

**These Voices Should Be Heard**  
*The Story of Alexander Creek*



Photo by Otto Thiele c. 1941, taken as he snowshoed to Susitna Station, then on to Nancy Lake and Palmer. The 50 mile trip was to find a doctor for his younger brother who had injured his leg while hunting spuce hen on skis.

October 2006

Alexander Creek, Incorporated, 8128 Cranberry, Anchorage, Alaska 99502  
(907) 243 -5428



# Table of Contents

Table of Contents.....	i
Briefing re: Alexander Creek's Request to be Recognized as an Alaska Native Claims Settlement Act Village.....	1
I. Summary.....	1
II. History.....	1
III. Appeal to the Congress.....	3
Donald Roberts at Alexander Creek.....	4
George Thiele at Alexander Creek.....	5
Anna Louise Novak at Alexander Creek.....	6
Thomas Roberts at Alexander Creek.....	7
Bertha Tolbert at Alexander Creek.....	8
BIA Letter Re: Original Eligibility Determination.....	9
Letter of Support from the Alaska Federation of Natives (AFN).....	10
Letters of Support from Cook Inlet Region Inc.....	12
Chickaloon Resolution.....	14
Native Village of Eklutna Resolution.....	18
Kenaitze Indian Tribe Resolution.....	21
Ninilchik Traditional Council Resolution.....	24
Native Village of Tyonek Letter of Support.....	27
Letter of Support from State of Alaska.....	28
Resolution in Support from Matanuska-Susitna Borough.....	29
IV. Proposed Legislation.....	32
V. Chronology.....	39
VI. Map of Alexander Creek Original ANCSA §11(a)(1) Withdrawal Area.....	41
VII. BLM Worksheet of Available Lands in Original Withdrawal Area.....	42
VIII. Map of Lands Conveyed to Alexander Creek.....	44

# Briefing re: Alexander Creek's Request to be Recognized as an Alaska Native Claims Settlement Act Village

## I. Summary

The story of Alexander Creek's Alaska Natives' efforts to be an Alaska Native Claims Settlement Act (ANCSA) village is partly one of mistakes and miscues on their part, but primarily arises out of the misfortune of inhabiting one of the most desirable locations in Alaska. Having been certified by the Bureau of Indian Affairs (BIA) as an eligible village with 37 residents, 12 more than necessary, it was simply unprepared for the onslaught of powerful interests that desired the same land. The question before Congress is whether the original intent of ANCSA should be fulfilled or whether that intent should be frustrated by the understandable failure of the Alexander Creek Natives to successfully navigate the complex legal gauntlet required to protect their birthright. Specifically, Alexander Creek is requesting (a) ANCSA Village status, and (b) the equivalent of what it would have received as an ANCSA village.

## II. History

Historical Alexander Creek Village. Alexander Creek, with the Native name Tuqentnu (originally translated as Taguntna Creek<sup>1</sup>) empties into the Susitna River just a few miles from its mouth in Cook Inlet. The historical Alexander Creek village, known as Tuqen Kaq<sup>2</sup> by its original Alaska Native inhabitants, is located just over 27 miles northwest of Anchorage, Alaska. Before the three epidemics caused by the entry of whites into the area, Tuqen Kaq was a large village with abundant resources. "They had fish traps right at Alexander Creek. They had fish all year round. They don't go nowhere for nothing."<sup>3</sup> But the whooping cough, measles and influenza epidemics in the early 1900's decimated the Native population and after the influenza epidemic of 1918, the few survivors of the Alexander Creek Village moved to Tyonek.

Re-Occupation of Alexander Creek. By 1939 the Alexander Creek site had been reoccupied by Native families. However, because of its easy accessibility from Anchorage, with the immigration of more and more non-Natives into Cook Inlet during and after World War II, Alexander Creek became a popular sport fishing location, especially for King Salmon. After Alaska was granted statehood in 1959, and before the Alexander Creek Natives' claims to the land had been resolved, the State of Alaska selected the land around Alexander Creek and subsequently promised much of it to the Matanuska-Susitna Borough.

ANCSA. On December 18, 1971, Congress enacted ANCSA to settle Alaska Native land claims.<sup>4</sup> Under ANCSA, Village corporations were to receive from 69,120 acres to 161,280 acres depending on how many people lived there.<sup>5</sup> Villages automatically received as much of the available land in the township in which the village was located ("Core Township") as was

---

<sup>1</sup> Shem Pete's Alaska, The Territory of the Upper Cook Inlet Denai'ina, Alaska Native Language Center, University of Alaska and The CIRI foundation, 1987, §4.2.

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> P.L. 92-203, 43 U.S.C. §1601 *et seq.*

<sup>5</sup> ANCSA §14(a), 43 U.S.C. §1613.

available.<sup>6</sup> Villages were allowed to receive up to 69,120 acres of land that had been selected by or tentatively approved to the State of Alaska under the Alaska Statehood Act, but had not yet been patented to the State.<sup>7</sup>

Initial Eligibility Determination. In order to be an eligible village, Alexander Creek needed to have 25 residents.<sup>8</sup> The Bureau of Indian Affairs, which was charged with establishing the village rolls, determined that there were 37 Natives properly enrolled to the Alexander Creek Village and that it should be certified as a Village for purposes of receiving ANCSA land and monetary benefits. Certification as a Village would have entitled Alexander Creek to 69,120 acres. However, most of the land that would have normally been available to Alexander Creek had already been conveyed to the State, and much of this already promised to the Matanuska-Susitna Borough. Thus, in Alexander Creek's case, only one third of one acre was available in its Core Township (out of approximately 25,000 acres in a typical township) and 840 acres within the entire 25 township original withdrawal area.<sup>9</sup> This created a conflict over land rights and the State of Alaska and the Mat-Su Borough protested Alexander Creek's eligibility.

Interior Department Decision. A hearing was held before an Administrative Law Judge (ALJ) to resolve the protests starting on July 11, 1974. However, a number of villagers were not called to testify about their being villagers. In a "secret review procedure,"<sup>10</sup> the Interior Secretary's designee, the Alaska Native Claims Appeals Board (ANCAB) issued its decision on November 1, 1994, that there were only 22 Natives properly enrolled to the village -- three short of the required 25. ANCAB's stated reason for the refusal to recognize Anna Louise Novak, George Thiele, Thomas Roberts, Bertha Tolbert and Donald Roberts (and their children) as village residents was that they had not testified at the hearing. Immediately after learning this, Alexander Creek requested ANCAB to let these villagers be heard, but ANCAB refused. However, as the video "*These Voices Must be Heard: The Story of Alexander Creek*" shows, they and their children were clearly members of the village. In this way, the Alexander Creek Villagers lost their village.

District Court Decision. Alexander Creek appealed the decision that only 22 people were properly enrolled to the village to the United States District Court for the District of Columbia. ANCAB's decision was reversed on appeal by the United States District Court on November 14, 1975 and Alexander Creek's village eligibility was ordered reinstated.<sup>11</sup> This was appealed by the State of Alaska.

Land Selections. Because under ANCSA no lands were available in the vicinity of their village and less than 1,000 acres in their entire withdrawal area, as the deadline approached, on November 19, 1975, Alexander Creek selected land from among the "deficiency lands"<sup>12</sup> the Secretary of the Interior had made available to Alexander Creek (and other CIRI villages) in the Lake Clark area. *See*, separate October 26, 2002, Maps Supplement, page 4.

---

<sup>6</sup> ANCSA §12((a)(1), 43 U.S.C. §1611(a)(1).

<sup>7</sup> ANCSA §11(a)(2), 43 U.S.C. §1610(a)(2), ANCSA §12(a)(1), 43 U.S.C. §1611(a)(1).

<sup>8</sup> ANCSA §11(b)(3), 43 U.S.C. §1610(b)(3).

<sup>9</sup> *See*, Worksheet of Available Lands in Original Withdrawal Area

<sup>10</sup> *Koniag, et al., v. Andrus*, 580 F.2d 601, 609 (D.C. Cir. 1978).

<sup>11</sup> *Koniag, et al., v. Andrus*, 405 F.Supp 1360 (D.D.C. 1975)

<sup>12</sup> 43 U.S.C. §1611(a)(3)(A)

Creation of Lake Clark National Monument. However, much of the area in which Alexander Creek made these selections was subsequently included in the Lake Clark National Monument under §17(d)(2) of ANCSA.<sup>13</sup> Thereafter followed a complicated series of multi-party agreements, not totally understood by Alexander Creek.<sup>14</sup>

Court of Appeals Decision. On August 28, 1976, the Court of Appeals affirmed the District Court's ruling on the unconstitutionality of the secret proceedings, but ordered that the case be remanded back to the Secretary of the Interior for further proceedings, rather than reinstatement of Alexander Creek's village eligibility.<sup>15</sup> However, the Alexander Creek villagers did not have independent counsel available to them at that time and no action was taken to pursue their legal rights to establish that they were entitled to village status. Instead, on December 17, 1979, Alexander Creek, CIRI and the U.S. signed an agreement whereby Alexander Creek dropped its claim to be a village in exchange for group status, and up to 7,680 acres of land, some of which might come from the State of Alaska. To date, Alexander Creek has received a total of only 1,686 acres from the State of Alaska at Alexander Creek and the receipt of any additional lands is speculative. *See*, separate October 26, 2002, Maps Supplement, page 24.

As the next generation grew into adulthood and assumed the mantle of leadership, they discovered that Alexander Creek really should have been recognized as an ANCSA village and are now trying to obtain that recognition. In furtherance of this effort, they have obtained the full support of the Alaska Federation of Natives, Cook Inlet Region Inc., the regional corporation for Alexander Creek, the state of Alaska and the Matanuska-Susitna Borough. In addition, Charles F. Bunch Alaska Region Field Representative of the Department of the Interior, Bureau of Indian Affairs, has concluded, after "a thorough assessment" that the BIA's "original determination that Alexander Creek met the requirement" for village eligibility was correct. *See*, attached letters and resolution.

### **III. Appeal to the Congress**

The Alexander Creek Natives are asking Congress for:

- (1) recognition as a village under section 11(b)(3) of the Alaska Native Claims Settlement Act; and
- (2) the equivalent of what Alexander Creek would have received as an ANCSA village under its original deficiency selections.

Proposed legislation to accomplish this is included in this briefing book.

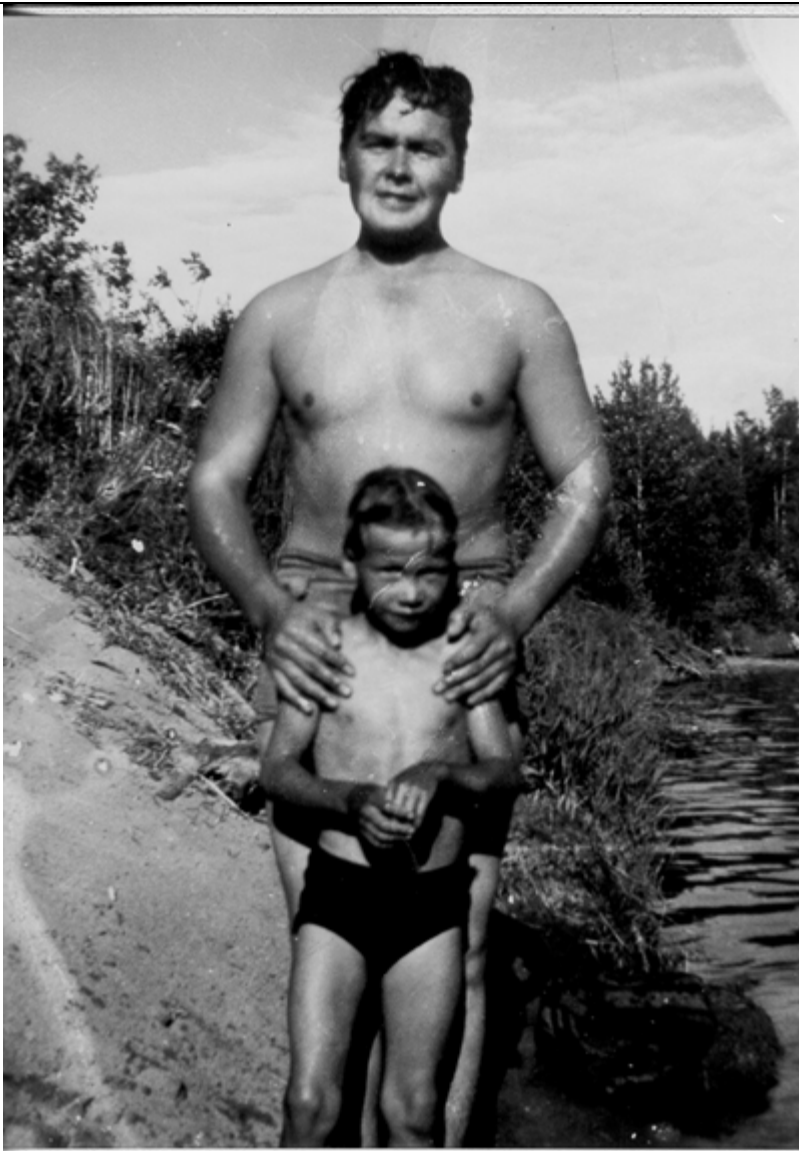
---

<sup>13</sup> 43 U.S.C. §1616(d)(2). And see, p. 19 of the separate October 26, 2002, Maps Supplement.

<sup>14</sup> A description of these are contained in the attached Chronology.

<sup>15</sup> 580 F.2d 601.

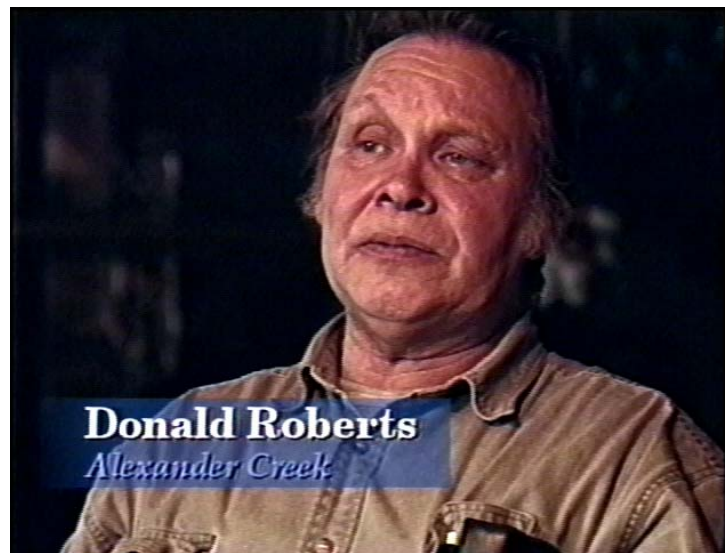
## Donald Roberts at Alexander Creek



Donald Roberts (younger) at Alexander Creek with Carl Thiele during the 1940's.

Donald Roberts grew up in Alexander Creek and lives there to this day.

Thus, it is very ironic that the Department of Interior's ANCAB held he wasn't a villager because it "lack[ed] testimony from Donald as to his intent to return." When asked about why he didn't go to the hearing to testify about being an Alexander Creek Villager, Donald replied, "**I was never notified. I didn't know a thing about it.**" *These Voices Should Be Heard, the Story of Alexander Creek*



From the 1998 Video,  
*These Voices Should Be Heard, the Story of Alexander Creek*

## George Thiele at Alexander Creek



George Thiele (left) with Carl Thiele at Alexander Creek in the 1940's

George Thiele moved to Alexander Creek in 1939 or 1940 when he was 11 or 12 years old. The Department of Interior's ANCAB ruled that George (and his four children) were not residents of Alexander Creek saying, "Neither George nor any of his children testified as to their intent to return to Alexander Creek."

However, when asked George said, **"I'm just going to go back and live at Alexander Creek. That's always what's been in the back of my mind -- Like you know, wherever your heart is that's where you're going."** George Thiele in *These Voices Should Be Heard, the Story of Alexander Creek*



From the 1998 Video,  
*These Voices Should Be Heard, the Story of Alexander Creek*



## Anna Louise Novak at Alexander Creek



Anna Louise Novak taken at Alexander Creek in the early 1940's.

Anna Louise (Thiele) Novak grew up in Alexander Creek.

She had 6 children, one of whom perished at a young age of an illness and is buried at Alexander Creek.

Mrs. Novak registered to Alexander Creek under ANCSA and received notification from the Bureau of Indian Affairs that she was properly enrolled to the Alexander Creek Village. However, the Alaska Native Claims Appeals Board reversed this on the basis that Mrs. Novak didn't come to their hearing to testify that Alexander Creek was her home and then refused to allow Mrs. Novak to testify because the case was closed.

**"I had, you know, received things that said, 'it was a village, I was member. Of course I was. And then suddenly, I wasn't.'"** Anna Louise Novak, *These Voices Should Be Heard, the Story of Alexander Creek*. → → → → →



From the 1998 Video,  
*These Voices Should Be Heard, the Story of Alexander Creek*

## Thomas Roberts at Alexander Creek



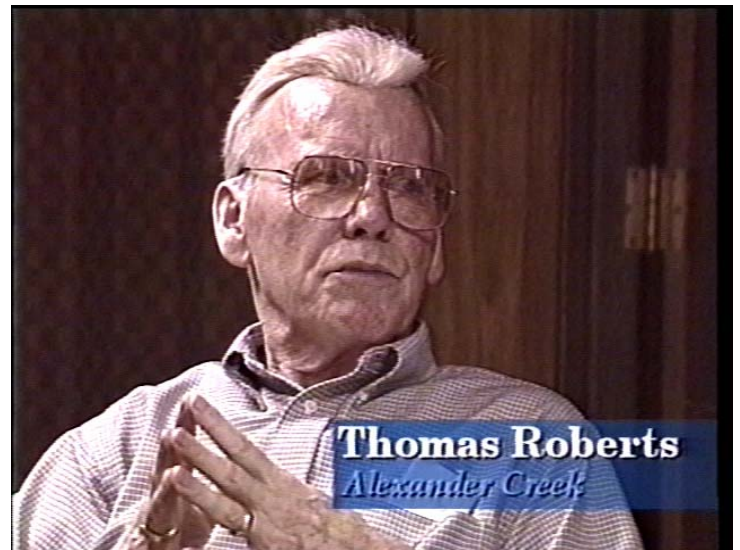
Thomas Roberts (tallest) at Alexander Creek with his brothers Donald and Harold in the early 1940's.

When asked about the proceedings to be recognized as a village, Thomas said, "**We were constantly told that there was no use in trying. That we did not qualify. And exactly just as to why, I'm not sure.**" *These Voices Should Be Heard, the Story of Alexander Creek* → → →  
→

Thomas Roberts moved to Alexander Creek with his family in the early 1940's.

ANCAB rejected his claim that Alexander Creek was his village saying, "Since Thomas did not appear as a witness, . . . the speculative testimony . . . that Thomas may plan to build a cabin, the purchase of two boat motors [to go to Alexander Creek] and annual visits without a stated intent to return" was insufficient to qualify.

In *These Voices Should Be Heard, the Story of Alexander Creek*, Thomas said, "**That's the only home I ever had. That I considered home was Alexander Creek. I had no place else that I considered. Then or now.**" *These Voices Should Be Heard, the Story of Alexander Creek*



From the 1998 Video,  
*These Voices Should Be Heard, the Story of Alexander Creek*

## Bertha Tolbert at Alexander Creek



Above: Bertha (Thiele) Tolbert at Alexander Creek in the 1940's.

Mrs. Tolbert registered to Alexander Creek under notification from the Bureau of Indian Affairs that she was enrolled to the Alexander Creek Village.

However, the Alaska Native Claims Appeals Board ruled on the basis that she didn't come to their hearing to testify that it was her home and then refused to allow her to testify because the hearing was closed.

When asked about the question of whether Alexander Creek was her home, Mrs. Tolbert responded: "**Just like he said, I was buried there. Where else would I say was home?**" This quote is from the video, *These Voices Should Be Heard, the Story of Alexander Creek*.



the 1998 Video,  
*These Voices Should Be Heard, the Story of Alexander Creek*

# BIA Letter Re: Original Eligibility Determination



**UNITED STATES  
DEPARTMENT OF THE INTERIOR**  
BUREAU OF INDIAN AFFAIRS

West Central Alaska Field Office  
3601 C Street, Suite 1100  
Anchorage, Alaska 99503-5947  
Telephone (907) 271-4088

IN REPLY REFER TO:

April 8, 2002

James B. Gottstein, Esq.  
406 G Street, Suite 206  
Anchorage, AK. 99501

Re: Alexander Creek

Dear Mr. Gottstein:

It was a pleasure to meet you and the delegation from Alexander Creek.

I have reviewed some of the material at the ANCSA Office as well as the material you provided after your visit. A thorough assessment of this material leads me to the conclusion that the Bureau's original determination that Alexander Creek met the requirement for eligibility under the Alaska Native Claims Settlement Act (ANCSA) was a correct decision.

I wish you well in your endeavors.

Sincerely,

Charles F. Bunch  
Field Representative

**LAW OFFICES**  
**APR 09 2002**  
**JAMES B. GOTTSTEIN**

---

ALASKA FEDERATION OF NATIVES, INC.

1577 C Street, Suite 300, Anchorage, Alaska 99501  
907-274-3611 Fax 907-276-7989

March 23, 2006

The Honorable Don Young  
United States House of Representatives  
2111 Rayburn House Office Building  
Washington, DC 20515

Dear Congressman Young:

Re: Restoration of Alexander Creek's village eligibility under ANCSA

On behalf of the Board of Directors of the Alaska Federation of Natives, I am writing to urge the introduction and passage of legislation that would amend the Alaska Native Claims Settlement Act to recognize Alexander Creek as a village under section 11(b)(3) of ANCSA. Such legislation (H.R. 4601) was introduced during the 108<sup>th</sup> Congress, but did not receive a hearing before Congress adjourned. We are writing to urge you to reintroduce that legislation during this Congress.

As you know, ANCSA provided that villages were to receive up to 69,120 acres of land that had been selected or tentatively approved to the State of Alaska under the Alaska Statehood Act, but had not yet been patented to the State. In order to be considered an eligible village, Alexander Creek needed to have 25 residents. The BIA determined that there were 37 Alaska Natives properly enrolled to the Alexander Creek Village and that it should be certified as a Village for purposes of receiving ANCSA land and monetary benefits. Because most of the land that would have normally been available for selection by Alexander Creek had already been conveyed to the State and much of it had been promised to the Mat-Su Borough, a conflict arose over the land rights and both the State and the Mat-Su Borough protested Alexander Creek's eligibility.

A hearing was held before an Administrative Law Judge on July 11, 1974 to resolve the protests. In what was later described by the federal courts as a "secret review procedure", *Koniag, et. al. v. Andrus*, 580 F.2d 601, 609 (D.C. Cir. 1978), the Alaska Native Claims Appeals Board (ANCAB) issued its decision finding that there were only 22 Natives properly enrolled to the village – 3 short of the required 25. Alexander Creek appealed that decision to the U.S. District Court for the District of Columbia, which reversed ANCAB's decision and reinstated Alexander Creek's village eligibility. *Koniag, et. al. v. Andrus*, 405 F. Supp. 1360 (D.D.C. 1975). The State appealed.

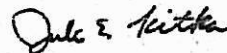
Because under ANCSA no lands were available in the vicinity of their village and less than 1,000 acres in their entire withdrawal area, as the deadline approached, on November 19, 1975, Alexander Creek selected land from among the "deficiency lands", 43 U.S.C. 1611(a)(3)(A), in the Lake Clark area. However, the area in which Alexander Creek made its selections was subsequently identified by the Secretary of the Interior under Section 17(d)(2) of ANCSA for inclusion in the proposed Lake Clark National Monument.

On August 27, 1976, the Court of Appeals affirmed the District Court's decision on the unconstitutionality of the secret proceedings, but ordered that the case be remanded back to the Secretary of Interior for further proceedings, rather than reinstating Alexander Creek's village eligibility. Thereafter, Alexander Creek, CIRI and the U.S. signed an agreement whereby Alexander Creek dropped its claim to be a village in exchange for group status, and up to 7,680 acres of land, some of which might come from the State of Alaska. Alexander Creek did not fully understand this complicated series of multi-party agreements and was not represented by independent counsel at the time.

In subsequent years, the leadership of Alexander Creek came to understand that they should have been recognized as an ANCSA village, and the village is actively working to obtain that recognition, and has obtained the support of AFN, CIRI, the State of Alaska and the Mat-Su Borough. In addition, the Alaska Region Field Representative of the BIA has concluded, after "a thorough assessment" that the BIA's original determination that Alexander Creek met the requirement" for village eligibility was correct.

AFN strongly believes the injustice that Alexander Creek has suffered at the hands of the United States Government should be corrected by Congress through legislation that would restore Alexander Creek's village eligibility under ANCSA and provide other fair compensation to Alexander Creek for the U.S. Government's taking of its land.

Sincerely,



Julie Kitka  
President

Cc: Senator Ted Stevens  
Senator Lisa Murkowski



# CIRI

---

July 22, 1999

Julie Kitka, President  
Alaska Federation of Natives  
1577 C Street  
Anchorage, Alaska 99501

Re: Alexander Creek

Dear Ms. Kitka:

This is to advise you that Cook Inlet Region, Inc., supports Alexander Creek in its efforts to obtain village status or at least the equivalent of what Alexander Creek would have received as an ANCSA village under its original entitlement (minus the acreage already received) without diminishing CIRI's entitlement.

We hope the AFN will support Alexander Creek in urging Congress and the Interior Department to provide an appropriate remedy for Alexander Creek.

Yours truly,

Carl H. Marris  
President & CEO

CM:kb-4166

cc: Stephanie Thompson, President, Alexander Creek, Inc.  
James B. Gottstein, Esq.  
Nelson Angapak



# CIRI

---

November 10, 2003

LAW OFFICES  
NOV 24 2003  
JAMES B. GOTTSTEIN

Ms. Stephanie Thompson  
President  
Alexander Creek  
8128 Cranberry Street  
Anchorage, AK 99508


SUBJECT: Alexander Creek

Dear Ms. Thompson:

This is to re-affirm Cook Inlet Region, Inc.'s continued and unwavering support for Alexander Creek in its efforts to obtain village status, or at least the equivalent of what Alexander Creek would have received as an ANCSA village. We understand your efforts will not diminish CIRI's entitlement.

Yours truly,

COOK INLET REGION, INC.



Carl H. Marrs  
President & CEO

Cc: Senator Ted Stevens  
Senator Lisa Murkowski  
Representative Don Young  
Julie Kitka  
Nelson Angapak  
James B. Gottstein, Esq.





# ***Nay'dini'aa Na'***

*(Chickaloon)*

## **VILLAGE TRADITIONAL COUNCIL**

Katherine Wade,  
Clan Grandmother

Gary Harrison,  
Traditional Chief

Doug Wade,  
Chairman/Elder

Ricky Harrison,  
Vice-Chairman

Jim Shaginoff,  
Treasurer/Elder

Penny Westing,  
Secretary/Elder

Jesse Lanman,  
Elder Member

Herb Belanger  
Elder Member

Larry Wade  
Elder Member

Burt Shaginoff,  
Elder Member

Jennifer D. Harrison,  
Executive Director

### **RESOLUTION IN SUPPORT OF ALEXANDER CREEK VILLAGE**

#### **RESOLUTION 060621-01**

**WHEREAS, Chickaloon Village Traditional Council is an Indigenous Government with full power and authority to act for the Chickaloon Native Village, Chickaloon Traditional Village, and/or Chickaloon Village (Nay'dini'aa Na'); and**

**WHEREAS, Chickaloon Village is part of the Athabaskan Nation and is a distinct, independent political community, and as such is qualified and exercises powers of self-government by reason of its original tribal sovereignty as passed down from its ancestors since time immemorial; and nothing in this resolution shall be in conflict therewith; and**

**WHEREAS, Chickaloon Village is a Federally-recognized Tribal Government in Alaska (Federal Register, Volume 67, Number 134, Friday, July 12, 2002, Notices, page 46332), with full power and authority to negotiate with the Federal Government; and**

**WHEREAS, Chickaloon Village Traditional Council did not cede, terminate, extinguish, or relinquish their original, possessory and aboriginal rights; and**

**WHEREAS, Chickaloon Village Traditional Council is the governing body of Chickaloon Village as recognized by the Chickaloon tribal citizens; and has a responsibility to provide a government for the good health and welfare of its tribal citizens, address any needs in its community; and**

**WHEREAS, Chickaloon Village Traditional Council supports Alexander Creek Village for the following reasons:**

**WHEREAS, the Alexander Creek village site has been occupied by Alaska Natives continuously from time immemorial, except for the brief period when it was decimated by White Man's diseases in the early part of the last century; and**

**WHEREAS, Congress enacted the Alaska Native Claims Settlement Act on December 18, 1971 "because of an immediate need for a fair and just settlement of all [Native Land Claims] based on aboriginal land claims;" and**

**WHEREAS, Congress therein declared “the settlement should be accomplished rapidly . . . with the maximum participation by Natives in decisions affecting their rights and property,” and**

**WHEREAS, on December 21, 1973, the Bureau of Indian Affairs determined that 37 Alaska Natives were properly enrolled to Alexander Creek, which is 12 more than was required, and certified Alexander Creek an eligible village under the Alaska Native Claims Settlement Act; and**

**WHEREAS, in April of 1974, the State of Alaska, the Matanuska-Susitna Borough, the Alaska Chapter of the Sierra Club, Alaska Wildlife Federation and Sportsmen’s Council, Inc., and Phil R. Holdsworth protested such determination; and**

**WHEREAS, on November 1, 1974, the Alaska Native Claims Appeals Board (ANCAB), which had been delegated the Secretary of the Interior’s obligation to make decisions regarding such protests, ruled Alexander Creek was not an eligible village based on a secret recommendation of an Administrative Law Judge (ALJ) that Alexander Creek had only 22 Natives properly enrolled to the Village, 3 short of the 25 required; and**

**WHEREAS, the ALJ’s secret recommendation cited the failure of a number of Alexander Creek villagers to testify in person as a reason why he believed they were not properly enrolled to Alexander Creek; and**

**WHEREAS, because the ALJ’s recommendation was secret until ANCAB issued its decision, Alexander Creek had no opportunity before ANCAB issued its decision to contest the ALJ’s recommendation by bringing the excluded villagers in to testify; and**

**WHEREAS, ANCAB refused Alexander Creek’s request to re-open the case to allow Alexander Creek to bring in the excluded villagers in to testify; and**

**WHEREAS, in November of 1974, the United States District Court ruled ANCAB’s secret proceedings were unconstitutional and ordered Alexander Creek’s village status be reinstated; and**

**WHEREAS, in April of 1978, the United States Court of Appeals agreed with the United States District Court that ANCAB’s secret proceedings were unconstitutional, but ruled the appropriate remedy was to return the matter to the Secretary of the Interior for a proper determination, rather than reinstatement of Alexander Creek’s village eligibility determination; and**

**WHEREAS, in December of 1979, rather than following the United States Court of Appeals direction for a proper determination of village status, and at a time when Alexander Creek was unrepresented by legal council,**

**Alexander Creek was told it had to, and did, sign a paper making it a “group,” giving away its legal right to become an eligible village; and**

**WHEREAS, while Alexander Creek losing its village in this manner might have been legal under the White Man’s Law, it was neither fair nor just; and**

**WHEREAS, Alexander Creek has attempted for 20 years to have this injustice corrected; and**

**WHEREAS, to date, Alexander Creek has received less than 1,700 acres of land, and unless Congress acts, has little prospect of receiving any additional land as compensation for the United States Government’s taking of their land; and**

**WHEREAS, on April 8, 2002, Charles F. Bunch, Alaska Field Representative of the Bureau of Indian Affairs concluded, after “a thorough assessment” that the BIA’s “original determination that Alexander Creek met the requirement” for village eligibility was correct; and**

**WHEREAS, Congress’ direction in the Alaska Native Claims Settlement Act that “the settlement should be accomplished rapidly . . . with maximum participation by Natives in decisions affecting their rights and property” was not achieved in Alexander Creek’s case; and**

**WHEREAS, in 2001 having come to recognize this injustice, the State of Alaska wrote a letter, and the Matanuska-Susitna Borough passed a resolution, in support of restoring Alexander Creek’s eligibility as a village under the Alaska Native Claims Settlement Act; and**

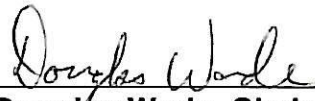
**WHEREAS, the Alaska Federation of Natives and Cook Inlet Region Incorporated, and many other Native American organizations support Alexander Creek’s efforts to obtain justice in this way; and**

**WHEREAS, it is the Congress’ responsibility to correct this injustice; and**

**NOW THEREFORE BE IT RESOLVED, that Chickaloon Village Traditional Council joins with those who have called upon the Congress of the United States of America to correct the unconscionable injustice that Alexander Creek has suffered at the hands of the United States Government by enacting legislation restoring Alexander Creek’s village eligibility under the Alaska Native Claims Settlement Act and providing other fair compensation acceptable to Alexander Creek, Inc., for the United States Government’s taking of its land.**

THEREFORE BE IT FURTHER RESOLVED, that Chickaloon Village Traditional Council hereby appoints Douglas Wade, Traditional Council Chairman and/or Gary Harrison, Traditional Chief to act on behalf of the Traditional Council in this matter.

It is hereby certified that this resolution was duly considered and approved this 21st day of June, 2006, with a majority vote of 9 affirmative; 0 negative; 0 abstention, and/or 0 absent votes.



Douglas Wade, Chairman



Penny Westing, Secretary



Gary Harrison, Traditional Chief



---

NATIVE VILLAGE OF EKLUTNA

---

**Resolution 06- 17**

**WHEREAS**, Native Village of Eklutna is a distinct, independent political community, and as such is qualified and exercises powers of self-government by reason of its original tribal sovereignty as passed down from its ancestors since time immemorial; and,

**WHEREAS**, the Native Village of Eklutna's Traditional Tribal Council is the governing body of Eklutna as recognized by the Eklutna Tribe and the Federal Government of the United States; and,

**WHEREAS**, the Alexander Creek village site has been occupied by Alaska Natives continuously from time immemorial, except for a brief period when it was decimated by White Man's diseases in the early part of the last century; and,

**WHEREAS**, Congress enacted the Alaska Native Claims Settlement Act on December 18, 1971 "because of an immediate need for a fair and just settlement of all (Native Land Claims) based on aboriginal land claims; and,

**WHEREAS**, Congress therein declared "the settlement should be accomplished rapidly... with maximum participation by Natives in decisions affecting their rights and property;" and,

**WHEREAS**, on December 21, 1973, the Bureau of Indian Affairs determined that 37 Alaska Natives were properly enrolled to Alexander Creek, which is 12 more than was required, and certified Alexander Creek an eligible village under the Alaska Native Claims Settlement Act; and,

**WHEREAS**, in April of 1974, the State of Alaska the Matanuska-Susitna Borough, the Alaska Chapter of the Sierra Club, Alaska Wildlife Federation and Sportsmen Council, Inc., and Phil R. Holdsworth protested such determination; and,

**Resolution 06-16**

Support of Alexander Creek

Page 2

**WHEREAS**, on November 1, 1974, the Alaska Native Claims Appeals Board (ANCAB), which had been delegated the Secretary of the Interior's obligation to make decisions regarding such protests, ruled Alexander Creek was not an eligible village based on a secret recommendation by an Administrative Law Judge (ALJ) that Alexander Creek had only 22 Natives properly enrolled to the Village, 3 short of the 25 required; and,

**WHEREAS**, the ALJ's secret recommendation cited the failure of a number of Alexander Creek villagers to testify in person why he believed they were not properly enrolled to Alexander Creek; and,

**WHEREAS**, because the ALJ's recommendation was secret until ANCAB issued its decision, Alexander Creek had no opportunity before ANCAB issued its decision to contest the ALJ's recommendation by bringing the excluded villagers in to testify; and,

**WHEREAS**, ANCAB refused Alexander Creek's request to re-open the case to allow Alexander Creek to bring the excluded villagers in to testify; and,

**WHEREAS**, on November 1974, the United States District Court ruled ANCAB's secret proceedings were unconstitutional and ordered Alexander Creek's village status be reinstated; and,

**WHEREAS**, in April of 1978, the United States Court of Appeals agreed with the United States District Court that ANCAB's secret proceedings were unconstitutional, but ruled the appropriate remedy was to return the matter to the Secretary of the Interior for a proper determination, rather than reinstatement of Alexander Creek's village eligibility determination; and,

**WHEREAS**, in December of 1979, rather than following the United States Courts of Appeals direction for a proper determination of village status, and at a time when Alexander Creek was unrepresented by legal counsel, Alexander Creek was told it had to and did sign a paper making it a "group" giving away its legal right to become an eligible village; and,

**WHEREAS**, while Alexander Creek losing its village in this manner might have been legal under the White Man's Law, it was neither fair nor just; and,

**WHEREAS**, Alexander Creek has attempted for 20 years to have this injustice corrected; and,

**WHEREAS**, to date, Alexander Creek has received less than 1,700 acres of land, and unless Congress acts, has little prospect of receiving any additional land as compensation for the United States Government's taking of their land; and,

**Resolution 06-16**

Support of Alexander Creek

Page 3

**WHEREAS**, on April 8, 2002, Charles F. Bunch, Alaska Field Representative of the Bureau of Indian Affairs concluded, after "a thorough assessment" that the BIA's "original determination that Alexander Creek met the requirement" for village eligibility was correct; and,

**WHEREAS**, Congress' direction in the Alaska Native Claims Settlement Act that "the settlement should be accomplished rapidly... with maximum participation by Natives in decisions affecting their rights and property" was not achieved in Alexander Creek's case; and,

**WHEREAS**, in 2001, having come to recognize this injustice, the State of Alaska wrote a letter, and the Matanuska-Susitna Borough passed a resolution, in support of restoring Alexander Creek's eligibility as a village under the Alaska Native Claims Settlement Act; and,

**WHEREAS**, the Alaska Federation of Natives and Cook Inlet Region Inc., and many other Native American organizations support Alexander Creek's effort to obtain justice in this way; and,

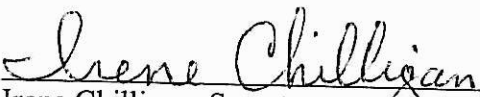
**WHEREAS**, it is the Congress' responsibility to correct this injustice.

**BE IT RESOLVED:**

We join with those who have called upon the Congress of the United States of America to correct the unconscionable injustice that Alexander Creek has suffered at the hands of the United States Government by enacting legislation restoring Alexander Creek's village eligibility under the Alaska Native Claims Settlement Act and providing other fair compensation acceptable to Alexander Creek, Inc., for the United States Government's taking of its land.

By a vote of 6 for, 0 against, 0 abstained, 1 absent, this resolution was duly approved, with quorum present on the 29 day of September, 2006.

  
\_\_\_\_\_  
Dorothy Cook/Chairperson/President

  
\_\_\_\_\_  
Irene Chilligan, Secretary

Kenaitze Indian Tribe  
P.O. Box 988 Kenai, Alaska 99611

Resolution No. 2006-34

A Tribal Resolution In Support of Alexander Creek Village

Whereas, the Alexander Creek village site has been occupied by Alaska Natives continuously from time immemorial, except for a brief period when it was decimated by White Man's diseases in the early part of the last century; and,

Whereas, Congress enacted the Alaska Native Claims Settlement Act on December 18, 1971 "because of an immediate need for a fair and just settlement of all (Native Land Claims) based on aboriginal land claims;" and,

Whereas, Congress therein declared "the settlement should be accomplished rapidly...with maximum participation by Natives in decisions affecting their rights and property," and,

Whereas, on December 21, 1973, the Bureau of Indian Affairs determined that 37 Alaska Natives were properly enrolled to Alexander Creek, which is 12 more than was required, and certified Alexander Creek an eligible village under the Alaska Native Claims Settlement Act; and,

Whereas, in April of 1974, the State of Alaska, the Matanuska-Susitna Borough, the Alaska Chapter of the Sierra Club, Alaska Wildlife Federation and Sportsmen's Council, Inc., and Phil R. Holdsworth protested such determination; and,

Whereas, on November 1, 1974, the Alaska Native Claims Appeals Board (ANCAB), which had been delegated the Secretary of the Interior's obligation to make decisions regarding such protests, ruled Alexander Creek was not an eligible village based on a secret recommendation of an Administrative Law Judge (ALJ) that Alexander Creek had only 22 Natives properly enrolled to the Village, three short of the 25 required; and,

Whereas, the ALJ's recommendation was secret until ANCAB issued its decision, Alexander Creek had no opportunity before ANCAB issued its decision to contest the ALJ's recommendation by bringing the excluded villagers in to testify; and,

Whereas, ANCAB refused Alexander Creek's request to re-open the case to allow Alexander Creek to bring the excluded villagers in to testify; and,

Whereas, in November of 1974, the United States District Court ruled ANCAB's secret proceedings were unconstitutional and ordered Alexander Creek's village status be reinstated; and,



Whereas, in April of 1978, the United States Court of Appeals agreed with the United States District Court that ANCAB's secret proceedings were unconstitutional, but ruled the appropriate remedy was to return the matter to the Secretary of the Interior for a proper determination, rather than reinstatement of Alexander Creek's village eligibility determination; and,

Whereas, in December of 1979, rather than following the United States Court of Appeals direction for a proper determination of village status, and at a time when Alexander Creek was unrepresented by legal counsel, Alexander Creek was told it had to and did sign a paper making it a "group", giving away its legal right to become an eligible village; and,

Whereas, while Alexander Creek losing its village in this manner might have been legal under the White Man's Law, it was neither fair nor just; and,

Whereas, Alexander Creek has attempted for 20 years to have this injustice corrected; and,

Whereas, to date, Alexander Creek has received less than 1,700 acres of land, and unless Congress acts, has little prospect of receiving any additional land as compensation for the United States Government's taking of their land; and,

Whereas, on April 8, 2002, Charles F. Bunch, Alaska Field Representative of the Bureau of Indian Affairs concluded, after "a thorough assessment" that the BIA's "original determination that Alexander Creek met the requirement" for village eligibility was correct; and,

Whereas, Congress' direction in the Alaska Native Claims Settlement Act that "the settlement should be accomplished rapidly...with maximum participation by Natives in decisions affecting their rights and property" was not achieved in Alexander Creek's case; and,

Whereas, in 2001, having come to recognize this injustice, the State of Alaska wrote a letter, and the Matanuska-Susitna Borough passed a resolution, in support of restoring Alexander Creek's eligibility as a village under the Alaska Native Claims Settlement Act; and,

Whereas, the Alaska Federation of Natives and Cook Inlet Region, Inc., and many other Native American organizations support Alexander Creek's efforts to obtain justice in this way; and,

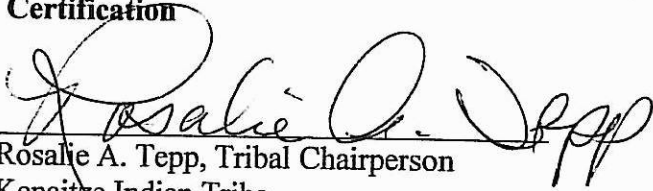
Whereas, it is the Congress' responsibility to correct this injustice; and,

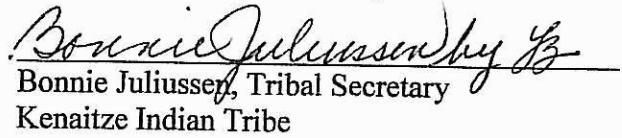
Now Therefore Be It Resolved, that the Kenaitze Indian Tribe joins those who have called upon the Congress of the United States of America to correct the unconscionable injustice that Alexander Creek has suffered at the hands of the United States Government

by enacting legislation restoring Alexander Creek's village eligibility under the Alaska Native Claims Settlement Act and providing other fair compensation acceptable to Alexander Creek, Inc., for the United States Government's taking of its land.

**Certification**

Voting For: 6  
Voting Against: 0  
Abstaining: 1  
Absent: 0

  
\_\_\_\_\_  
Rosalie A. Tepp, Tribal Chairperson  
Kenaitze Indian Tribe

  
\_\_\_\_\_  
Bonnie Julusser, Tribal Secretary  
Kenaitze Indian Tribe

June 12, 2006  
\_\_\_\_\_  
Date



# Ninilchik Traditional Council

P.O. Box 39070

Ninilchik, Alaska 99639

Ph: 907 567-3313 / Fx: 907 567-3308

e-mail: [ntc@ninilchiktribe-nsn.gov](mailto:ntc@ninilchiktribe-nsn.gov)

website: [www.ninilchiktribe-nsn.gov](http://www.ninilchiktribe-nsn.gov)

---

## RESOLUTION 2006- 24

### In Support of Alexander Creek Village

WHEREAS, the Ninilchik Village Tribe is a distinct, independent political community, and as such is qualified and exercises powers of self-government by reason of its original tribal sovereignty as passed down from its ancestors since time immemorial; and

WHEREAS, the Ninilchik Village Tribe is a federally Recognized Indian Tribe in Alaska (Federal Register Volume 65, Number 49, March 13, 2000, Notices Pages 13298-13303); and

WHEREAS, the Ninilchik Village Tribe is also a State Recognized Indian Tribe as noted in the Millennium agreement between the State of Alaska and the Ninilchik Village Tribe; and

WHEREAS, the Ninilchik Traditional Council (NTC) is the governing body of the Ninilchik Village Tribe as recognized by Ninilchik Tribal Members and the Constitution of the Tribe; and

WHEREAS, the Alexander Creek village site has been occupied by Alaska Natives continuously from time immemorial, except for a brief period when it was decimated by White Man's diseases in the early part of the last century; and

WHEREAS, Congress enacted the Alaska Native Claims Settlement Act on December 18, 1971 "because of an immediate need for a fair and just settlement of all [Native Land Claims] based on aboriginal land claims;" and

WHEREAS, Congress therein declared "the settlement should be accomplished rapidly ... with maximum participation by Natives in decisions affecting their rights and property," and

WHEREAS, on December 21, 1973, the Bureau of Indian Affairs determined that 37 Alaska Native were properly enrolled to Alexander Creek, which is 12 more than was required, and certified Alexander Creek an eligible village under the Alaska Native Claims Settlement Act; and

WHEREAS, in April of 1974, the State of Alaska, the Matanuska-Susitna Borough, the Alaska Chapter of the Sierra Club, Alaska Wildlife Federation and Sportsmen's Council, Inc., and Phil R. Holdsworth protested such determination; and

WHEREAS, on November 1, 1974, the Alaska Native Claims Appeals Board (ANCAB), which had been delegated the Secretary of the Interior's obligation to make decisions regarding such protests, ruled Alexander Creek was not an eligible village based on a secret recommendation of an Administrative Law Judge (ALJ) that Alexander Creek had only 22 Natives properly enrolled to the Village, 3 short of the 25 required; and

WHEREAS, the ALJ's secret recommendation cited the failure of a number of Alexander Creek villagers to testify in person as a reason why he believed they were not properly enrolled to Alexander Creek; and

WHEREAS, because the ALJ's recommendation was secret until ANCAB issued its decision, Alexander Creek had no opportunity before ANCAB issued its decision to contest the ALJ's recommendation by bringing the excluded villagers in to testify; and

WHEREAS, ANCAB refused Alexander Creek's request to re-open the case to allow Alexander Creek to bring the excluded villagers in to testify; and

WHEREAS, in November of 1974, the United States District Court ruled ANCAB's secret proceedings were unconstitutional and ordered Alexander Creek's village status be reinstated; and

WHEREAS, in April of 1978, the United States Court of Appeals agreed with the United States District Court that ANCAB's secret proceedings were unconstitutional, but ruled the appropriate remedy was to return the matter to the Secretary of the Interior for a proper determination, rather than reinstatement of Alexander Creek's village eligibility determination; and

WHEREAS, in December of 1979, rather than following the United States Court of Appeals direction for a proper determination of village status, and at a time when Alexander Creek was unrepresented by legal counsel, Alexander Creek was told it had to and did sign a paper making it a "group," giving away its legal right to become and eligible village; and

WHEREAS, while Alexander Creek losing its village in this manner might have been legal under the White Man's Law, it was neither fair nor just; and

WHEREAS, Alexander Creek has attempted for 20 years to have this injustice corrected; and

WHEREAS, to date, Alexander Creek has received less than, 1,700 acres of land, and unless Congress acts, has little prospect of receiving any additional land as compensation for the United States Government's taking of their land; and

WHEREAS, on April 8, 2002, Charles F. Bunch, Alaska Field Representative of the Bureau of Indian Affairs concluded, after "a thorough assessment" that the BIA's "original determination that Alexander Creek met the requirement" for village eligibility was correct; and

WHEREAS, Congress' direction in the Alaska Native Claims Settlement Act that "the settlement should be accomplished rapidly...with maximum participation by Natives in decisions affecting their rights and property" was not achieved in Alexander Creek's case; and

WHEREAS, in 2001, having come to recognize this injustice, the State of Alaska wrote a letter, and the Matanuska-Susitna Borough passed a resolution, in support of restoring Alexander Creek's eligibility as a village under the Alaska Native Claims Settlement Act; and

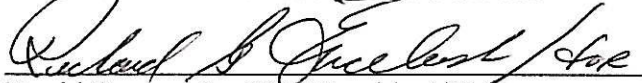
WEHREAS, the Alaska Federation of Natives and Cook Inlet Region Inc., and many other Native American organizations support Alexander Creek's efforts to obtain justice in this way; and

WHEREAS, it is the Congress' responsibility to correct this injustice,

NOW THEREFORE BE IT RESOLVED, the Ninilchik Traditional Council is in support of joining with those who have called upon the Congress of the United States of America to correct the unconscionable injustice that Alexander Creek has suffered at the hands of the United States Government by enacting legislation restoring Alexander Creek's village eligibility under the Alaska Native Claims Settlement Act and providing other fair compensation acceptable to Alexander Creek, Inc., for the United States Government's taking of its land.

PASSED AND ADOPTED THIS 17<sup>th</sup> day of August, 2006 at Ninilchik, Alaska.

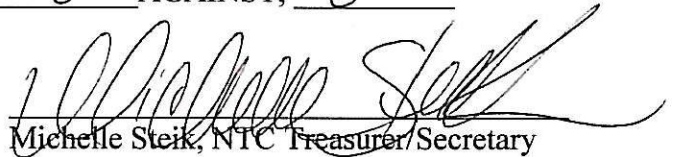
NINILCHIK TRADITIONAL COUNCIL



David Cooper, Jr., NTC President/Chairman

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly adopted by the Ninilchik Traditional Council at a duly called meeting on the 17<sup>th</sup> day of August, 2006 at Ninilchik, Alaska, by a vote of 4 FOR, 0 AGAINST, 0 ABSENT, and 0 NOT VOTING.



Michelle Steik, NTC Treasurer/Secretary



October 20, 2006

Stephanie Thompson  
Alexander Creek Tribe  
8128 Cranberry Street  
Anchorage, Alaska 99502

Dear Ms. Thompson:

This letter is in support of Alexander Creek's intent to establish their status as a Village. On the October 13, 2006 regular council meeting the Native Village of Tyonek IRA Council made a motion and passed that NVT will support Alexander Creek's efforts.

Reason being that NVT believes that Alexander Creek is a Native community and should not be subject to lose their land after 20 years of fighting for their status as a Village. Alexander Creek shows that they've been in constant contact with the Congress of the United States and the Alaska Native Claims Settlement Act to correct this situation.

A resolution to support Alexander Creek will be done and signed by the approving officials of the NVT IRA Council at the next regular council meeting on November 8<sup>th</sup>, 2006.

Sincerely,

A handwritten signature in cursive script that reads 'Janelle H. Baker for' followed by a checkmark.

Peter Merryman, President  
Native Village of Tyonek IRA Council

Letter of Support from State of Alaska

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES  
OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

- 400 WILLOUGHBY AVENUE  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400  
FAX: (907) 465-3886
- 550 WEST 7<sup>TH</sup> AVENUE, SUITE 1400  
ANCHORAGE, ALASKA 99501-3650  
PHONE: (907) 269-8431  
FAX: (907) 269-8918

November 6, 2001

Law Offices of  
James B. Gottstein  
406 G St  
Anchorage, AK 99501

Dear Jim:

I appreciate your efforts in bringing to my attention the land issues surrounding the historic village of Alexander Creek in the Cook Inlet region. I understand that Alexander Creek did not receive a land entitlement under ANCSA, and that an agreement between various parties in the late 70's and a provision of ANILCA in 1980 addressing the issue did not reach final resolution. It is also my understanding that any resolution of this issue would require further federal legislation.

This issue has been long dormant, and the state has not taken any action or position on it for nearly 20 years. I don't know whether there is any interest at this time at the federal level to pursue a possible settlement of outstanding land issues for Alexander Creek. However, of primary concern to the state on similar land settlements is the protection of state lands that have already been conveyed, the protection of the state's land selection rights under the Alaska Statehood Act, and the consideration of other resources in which the state may have strong interest.

To the extent that these state land and resource interests are not adversely impacted, we would have no objection to the pursuit of federal legislation that seeks to settle the land claims of Alexander Creek. We would be happy to work with you and other parties should federal legislation be pursued.

Sincerely,



Pat Pourchot, Commissioner

Cc: John Katz, Office of the Governor

LAW OFFICES  
NOV 08 2001  
JAMES B. GOTTSTEIN

*"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."*

## Resolution in Support from Matanuska-Susitna Borough

By: J. Duffy  
Adopted: 08/07/01

### MATANUSKA-SUSITNA BOROUGH RESOLUTION SERIAL NO. 01-076

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY SUPPORTING  
THE ALEXANDER CREEK NATIVE'S REQUEST TO OBTAIN DESIGNATION AS A  
VILLAGE.

WHEREAS, the historical Alexander Creek village is located approximately 30 miles west of the city of Palmer, within the Susitna Basin; and

WHEREAS, On December 18, 1971, Congress enacted the Alaska Native Claims Settlement Act (ANCSA) to settle Alaska Native land claims; and

WHEREAS, the Bureau of Indian Affairs determined that Alexander Creek Village met ANCSA requirements and should be certified as a village for purposes of receiving ANCSA land and monetary benefits, yet the designation did not occur in a timely manner; and

WHEREAS, much of the land that the Alexander Creek natives were to receive was already conveyed to the Matanuska-Susitna Borough and state of Alaska; and

WHEREAS, since no lands were available near the historic village site, the Alexander Creek Natives selected lands outside of the borough, and

WHEREAS, the Alexander Creek Natives are asking Congress for recognition as a Village under section 11(b)(3) of ANCSA and for eligible lands without diminishing the rights of any other party; and

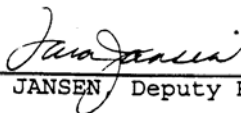


WHEREAS, if the Alexander Creek Natives obtained Village status it would not change its governmental relationship with the Matanuska-Susitna Borough nor would it cause the borough to lose any of its land entitlement; and

WHEREAS, the Alaska congressional delegation has requested that the Alexander Creek Natives obtain statements of support from the Matanuska-Susitna Borough and Cook Inlet Region, Inc., prior to supporting legislation to grant the Alexander Creek Natives Village status.

BE IT THEREFORE RESOLVED, that the Assembly of the Matanuska-Susitna Borough hereby supports the efforts of the Alexander Creek Natives to achieve Village status.

ADOPTED by the Matanuska-Susitna Borough Assembly this 7 day of August, 2001.

  
SARA JANSEN, Deputy Borough Mayor

ATTEST:

  
SANDRA A. DILLON, Borough Clerk

(SEAL)

LAW OFFICES  
SEP 11 2001  
JAMES B. GOTTSTEIN



## IV. Proposed Legislation

### A BILL

To amend the Alaska Native Claims Settlement Act to recognize Alexander Creek as a Native village, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **SECTION 1. ALEXANDER CREEK VILLAGE RECOGNITION.**

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

##### **`ALEXANDER CREEK VILLAGE RECOGNITION**

`SEC. 43.

`(a) Recognition of the Village of Alexander Creek- Alexander Creek, located within Township 15N, Range 7W, Seward Meridian, Alaska, is an eligible Native village under section 11(b)(3).

`(b) Definitions- For the purposes of this section, the following terms apply:

`(1) The term `agency' includes--

`(A) any instrumentality of the United States;

`(B) any element of an agency; and

`(C) any wholly owned or mixed-owned corporation of the United States Government identified in chapter 91 of title 31, United States Code.

`(2) The term `conservation system unit' has the meaning given that term in the Alaska National Interest Lands Conservation Act.

`(3) The term `Alexander Creek' means Alexander Creek Incorporated, an Alaska Native Group corporation, organized pursuant to this Act.

`(4) The term `property' has the meaning given that term in Public Law 94-204 (43 U.S.C. 1611 note).

`(5) The term `Region' means Cook Inlet Region Incorporated, an Alaska Native Regional Corporation, which is the appropriate Regional Corporation for Alexander Creek under section 1613(h).

`(c) Establishment- (1) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish an account in the Treasury to be known as the `Alexander Creek account'.

`(2) Beginning on October 1, 2012, funds in the Alexander Creek account shall--

`(A) be available to Alexander Creek for bidding on and purchasing property sold at public sale, subject to paragraph (3); and

`(B) remain available until expended.

`(3)(A) Alexander Creek may use funds in the Alexander Creek account to bid as any other bidder for property, including Treasury Notes, at any public sale by an agency and may purchase such property in accordance with applicable laws and regulations of the agency offering the property for sale.

`(B) In conducting a transaction described in subparagraph (A), an agency shall accept, in the same manner as cash, any amount tendered from the Alexander Creek account. The Secretary of the Treasury shall adjust the balance of the Alexander Creek account to reflect the transaction.

`(C) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures for the following transactions related to the Alexander Creek account:

`(i) Receipt of deposits.

`(ii) Receipt of deposits into escrow when an escrow is required for the sale of property.

`(iii) Reinstatement to the Alexander Creek account of any unused escrow deposits in the event that a sale of property is not consummated.

`(d) Land Exchange- The Secretary of the Interior shall enter into negotiations to attempt to conclude, under the authority of section 22(f), a land exchange to acquire the surface estate in lands not within any conservation system unit from the State of Alaska or the Matanuska-Susitna

Borough under the same procedures set forth in section 22(f) to enable Alexander Creek to select additional public lands within Alexander Creek's original withdrawal area in Alaska, as identified by Alexander Creek.

`(e) Amount- (1) The initial balance of the Alexander Creek account shall be the fair market value of the surface estate of the approximately 61,440 acres of deficiency selections made by Alexander Creek, as described on Appendix A.

`(2) If a conveyance is made to Alexander Creek pursuant to subsection (d), the Alexander Creek account shall be reduced by the amount of the actual acres conveyed multiplied by the average value per acre determined under subsection (g).

`(f) Subsurface Estate- The subsurface estate to lands conveyed to Alexander Creek under this section shall be conveyed, without consideration, to the Region.

`(g) Appraisal- (1)(A) The Secretary shall determine the amount to be deposited into the Alexander Creek account by appraising the fair market value, as of the date of the enactment of this section, of each section selected as a separate parcel and considering that `public interest' use may be the highest and best use of such parcels.

`(B) Alexander Creek shall have the opportunity to present evidence of value to the Secretary. The Secretary shall provide Alexander Creek with a preliminary draft of the appraisal. Alexander Creek shall have a reasonable and sufficient opportunity to comment on the appraisal.

`(2) The Secretary shall forward a certified copy of the appraisal to Alexander Creek.

'(3) Should Alexander Creek disagree with the Secretary's appraisal and Alexander Creek and the Secretary are subsequently unable to agree on a value, the valuation shall be submitted to arbitration, in which there shall be three arbitrators, one selected each by the Secretary and Alexander Creek and the third selected by the two arbitrators so selected and the final value shall be the average of the three arbitrators' valuation.

`(h) Implementation- (1) Alexander Creek may assign without restriction any or all of the Alexander Creek account upon written notification to the Secretary of the Treasury and the Secretary of the Interior. In the event that

such an assignment is made to the Region, on notice from Alexander Creek to the Secretary of the Treasury and the Secretary of the Interior, the amount of such assignment shall be added to or made a part of the Region's Property Account in the Treasury established pursuant to section 12(b) of Public Law 94-204, and may be used in the same manner as other funds in that account.

`(2) Upon certification by the Secretary of the Interior of the appraisal completed pursuant to subsection (g), Alexander Creek shall be deemed to have accepted the terms of this section in lieu of any other land entitlement it could have received pursuant to this Act. Such acceptance shall satisfy all claims Alexander Creek had or may have had against the United States on the date of the enactment of this section.

`(3) Any land conveyed to Alexander Creek pursuant to subsection (e) shall be deemed to be a conveyance pursuant to this Act.

`(i) Treatment of Amounts From Account- The Secretary of the Treasury and the heads of agencies shall administer sales pursuant to this section in the same manner as is provided for any other Native village authorized by law as of the date of the enactment of this section (including the use of similar accounts for bidding on and purchasing property sold for public sale).

Appendix A  
(Alexander Creek Deficiency Selections to be Appraised)

All Descriptions to Seward Meridian				
T	R	Sec	Acres	Cum Total
2 N	19 W	3	640.00	640.00
2 N	19 W	4	640.00	1,280.00
2 N	19 W	10	640.00	1,920.00
2 N	19 W	14	615.00	2,535.00
2 N	19 W	15	640.00	3,175.00
3 N	19 W	30	602.00	3,777.00
2 N	20 W	20	325.00	4,102.00
2 N	20 W	21	625.00	4,727.00
2 N	20 W	22	640.00	5,367.00
2 N	20 W	23	640.00	6,007.00
3 N	20 W	10	625.00	6,632.00
3 N	20 W	14	640.00	7,272.00
3 N	20 W	24	630.00	7,902.00
3 N	20 W	25	570.00	8,472.00
1 N	26 W	31	639.00	9,111.00
2 N	27 W	3	640.00	9,751.00
2 N	27 W	4	640.00	10,391.00
2 N	29 W	3	640.00	11,031.00
2 N	29 W	4	510.00	11,541.00
2 N	29 W	5	598.00	12,139.00
2 S	19 W	18	55.00	12,194.00
2 S	20 W	12	640.00	12,834.00
2 S	20 W	13	410.00	13,244.00
2 S	20 W	24	8.00	13,252.00
2 S	20 W	26	75.00	13,327.00
2 S	20 W	27	618.00	13,945.00
2 S	20 W	33	640.00	14,585.00
2 S	20 W	34	507.00	15,092.00
3 S	23 W	25	640.00	15,732.00
6 S	24 W	1	640.00	16,372.00
6 S	24 W	2	640.00	17,012.00
6 S	24 W	11	512.77	17,524.77
6 S	24 W	18	20.00	17,544.77
6 S	24 W	19	101.00	17,645.77
6 S	24 W	20	450.00	18,095.77
9 S	27 W	6	592.00	18,687.77
9 S	27 W	7	214.00	18,901.77
7 S	28 W	2	313.00	19,214.77
7 S	28 W	21	570.00	19,784.77
7 S	28 W	28	345.00	20,129.77
7 S	28 W	29	205.00	20,334.77
7 S	28 W	31	345.00	20,679.77
7 S	28 W	32	0.00	20,679.77
7 S	28 W	33	520.00	21,199.77
8 S	28 W	5	180.00	21,379.77
8 S	28 W	6	0.00	21,379.77

8 S	28 W	7	60.00	21,439.77
9 S	28 W	1	400.00	21,839.77
9 S	28 W	12	545.00	22,384.77
7 S	29 W	12	385.00	22,769.77
8 S	29 W	1	150.00	22,919.77
8 S	29 W	3	590.00	23,509.77
8 S	29 W	4	575.00	24,084.77
8 S	29 W	8	0.00	24,084.77
8 S	29 W	9	5.00	24,089.77
8 S	29 W	10	52.00	24,141.77
8 S	29 W	11	35.00	24,176.77
8 S	29 W	12	30.00	24,206.77
8 S	29 W	13	270.00	24,476.77
8 S	29 W	14	110.00	24,586.77
8 S	29 W	15	70.00	24,656.77
8 S	29 W	16	50.00	24,706.77
8 S	29 W	17	0.00	24,706.77
8 S	29 W	18	100.00	24,806.77
8 S	29 W	19	60.00	24,866.77
8 S	29 W	20	480.00	25,346.77
2 N	20 W	13	640.00	25,986.77
1 N	27 W	8	230.00	26,216.77
1 N	27 W	16	0.00	26,216.77
1 N	27 W	20	635.00	26,851.77
1 N	27 W	21	520.00	27,371.77
1 N	27 W	22	290.00	27,661.77
1 N	27 W	23	120.00	27,781.77
1 N	27 W	25	330.00	28,111.77
1 N	27 W	36	640.00	28,751.77
1 N	28 W	1	65.00	28,816.77
1 N	28 W	2	35.00	28,851.77
1 N	28 W	8	145.00	28,996.77
1 N	28 W	9	440.00	29,436.77
1 N	28 W	10	620.00	30,056.77
1 N	28 W	11	605.00	30,661.77
1 N	28 W	16	640.00	31,301.77
1 N	28 W	17	640.00	31,941.77
1 N	28 W	18	619.00	32,560.77
3 S	23 W	8	640.00	33,200.77
3 S	23 W	26	640.00	33,840.77
3 S	23 W	33	640.00	34,480.77
6 S	24 W	27	520.00	35,000.77
6 S	24 W	28	100.00	35,100.77
7 S	28 W	4	627.00	35,727.77
7 S	28 W	5	564.00	36,291.77
7 S	28 W	6	169.00	36,460.77
7 S	28 W	7	601.00	37,061.77
7 S	28 W	10	616.00	37,677.77
7 S	28 W	11	301.00	37,978.77
7 S	28 W	14	604.00	38,582.77
7 S	28 W	15	559.00	39,141.77
7 S	28 W	22	634.00	39,775.77
8 S	29 W	5	540.00	40,315.77
2 N	20 W	30	362.00	40,677.77



3 N	20 W	2	640.00	41,317.77
3 N	20 W	13	640.00	41,957.77
4 N	20 W	33	640.00	42,597.77
2 N	27 W	10	640.00	43,237.77
2 N	27 W	11	640.00	43,877.77
2 N	27 W	12	640.00	44,517.77
11 N	28 W	16	640.00	45,157.77
11 N	28 W	17	590.00	45,747.77
11 N	28 W	18	438.00	46,185.77
11 N	28 W	19	510.00	46,695.77
11 N	28 W	20	590.00	47,285.77
11 N	28 W	21	460.00	47,745.77
11 N	28 W	22	580.00	48,325.77
11 N	28 W	23	560.00	48,885.77
11 N	28 W	24	460.00	49,345.77
11 N	28 W	25	605.00	49,950.77
11 N	28 W	26	565.00	50,515.77
11 N	28 W	27	555.00	51,070.77
2 N	30 W	12	640.00	51,710.77
1 S	20 W	4	640.00	52,350.77
3 S	23 W	17	640.00	52,990.77
3 S	23 W	28	640.00	53,630.77
6 S	24 W	14	420.00	54,050.77
6 S	24 W	21	605.00	54,655.77
6 S	24 W	26	345.00	55,000.77
5 S	26 W	29	640.00	55,640.77
5 S	26 W	30	608.00	56,248.77
7 S	28 W	1	623.00	56,871.77
7 S	29 W	1	410.00	57,281.77
7 S	29 W	11	585.00	57,866.77
7 S	29 W	14	585.00	58,451.77
7 S	29 W	15	600.00	59,051.77
7 S	29 W	16	640.00	59,691.77
7 S	29 W	21	485.00	60,176.77
7 S	29 W	22	500.00	60,676.77
2 N	19 W	7	622.00	61,298.77
2 N	19 W	18	141.23	61,440.00

## V. Chronology

- December 18, 1971 Alaska Native Claims Settlement Act (ANCSA) passed, P.L. 92-203, 43 U.S.C. 1601 *et seq.*
- December 17, 1973: The Secretary of the Interior approved the roll for 37 Natives who state Alexander Creek is their Village.<sup>16</sup>
- February 7, 1974: BIA issues Administrative Determination that 31 Natives had been approved for enrollment; the 31 Natives represent a majority of the residents of the village in 1970; and 16 Natives used the village for a period of time in 1970.
- April 1974 The State, Sierra Club, Mat-Su Borough, Alaska Wildlife Federation and Sportsmen's Council, and Phil Holdsworth appealed Alexander Creek's Village eligibility determination to the Alaska Native Claims Appeals Board (ANCAB).
- August 28, 1974: Administrative Law Judge issues secret recommendations to ANCAB.
- November 1, 1974: ANCAB issues its decision finding that there were 22 persons properly enrolled to Alexander Creek (need 25) and 18 who actually used Alexander Creek during 1970 (need 13), thus denying Alexander Creek village status.
- November 26, 1974: Alexander Creek filed a motion for Reopening and Reconsideration, to, among other things, "offer further testimony and evidence respecting the residencies of Anna Louise Novak (and her children), Bertha Tolbert, George Thiele, Thomas Roberts and Donald Roberts."
- January 10, 1975: (1) Petition for Reopening and Reconsideration denied by ANCAB; (2) Certificate of Ineligibility for Unlisted Village issued by the BIA.
- July 9, 1975 Appeal filed to the United States District Court, District of Columbia, which was joined with a number of other cases, at least for purposes of summary judgment as to secret proceedings.
- November 14, 1975: The US District Court ruled at 405 F. Supp. 1360, reversing ANCAB, holding that the secret proceedings were unconstitutional, that the State of Alaska did not have standing to protest Alexander Creek's entitlement, and ordered Alexander Creek's village status be reinstated.
- January 19, 1977: BIA issued a Decision that if Alexander Creek were determined to be an eligible village it would be entitled to 69,120 acres.
- April 28, 1978: The Court of Appeals at 580 F.2d 601, affirmed the USDC on the unconstitutionality of the secret proceedings, but reversed (1) on the State of Alaska's standing to appeal (held that it had standing), and (2) that the appropriate remedy was remand to the Secretary of the Interior rather than reinstatement of the BIA Area Director's decision.
- December 13, 1979: Settlement Agreement between CIRI, Alexander Creek and Interior signed whereby Alexander Creek would be granted group status and receive 7,680 acres (§s 3 & 4) to the extent it ended up being available (§5).
- May 13, 1983: An ANCSA Office Native Groups 14(h)(2) table lists Alexander as a Group having 42 enrollees and that it was approved by ANILCA.

---

<sup>16</sup> From ANCAB decision, p. 27. The actual Roll document has not been reviewed.

- May 4, 1984: Letter from the Interior Department's Solicitor's Office that Alexander Creek will be certified as a group even though it has more than 25 members.
- June 19, 1984: Stipulation to settle the group/village eligibility disputes signed by the State (Alexander Creek signs January 7, 1985).
- December 30, 1985: Alexander Creek certified as a Group.
- April 22, 1986: 1,680 acres of land in the Alexander Creek Area is conveyed to Alexander Creek.
- 1987: The next generation assumes the mantle of leadership of the Alexander Creek village.
- August 3, 1987 -- January 31, 1992: New York attorney Solerwitz takes \$100,000 retainer from Alexander Creek (basically all of their money), saying that he can recover their village status. He never does anything substantial and is eventually disbarred for embezzling over \$2 million from his clients. The \$100,000 in attorneys fees paid by Alexander Creek was ultimately recovered from a New York Bar fund in 1992.
- 1992-1998: Alexander Creek attempts to obtain documents pertaining to its case and find an attorney to advise them. Arrangements made for Robert M. Goldberg, Esq., to represent Alexander Creek, but health problems forced Mr. Goldberg to withdraw.
- February 17, 1998: James B. Gottstein retained as Alexander Creek's attorney.
- February 1998 – to date: Analysis of history, develop legislative proposal, and work with CIRI, AFN, state of Alaska, Matanuska-Susitna Borough, and Department of the Interior to obtain their support.
- July 22, 1999: CIRI formally supports Alexander Creek's efforts.
- September 13, 1999: AFN formally supports Alexander Creek's efforts.
- August 7, 2001: Matanuska-Susitna Borough passes resolution supporting Alexander Creek's efforts.
- November 6, 2001: State of Alaska issues letter supporting Alexander Creek.
- April 8, 2002: Charles F. Bunch, Alaska Field Representative of the Bureau of Indian Affairs in the United States Department of the Interior, concludes, after "a thorough assessment" that the BIA's "original determination that Alexander Creek met the requirement" for village eligibility was correct.

## VI. Map of Alexander Creek Original ANCSA §11(a)(1) Withdrawal Area

Total Acreage Available for selection under ANCSA in "Core Township (Inner square): one third of one acres

Total Acreage Available for selection under ANCSA in entire Withdrawal Area: 840.92 acres

Source BLM Worksheets, See BLM Worksheet of Available Lands in Original Withdrawal Area



## VII. BLM Worksheet of Available Lands in Original Withdrawal Area

Alexander Creek

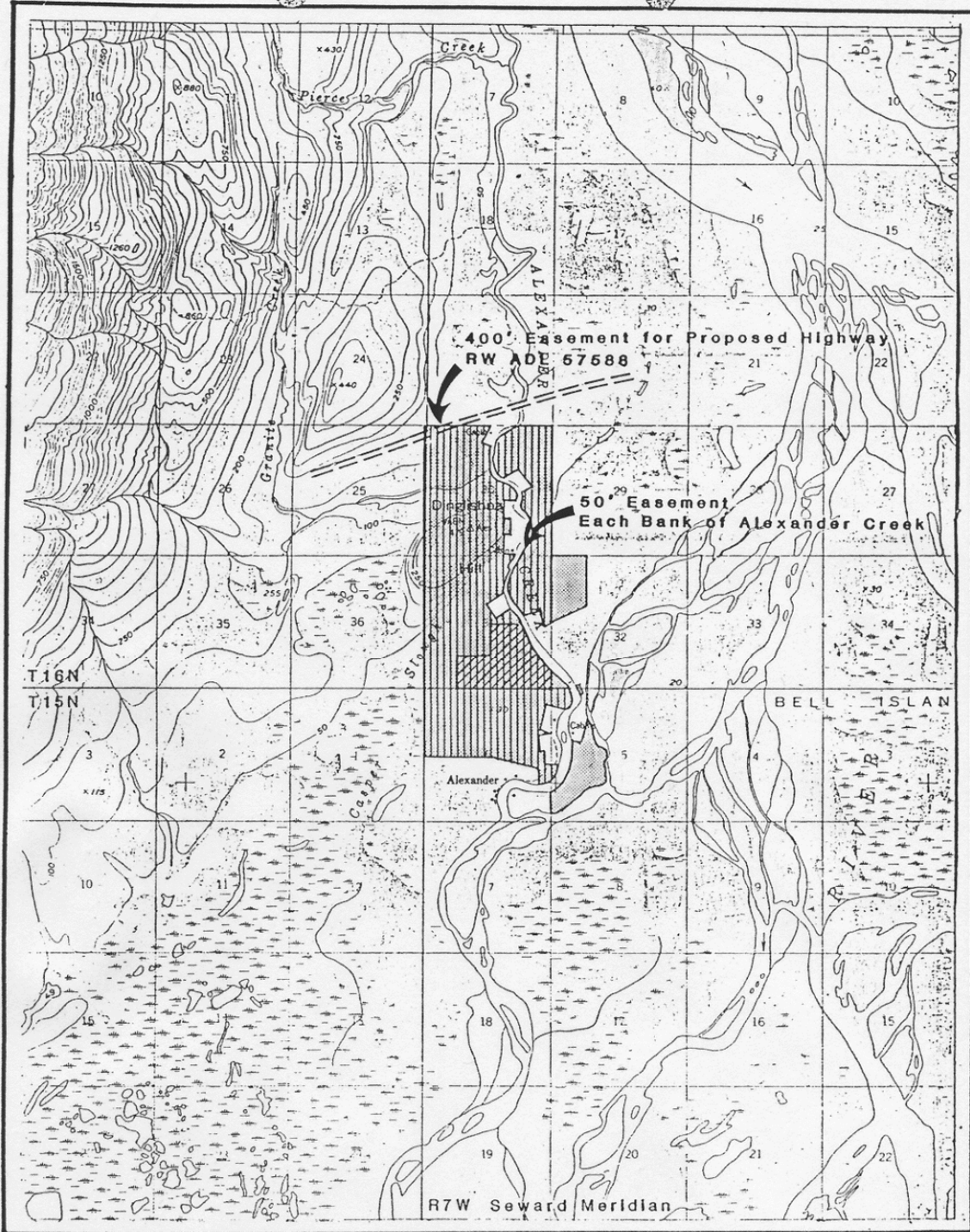
At time of withdrawal.....

T., R., Seward Meridian	Land Status	Description -- Available lands	Acres
13 N, 5 W	Withdrawn for FAA and USCG	Lots 4 & 5, USS 10050	402.00
14 N, 5 W	Most of township patented.	USS 4623	4.99
15 N, 5 W	Entire township patented.		0.00
16 N, 5 W	Entire township patented.		0.00
17 N, 5 W	Most of township patented.	USS 4638	0.94
13 N, 6 W	Entire township patented.		0.00
14 N, 6 W	Most of township patented.	USS 4620 & 4621	84.73
15 N, 6 W	Entire township patented.		0.00
16 N, 6 W	Entire township patented.		0.00
17 N, 6 W	Entire township patented.		0.00
13 N, 7 W	Most of township patented.	Lots 1 & 2, USS 4629	10.00
14 N, 7 W	Entire township patented.		0.00
15 N, 7 W	Most of township patented.	Lot 1, USS 4628	0.30
16 N, 7 W	Entire township patented or otherwise unavailable.		0.00
17 N, 7 W	Most of township patented.	USS 938; Lots 7, 8, 10, 14, 20-23, 26-30, 33-35, USS 3633	278.49
13 N, 8 W	Entire township patented.		0.00
14 N, 8 W	Entire township patented or otherwise unavailable.		0.00

15 N, 8 W	Entire township patented.		0.00
16 N, 8 W	Most of township patented.	Lot 2, USS 4624	59.47
17 N, 8 W	Entire township patented.		0.00
13 N, 9 W	Entire township patented.		0.00
14 N, 9 W	Entire township patented.		0.00
15 N, 9 W	Entire township patented.		0.00
16 N, 9 W	Entire township patented.		0.00
			840.92

# VIII. Map of Lands Conveyed to Alexander Creek

Alexander Creek Agreement



- ▨ Appendix C - Boro to Relinquish
- ▨ Appendix D - SE to ACI SSE to CIRI
- ▨ ACI & CIRI to Convey to Boro

Scale 1:63,360 11/83