 *1/4 mile of the hot springs shall be left in its nat-*
18 *ural state.*

19 “(C) *Elim Native Corporation shall have the*
20 *right to conduct scientific research on the conveyance*
21 *lands, including the hot springs, and to use the re-*
22 *sults of such research without compensation to the*
23 *United States.*

24 “(D) *The Secretary is authorized to negotiate*
25 *with Elim Native Corporation a memorandum of un-*

1 *derstanding to implement the provisions of this para-*
2 *graph.*

3 *“(E) The following covenants, terms, and condi-*
4 *tions with respect to the conveyance lands shall be in-*
5 *corporated into the interim conveyance and patent, if*
6 *any, conveying the lands to Elim Native Corporation:*

7 *“(i) Upon receipt of the conveyance lands,*
8 *Elim shall have all legal rights and privileges as*
9 *landowner, other than reservations, covenants,*
10 *and conditions specified in this subsection and*
11 *in the Memorandum of Understanding.*

12 *“(ii) Elim Native Corporation shall not en-*
13 *gage in or allow Commercial Timber Harvesting*
14 *on the conveyance lands. ‘Commercial Timber*
15 *Harvesting’ means—*

16 *“(I) cutting and removing from the*
17 *Elim Native Corporation lands Merchant-*
18 *able Timber for sale; and*

19 *“(II) constructing roads and related*
20 *infrastructure for the support thereof. ‘Mer-*
21 *chantable Timber’ means timber that can be*
22 *harvested and marketed by a prudent oper-*
23 *ator.*

1 “(iii) To accomplish the purpose of this sub-
2 section, the following rights are retained by the
3 United States:

4 “(I) To enter upon the conveyance
5 lands, after providing reasonable advance
6 notice in writing to Elim Native Corpora-
7 tion, and after providing Elim Native Cor-
8 poration with a reasonable opportunity to
9 have a representative present upon such
10 entry in order to achieve the purpose and
11 enforce the terms of this subsection.

12 “(II) To have all rights and remedies
13 available against persons who cut or remove
14 Merchantable Timber with no lawful right
15 to do so in addition to any such rights held
16 by Elim Native Corporation.

17 “(III) In cooperation with Elim Na-
18 tive Corporation, the right, but not the obli-
19 gation, to reforest in the event then-existing
20 Merchantable Timber is destroyed by fire,
21 wind, insects, disease, or other similar man-
22 made or natural occurrence (excluding
23 manmade occurrences resulting from the ex-
24 ercise by Elim Native Corporation of its
25 lawful rights to use the conveyance lands).

1 “(iv) *The foregoing provisions are covenants*
2 *running with the land.*

3 “(v) *Elim Native Corporation shall incor-*
4 *porate the terms of this subsection in any deed*
5 *or other legal instrument by which it divests*
6 *itself of any interest in all or a portion of the*
7 *conveyance lands, including without limitation a*
8 *leasehold interest.*

9 “(vi) *The covenants, terms, conditions, and*
10 *restrictions of this subsection are covenants run-*
11 *ning with the land and shall be binding upon*
12 *Elim Native Corporation and the United States,*
13 *their successors and assigns.*

14 “(vii) *Appropriate administration and en-*
15 *forcement provisions shall be incorporated into*
16 *the Memorandum of Understanding authorized*
17 *by this subsection.*

18 “(viii) *The United States shall retain the*
19 *right of prosecutorial discretion without waiver*
20 *of any such reservations, covenants, or condi-*
21 *tions, in the enforcement of any reservation, cov-*
22 *enant, or condition.*

23 “(3) *The Bureau of Land Management shall re-*
24 *serve easements to the United States for the benefit of*

1 *the public pursuant to section 17(b) of this Act in the*
2 *conveyance to the Elim Native Corporation.*

3 “(4) *The Bureau of Land Management may re-*
4 *serve an easement for the Iditarod National Historic*
5 *Trail in the conveyance to the Elim Native Corpora-*
6 *tion.*

7 “(e) *FINALITY OF SELECTIONS.—Selection by the Elim*
8 *Native Corporation of lands under subsection (d) and final*
9 *conveyance of those lands to Elim Native Corporation shall*
10 *constitute full satisfaction of any claim of entitlement of*
11 *the Elim Native Corporation with respect to its land enti-*
12 *tlements under section 19(b).*

13 “(f) *IMPLEMENTATION.—There are authorized to be*
14 *appropriated such sums as may be necessary to implement*
15 *this section.*”.

16 **SEC. 2. COMMON STOCK TO ADOPTED-OUT DESCENDANTS.**

17 *Section 7(h)(1)(C)(iii) of the Alaska Native Claims*
18 *Settlement Act (43 U.S.C. 1606(h)(1)(C)(iii)) is amended*
19 *by inserting before the period at the end the following: “,*
20 *notwithstanding an adoption, relinquishment, or termi-*
21 *nation of parental rights that may have altered or severed*
22 *the legal relationship between the gift donor and recipient”.*

23 **SEC. 3. DEFINITION OF SETTLEMENT TRUST.**

24 *Section 3(t)(2) of the Alaska Native Claims Settlement*
25 *Act (43 U.S.C. 1602(t)(2)) is amended by striking “sole”*

1 *and all that follows through “Stock” and inserting “benefit*
2 *of shareholders, Natives, and descendants of Natives,”.*