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## ALASKAN LANDS BILLS

### STATUS

Three bills concerning the disposition of Alaska's so-called D-2 lands are currently approaching floor action in the House of Representatives: H.R. 39, as passed by the House Interior Committee; H.R. 39 as amended by the House Merchant Marine and Fisheries Committee; and H.R. 3651, which will be offered as a substitute by Chairman Udall.

The House Interior Committee held hearings on H.R. 39 on February 6, 8, and 13. A markup session was held on February 27, and the bill was reported on February 28. H.R. 39 was approved by the full Interior Committee by a vote of 23 to 20. It should be noted that the full committee substituted Congressman Huckaby's bill (H.R. 2199) for Chairman Udall's version on final passage. It was this action which led the chairman to introduce his substitution.

The Merchant Marine and Fisheries Committee held hearings on their version of H.R. 39 on February 14, 22, 23, 26 and March 6 in Washington, and on March 10 in Alaska. It was favorably reported by the full committee after a mark-up session on April 9. Congressmen John Dingell (D-Mich.) and John Breaux (D-La.) are the prime sponsors of this version.

On May 1, the Rules Committee reported H.R. 39 and made in order H.R. 39 as amended and the Udall substitute.

## BACKGROUND

The seeds of the D-2 lands controversy go back to the admission of Alaska to the Union. At that time, only 700,000 of the state's 375 million acres of land area were privately held. The rest were owned by the federal government. Under the provisions of the Alaska Statehood Act (P.L. 85-508) the state was to be given possession of some 104 million acres of these lands. Although 20 years have passed since Alaska gained statehood, the state currently holds title to only 75 million acres.

Although Alaska has identified the remaining 29 million acres it would like to select, the process was blocked by the need to resolve aboriginal claims and by a freeze on further conveyance instituted by Secretary of the Interior Stewart Udall in 1966. The freeze remained in place until 1971 when Congress passed the Alaska Native Claims Settlement Act. It is this Act which is the source of the current controversy.

Under section 17(d)(2), the Secretary of the Interior was authorized to withdraw "up to," but not more than, 80 million acres of land for possible inclusion in one of four categories by the Congress. These four categories are: National Parks, Refuges, Forests, and Wild and Scenic Rivers. The withdrawal of these lands was intended to protect them temporarily from development while Congress determined their disposition. The Secretary's authority expired on December 31, 1978, after which date the lands would revert to ordinary public lands status.

In the 95th Congress, a House-passed version of H.R. 39 which would have placed more than 100 million acres in the four categories was blocked in the Senate by the threat of a filibuster by Alaska's two Senators. At the time, they expressed fears that the measure would cripple the state's economy and hamper the exploitation of critical mineral and petroleum resources.

While the debate raged in the Congress, three separate Administration actions effectively locked up a similar amount of acreage. First, President Carter declared 56 million acres of Alaskan Lands monuments under the provisions of a 1906 law. While the Congress can overturn this action, it has never done so in the Act's history. There may be an exception in this case, however, as no President has ever used the 1906 Antiquities Act to classify such a vast region and the Carter action is widely perceived as a preemption of congressional prerogatives.

The second action was the withdrawal of an additional 55 million acres by Secretary Andrus under the Federal Land Policy Act of 1976. This action prohibits the commercial development of these lands for three years. Finally, 8 million acres were withdrawn by Secretary of Agriculture Bergland under provisions of RARE II (Roadless Area Review Evaluation).

While the Administration denies its actions were intended to circumvent the Congress, the scope and timing of the moves have raised questions in some minds. The lands in question were not likely to be developed in the near future, and the acreage involved is strikingly similar to that which would have been affected by the House-passed version of H.R. 39 from the 95th Congress. Also, the Administration has indicated that it places a high priority on the Alaskan lands issue.

## PROVISIONS OF H.R. 39 (THE HUCKABY BILL)

### Land Designations

Nearly 1/3 of the land area of Alaska is affected by this bill, totalling some 120.6 million acres. Of the affected acreage some 99.6 million acres are lands which will be classified for the first time and 21 million acres are lands which are being reclassified. A breakdown of the classifications is as follows:

#### New Lands (In Millions of Acres)

Parks	20.5
Preserves	21.6
National Recreation Areas	4.7
Refuges	44.9
Forests	3.0
Wild and Scenic Rivers	1.5
Conservation Areas	<u>3.4</u>
Total	99.6

#### Reclassified Areas (Millions of Acres)

Parks and Refuges	19.0
Tongass Forest	<u>2.0</u>
Total	<u>21.0</u>

Total Lands Affected 120.6

As can be seen from the chart, 44.6 million acres are to be added to the national park system. This includes all areas designated as parks, preserves, and national recreation areas. Although national recreation areas are normally open to regulated mineral leasing and more developed recreation, this bill specifically prohibits such activities in the Noatak NRA's. These compromise on area totalling 1.27 million acres.

Eight new wildlife refuges are created by Title III of the bill, and four others are expanded. The new areas include some 21 million acres, and the expansion includes around 23 million acres. The total area affected is 44.9 million acres.

Title IV of the bill adds 3 million acres to the existing National Forest System in Alaska and creates the Seward National Recreation Area in the Chugach National Forest.

Title V designates eight rivers outside the conservation area as wild and scenic rivers. This would bring the total so-designated in Alaska to 27. Fourteen other rivers are earmarked for further study.

The strongest objection to this, and all other Alaskan Lands bills stems from the vast areas which would be classified as wilderness, effectively locking them up forever. H.R. 39 places 51 million acres in this category, representing a 265 percent increase in the acreage classified in this manner.

#### Resource Development

Timber: Title IV provides for sufficient timber cutting to maintain current levels of employment. Most of this lies in Tongass National Forest, although 25 percent of it is totally closed to development. A 2 million acre special management area is also created where some cutting could occur, but only after special congressional approval is obtained.

Oil and Gas: Approximately 30 million acres of high oil and gas potential acres will be set aside. While the Arctic Game Range is excluded from the wilderness designation, congressional approval will be necessary for development of this area. The Secretary is directed to initiate a study of the oil and gas potential of the North slope, and to approve or reject lease applications within 90 days of completion of Environmental Impact Statements (EIS's).

Minerals: 115 million acres of Alaskan lands are withdrawn from potential mineral development. 9 million other acres will be subjected to new leasing requirements. More importantly, several of the most mineral-rich areas are placed in either state-owned lands, or areas where more flexible leasing requirements apply.

Other Considerations: Existing state lands are essentially unaffected by this version of H.R. 39. Title VIII of the bill would expedite the transfer of the balance of the lands due the state under the conditions of its admission to the union. Title VIII also expedites the transfer of lands to Alaskan natives, who have only received 5 of the 44 million acres due them. Most prime sport and hunting areas remain unaffected, and access appears to be reasonably assured. Also, 13 amendments to the Alaskan Native Claims Act, previously agreed to by all parties, are included in H.R. 39. The bill will exempt Alaska from section 603 of FLPMA, which requires that all roadless tracts of public lands of over 5,000 acres be examined for potential as wilderness areas. Finally, H.R. 39 prohibits the expenditure of funds by the executive branch for the purpose of activities or studies related to additional land withdrawals without a concurrent resolution of the Congress.

#### H.R. 39 AMENDED (DINGELL-BREAUX)

While similar to the Huckaby bill, the Merchant Marine and Fisheries Committee version does contain some significant differences. On the one hand, it includes far more land than the Huckaby bill, but, on the other hand, its mineral and oil and gas leasing provisions are more flexible.

The lands affected break down as follows (Millions of Acres):

	H.R. 39	H.R. 39 Amended
Parks	20.5	20.0
Preserves	21.6	12.4
National Recreation Areas	4.7	1.2
Refuges	44.9	87.7
Forests	3.0	2.4
Wild and Scenic Rivers	1.5	1.5
Conservation Areas	<u>3.4</u>	<u>2.0</u>
Total	99.6	127.7

#### Reclassifications

Existing Forests Reclassified as Special Management Areas	2.0	2.0
Existing Areas Reclassified as Wilderness	<u>19.0</u>	<u>19.0</u>
Total	21.0	21.0

## MAJOR DIFFERENCES BETWEEN H.R. 39 AND H.R. 39 AMENDED

- 1) Dingell-Breaux adds 3 million more acres to the wilderness classification.
- 2) Dingell-Breaux does not create new National Recreation Areas under National Park Service jurisdiction.
- 3) Under Dingell-Breaux, oil and gas exploration in the National Petroleum Reserve will be easier.
- 4) Eighteen rather than fourteen rivers are designated for further study.
- 5) Dingell-Breaux designates the Copper River Delta Wildlife Refuge rather than adding it to the Chugach National Forest.

Resource Development

Timber: The provisions of the two bills are essentially identical.

Oil and Gas: Dingell-Breaux is generally more liberal than the Huckaby bill. It specifies that oil and gas leasing and exploration by private companies will be allowed in the National Petroleum Reserve. It also directs the Secretary to establish an oil and gas leasing policy for other public lands in Alaska.

Minerals: Dingell-Breaux withdraws only 65 million acres from exploitation as opposed to 115 for H.R. 39. It also excludes all seven of the world class mineral discoveries identified by the Stanford Research Institute and places most of the highly-rated mineral areas under either state control or areas where flexible leasing policies apply.

Other Considerations: On balance, the rest of Dingell-Breaux is identical to H.R. 39 except that it does not contain the "no move" provision regarding expenditures by the Executive.

H.R. 3651

This substitute measure introduced by Chairman Udall closely resembles the Gudger substitute from the 95th Congress. H.R. 3651 differs from an earlier substitute offered by Chairman Udall (H.R. 3636) in that it contains certain provisions regarding Alaskan Native Claims. The provisions are non-controversial, as they were agreed to by all parties last year.

### Land Designations

The Udall bill affects 139.6 million acres. The newly affected lands are:

	(Millions of Acres)
Parks and Monuments	30.0
Preserves	13.9
Refuges	62.9
Wild and Scenic Rivers	2.0
Forest Additions	<u>3.3</u>
Total	112.1

The Udall bill adds a total of 43.9 million acres to the National Park System. It creates 11 new refuges and expands five existing units to include a total of 62.9 million acres. This compares with 45 million acres so classified by the Interior Committee.

The key difference between the Udall bill, and the two versions of H.R. 39 lies in the area designated as wilderness. The Udall proposal would place 68.6 million acres in this category, including many of the most promising areas for oil and gas exploration. Under the Udall proposal, the total acreage so affected comes to 130 million acres.

### CONCLUSION

As the four measures approach floor action, the key issue is likely to be resource development. At this time of growing dependence on foreign sources for fuels and strategic minerals, some members are beginning to question the wisdom of permanently locking up so vast an area of such tremendous potential. It is virtually certain that these concerns will surface during the debate.

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