

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 30, 1968.

HON. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Since transmitting legislation to the Congress last June to settle the claims of Alaska Natives which was introduced as H.R. 11213, a new bill (H.R. 15049) prepared by the Governor of Alaska's Task Force on Native Land Claims was introduced. That bill, in our opinion, represents significant progress toward reaching agreement among the interested parties on the principles for an equitable settlement of this long-standing problem.

The early resolution of this matter would be of inestimable significance not only to the Alaska Natives who make up about 25 percent of the State's civilian population, but also to all citizens of the State.

We believe that this issue is one of the most important Indian matters before the 90th Congress. President Johnson in his message "The Forgotten American" urged "prompt action on legislation to:

"Give the native people of Alaska title to the lands they occupy and need to sustain their villages.

"Give them rights to use additional lands and water for hunting, trapping and fishing to maintain their traditional way of life, if they so choose.

"Award them compensation commensurate with the value of any lands taken from them."

Enclosed is a proposed bill which carries out the three principles outlined by the President. We urge its early enactment in lieu of H.R. 11213 or H.R. 15049.

The Act of May 17, 1884 (23 Stat. 24), providing a civil government for the Territory of Alaska, declared that the Natives "shall not be disturbed in the possession of any lands actually in their use and occupation or now claimed by them, but the terms and conditions under which such persons may acquire title to such lands is reserved for future legislation by Congress." A similar provision is contained in the Act of June 6, 1900 (31 Stat. 321), which provided a civil government for Alaska.

In the absence of Congressional action, the Natives cannot be given full title to the lands they have traditionally used and occupied. Moreover, since the Natives have a Federal guarantee that they shall not be disturbed in their use and occupation of lands, we do not feel that we can allow lands to be patented to the State under the land selection provisions of the Alaska Statehood Act, July 7, 1958 (72 Stat. 339), in the face of the Natives' claims that they have traditionally been using and occupying such lands. To allow these lands to pass into other ownership would pre-empt from Congress the power to exercise its right and obligation to decide this issue, and would deny the Alaska Natives an opportunity to acquire title to lands which in many instances, it is generally admitted, they have openly and continuously used and occupied from a period that antedated the purchase of Alaska by the United States.

When Congress recognizes an aboriginal title, as it did in the Act of June 19, 1935 (49 Stat. 388), with respect to the claims of the Tlingit and Haida Indians to compensation for the expropriation by the United States of lands in south-eastern Alaska, and for failure of the United States to protect their property rights from usurpation by non-Indians, the Natives acquire a compensable ownership interest in the land that is protected by the due-process clause of the Constitution.

The extent to which aboriginal or Indian title is to be recognized is exclusively a policy matter for Congressional determination. In the past, Congress has repeatedly shown great respect for aboriginal title and has dealt most generously with the Indian people. Once the Congress recognizes the Government's obligation to pay just compensation for Indian title, the courts have consistently held that the applicable standard of valuation, in the absence of a statutory provision to the contrary, is the same as if the Indians held the property in fee simple ownership.

We have long grappled with the problem of providing a fair and equitable settlement to the Natives' land claims. We have come to realize, however, that there is no easy solution that is equitable to all. A number of proposals have