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 spurce hen on skis.

October 2002

Table of Contents

Table of Contents	
Briefing re: Alexander Creek's Request to be Recognized as an Alaska Native Claims Settlement Act V	/illage1
I. SummaryII. 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)	
Letter of Support from Cook Inlet Region Inc. (CIRI)	11
Letter of Support from State of Alaska	
Resolution in Support from Matanuska-Susitna Borough	
Proposed Legislation	
Chronology	26
Map of Alexander Creek Original ANCSA §11(a)(1) Withdrawal Area	28
BLM Worksheet of Available Lands in Original Withdrawal Area	
Map of Lands Conveyed to Alexander Creek	

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 Creek¹) empties into the Susitna River just a few miles from its mouth in Cook Inlet. The historical Alexander Creek village, known as Tuqen Kaq² 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." 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. Under ANCSA, Village corporations were to receive from 69,120 acres to 161,280 acres depending on how many people lived there. Villages automatically received as much of the available land in the township in which the village was located ("Core Township") as was

¹ 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.

² Id.

³ Id.

⁴ P.L. 92-203, 43 U.S.C. §1601 et seq.

⁵ ANCSA §14(a), 43 U.S.C. §1613.

available. 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.

Initial Eligibility Determination. In order to be an eligible village, Alexander Creek needed to have 25 residents. 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. 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," 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.

<u>District Court Decision</u>. 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.¹¹ 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" 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.

_

⁶ ANCSA §12((a)(1), 43 U.S.C. §1611(a)(1).

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

⁸ ANCSA §11(b)(3), 43 U.S.C. §1610(b)(3).

⁹ See, Worksheet of Available Lands in Original Withdrawal Area

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

¹¹ Koniag, et al., v. Andrus, 405 F.Supp 1360 (D.D.C. 1975)

¹² 43 U.S.C. §1611(a)(3)(A)

<u>Creation of Lake Clark National Monument</u>. 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.¹³ Thereafter followed a complicated series of multiparty agreements, not totally understood by Alexander Creek.¹⁴

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. 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.

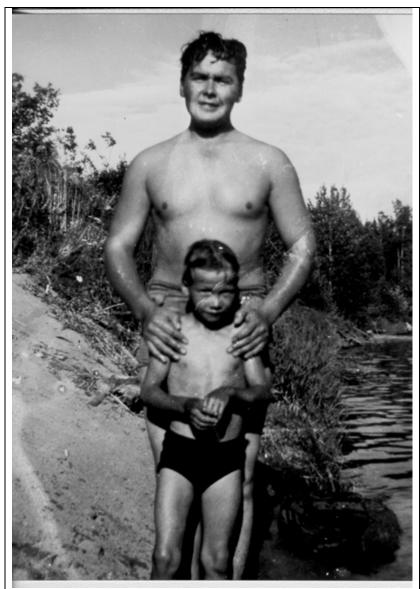
Proposed legislation to accomplish this is included in this briefing book.

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

¹⁴ A description of these are contained in the attached Chronology.

¹⁵ 580 F.2d 601.

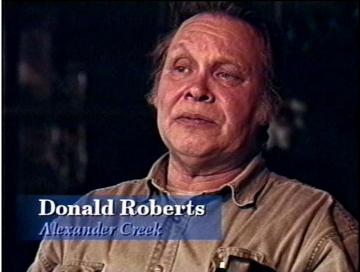
Donald Roberts at Alexander Creek



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.

"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.

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.



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

Thomas Roberts at Alexander Creek



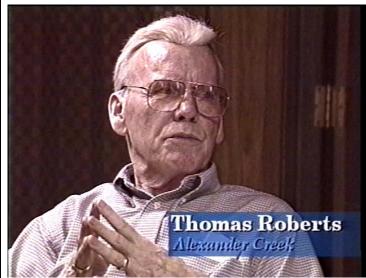
Thomas Roberts (tallest) at Alexander Creek with his brothers Donald and Harold in the early 1940's.

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 \rightarrow

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 unde notification from the Bureau of Indian Affairs th enrolled to the Alexander Creek Village.

However, the Alaska Native Claims Appeals Bobasis that she didn't come to their hearing to testi was her home and then refused to allow her to te was closed.

When asked about the question of whether Alexa home, Mrs. Tolbert responded: "Just like he said buried there. Where else would I say was hor These Voices Should Be Heard, the Story of Alexa



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

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

April 8, 2002

IN REPLY REFER TO:

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 through 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.

Charles F. Bunch Field Representative

APR 0 9 2002

JAMES B. GOTTSTEIN

Letter of Support from the Alaska Federation of Natives (AFN)

ALASKA FEDERATION OF NATIVES, INC.

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

September 13, 1999

Ms. Stephanie Thompson, President Alexander Creek 8128 Cranberry Anchorage, AK 99502

Dear Ms. Thompson:

Please be advised that the Alaska Federation of Natives supports the efforts of Alexander Creek, Inc. in obtaining village status or at least the equivalent of what it would have received as an ANCSA village corporation through legislation. It is our understanding that the land entitlements of the existing village and/or regional corporations will not be impacted by your legislation.

We wish you the best in your efforts.

Sincerely,

Julie Kitka President

cc: Carl Marrs, President, CIRI James B. Gottstein, Esq.

Letter of Support from Cook Inlet Region Inc. (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. Marrs
President & CEO

CM:kb-4166

cc: Stephanie Thompson, President, Alexander Creek, Inc.

James B. Gottstein, Esq.

Nelson Angapak

Letter of Support from 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 7TH 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

the.

"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;

Page 1 of 2

Resolution Serial No. 01-076

IM No. 01-175

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 THERFORE 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:

5.

SANDRA A. DILLON, Borough Clerk

(SEAL)

LAW OFFICES

SEP 1 1 2001

JAMES B. GOTTSTEIN

Proposed Legislation SEC. ALEXANDER CREEK VILLAGE RECOGNITION

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

ALEXANDER CREEK VILLAGE RECOGNITION

"Sec. __ (a) FINDINGS. --- The Congress finds that ---

- "(1) On December 21, 1973, the Bureau of Indian Affairs determined that Alexander Creek was an eligible village under section 11(b)(3) of the Alaska Native Claims Settlement Act and certified that 37 Alaska Natives were properly enrolled to Alexander Creek;
- "(2) 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 this determination.
- "(3) based on the lack of testimony at the hearing from certain villagers determined by the Bureau of Indian Affairs to be properly enrolled to Alexander Creek, and after denying a motion to reopen the record to allow these villagers to testify, the Alaska Native Claims Board issued a recommended decision that only 22 Alaska Natives were properly enrolled to Alexander Creek, which recommended decision was adopted by the Secretary of the Interior on November 1, 1974;

- "(4) the Bureau of Indian Affairs was correct in determining that 37 Alaska Natives were properly enrolled to Alexander Creek and that Alexander Creek was an eligible village under section 11(b)(3) of the Alaska Native Claims Settlement Act;
- "(5) As a village with 37 enrollees, Alexander Creek Would have been entitled to 69,120 acres of land.
- "(6) To date, Alexander Creek has received 1,680 acres and may receive another 6,000 from Cook Inlet Region Inc., leaving 61,440 acres of land that would have been due Alexander Creek under ANCSA as a village.
- "(b) RECOGNITION OF THE VILLAGE OF ALEXANDER CREEK. -Alexander Creek, located within Township 15N, Range 7W, Seward Meridian,
 Alaska, is an eligible village under section 11(b)(3) of the Alaska Native Claims
 Settlement Act.
- (c) DEFINITIONS.--As used in this section, the following terms have the following meanings:
 - (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 same meaning as 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 the Settlement Act.
- (4) The term "property" has the same meaning given such term by section 12(b)(7) of Public Law 94-204 (43 U.S.C. 1611), as amended.
- (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) of the Settlement Act.
- (6) The term "Settlement Act" means the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 et seq.).
- (d) ESTABLISHMENT.--(1) Notwithstanding any other provision of law, except as provided in subsection (g), on July 1, 2004, the Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish a Alexander Creek account.
 - (2) Beginning on July 1, 2003, the balance of the account shall--
- (A) be available to Alexander Creek for bidding on and purchasing property sold at public sale, subject to the conditions described in paragraph (3); and
 - (B) remain available until expended.

- (3)(A) Alexander Creek may use the account established under paragraph (1) to bid as any other bidder for property (wherever located) at any public sale by an agency and may purchase the 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 account established by the Secretary of the Treasury under paragraph (1). The Secretary of the Treasury shall adjust the balance of the account to reflect the transaction.
- (C) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the account established under paragraph (1) to--
 - (i) receive deposits;
- (ii) make deposits into escrow when an escrow is required for the sale of any property; and
- (iii) reinstate to the account any unused escrow deposits in the event sales are not consummated.
- (e) LAND EXCHANGE.--No later than one year after the date of enactment of this section, the Secretary of the Interior shall enter into negotiations to attempt to conclude, under the authority of section 22(f) of the Settlement Act, a land exchange to acquire surface estate in lands not within any conservation system unit

from the State of Alaska or the Matanuska-Susitna Borough under the same procedures as set forth in section 22(f) of the Settlement Act to enable Alexander Creek to select additional public lands within Alexander Creek's original withdrawal area under section, Alaska, as identified by Alexander Creek.

(f) AMOUNT.--(A) The initial balance of the account established in subsection (d) shall be the Fair Market Value of the surface estate of the following deficiency selections made by Alexander Creek as determined under subsection (g):

All Descriptions to Seward Meridian

Т	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

6 S

23 W

24 W

25

15,732.00

16,372.00

640.00

640.00

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	
2 N	20 W 27 W	10	640.00	42,597.77 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

- (B) The Fair Market Value shall be determined as of the date of enactment of this section pursuant to subsection (g)
- (C) If a conveyance is made to Alexander Creek pursuant to Section (e), the account shall be reduced by the amount of the actual acres conveyed multiplied by the average value per acre determined under Section (g).
- "(g) APPRAISAL.--(1)(A) As soon as possible after the date of enactment of this section, but not later than July 1, 2004, the Secretary of the Interior shall find the amount to be paid to Alexander Creek account by appraising 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 of the Interior. The Secretary of the Interior 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. The Secretary of the Interior shall give consideration to the comments and evidence of value submitted by Alexander Creek under this subparagraph.
- (2) The Secretary of the Interior shall complete the valuation not later than 9 months after the passage of this Act. The Secretary of the Interior shall forward a certified copy of the valuation to Alexander Creek.

- (3) Alexander Creek shall have the right to appeal the certified valuation by the Secretary of the Interior so long as any such appeal is filed no later than 60 days after the date of such finding to the Office of Hearings and Appeals. In the event Alexander Creek files such a timely appeal, Alexander Creek shall be immediately paid the amount set by the Secretary subject to subsequent upward adjustment pursuant to the outcome of the appeal process. If Alexander Creek is not satisfied with the decision of the Office of Hearings and Appeals, it may appeal that decision within one year to the United States District Court.
- (4) The Secretary of the Interior and Alexander Creek may mutually agree to suspend or modify any of the deadlines under this subsection.
- (h) IMPLEMENTATION.--(1) Notwithstanding any other provision of law, Alexander Creek may assign without restriction any or all of the account upon written notification to the Secretary of the Treasury and the Secretary of the Interior. Notwithstanding the provisions of subsection (i)(2)(B) of this section, in the event such assignment is 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 as amended, and may be used in the same manner as that account.

- (2) Upon certification by the Secretary of the Interior of the value of the account, or following the completion of Alexander Creek's appeal of valuation pursuant to subsection (g), paragraph (3), Alexander Creek shall be deemed to have accepted the terms of this section in lieu of any other land entitlement it would have received pursuant to the Settlement Act and such acceptance shall satisfy any and all claims Alexander Creek had against the United States on the date of this enactment.
- (3) Any land Alexander Creek shall receive from the United States pursuant to subsection (e), shall be deemed to have been conveyed pursuant to the Settlement Act.
- (i) TREATMENT OF AMOUNTS FROM ACCOUNT.--(1) The Secretary of the Treasury shall deem as cash receipts any amount tendered from the account established pursuant to subsection (d) and received by agencies as proceeds from a public sale of property, and shall make any transfers necessary to allow an agency to use the proceeds in the event an agency is authorized by law to use the proceeds for a specific purpose.
- (2)(A) Subject to subparagraph (B), 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 Alaska Native corporation authorized by law as of the

date of enactment of this section (including the use of similar accounts for bidding on and purchasing property sold for public sale).

(B) Amounts in an account created for the benefit of a specific Alaska

Native corporation may not be used to satisfy the property purchase obligations of
any other Alaska Native corporation.

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.
- 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.

Alexander Creek, These Voices Should be Heard

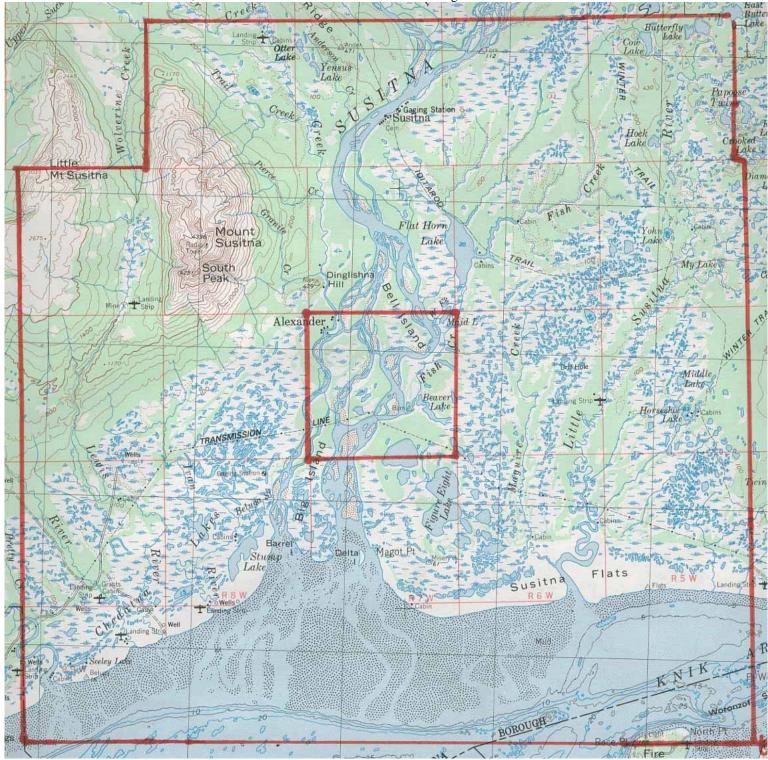
 $^{^{16}}$ From ANCAB decision, p. 27. The actual Roll document has not been reviewed.

- 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.

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



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
		USS 938; Lots 7, 8, 10, 14,	
17 N, 7 W	Most of township patented.	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

Map of Lands Conveyed to Alexander Creek

