

also additional questions as to what happens if only part of the lands covered by a lease are granted. These matters have not been left hanging in making grants to the States of lands covered by Federal mineral leases.⁵ They should likewise be appropriately resolved here. We accordingly suggest that provisions should be included in the legislation which—

- (a) would recognize that the validity of Federal mineral leases is not affected by the native claims;
- (b) would state that the existence of a Federal mineral lease does not bar a grant to natives of all or part of the lands covered thereby;
- (c) would provide that the Secretary would continue to administer such a lease for its duration notwithstanding the grant; and
- (d) would give the natives such share of the lease revenues reserved to the United States as Congress may deem appropriate.

Appropriate recognition should also be given to the rights of the State of Alaska under its land grants. Under familiar principles a state selection is complete and the rights of a state vest when a proper application to select is filed in accordance with all legal requirements, *Payne v. New Mexico*, 255 U.S. 367 (1921); *Wyoming v. United States*, 255 U.S. 489 (1921). In Alaska's case, Section 6(g) of the Statehood Act (72 Stat. 341) authorizes the State to make conditional leases and conditional sales of selected lands following the selection and the tentative approval of the selection by the Secretary of the Interior. These selections and tentative approvals, unlike mineral leases, involves disposal of the land itself and cannot be accommodated with a grant of the same land to natives; in this context, it should accordingly be recognized that the rights of the State bar a grant to the natives and that this is the necessary effect of providing that grants may be made "subject to valid existing rights".

3. The imposition of the administrative land freeze in early 1967 stopped the issuance of Federal mineral leases for public lands in Alaska. Numerous applications filed before and subsequent to the freeze have been pending without action, and substantial amounts of advance rentals tendered therewith have been tied up in the meantime. We believe that there should be provisions in the legislation which would: (a) lift the land freeze as soon as possible, (b) provide for resumption of the processing of mineral and other applications for the public lands in Alaska, and (c) give appropriate consideration to the equities of those who have had applications delayed by the freeze. Section 7 of H.R. 17129 would help considerably in these respects, but would apparently permit the present situation to continue for an indeterminate time with respect to the 20 million acres which may be withdrawn under it. We question whether this result is necessary or desirable in the case of mineral leasing, since mineral leasing can be handled in ways which will not prejudice the objectives of the withdrawal. Inasmuch as mineral leasing does not constitute a disposal of the land, it is possible to permit leasing of any withdrawn lands under escrow or other appropriate provisions which will safeguard the interests of the natives in the event that the withdrawn lands should eventually be granted to them. We believe that provisions along these lines should be included in the legislation.

4. The legislation should contain clear authority for the creation of easements over lands granted to the natives which are needed for the administration and utilization of Federal lands. We note the authority contained in Section 7(g) of H.R. 17129 to make grants subject to such easements. We wonder, however, if this authority is broad enough to reserve easements, the need for which may not be apparent at the time of grant but which subsequently become necessary in order to administer otherwise landlocked Federal holdings. We suggest that consideration be given to this point.

In conclusion, we agree that the proper solution of the Alaskan native claims is a difficult and complex task which requires careful study. We assume that there will be further hearings and consideration before a definitive legislative solution emerges. We will accordingly be glad at the appropriate time to elaborate on the general views expressed herein and to submit specific language to carry out our suggestions. We may also have additional suggestions to make after further study. Meanwhile, we appreciate the opportunity to submit this statement and to acquaint the Committee generally with our views and our support for legislative resolution of the Alaskan native claims which is urgently needed. We hope it will be helpful to the Committee to have this statement from us as it continues its work on the matter.

⁵ See, for example, 43 U.S.C. 852(a), and Section 6(h) of the Alaska Statehood Act as amended (72 Stat. 342, 73 Stat. 395, 74 Stat. 1025, 78 Stat. 168).