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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

NINILCHIK NATIVES ASSOCIATION, INC.,

Plaintiff,

vs.

COOK INLET REGION, INC.,

Defendant.

Case No. 3:10-CV-00075-JWS

MEMORANDUM IN SUPPORT OF MOTION FOR ORDER TO JOIN PARTIES OR FOR DISMISSAL OF CASE

Defendant Cook Inlet Region, Inc. ("CIRI") moves this Court for an order requiring Ninilchik Natives Association, Inc. ("Ninilchik") to join necessary parties to this case, or if Ninilchik fails to do so, for an order dismissing this case under Federal Rule of Civil Procedure 19.

I. INTRODUCTION

This is the second time that this dispute has come before this Court. Little more than a year ago, CIRI sought guidance and relief from this Court regarding CIRI's proper duties under the Alaska Native Claims Settlement Act of 1971, 43 U.S.C. § 1606 *et seq.*

("ANCSA") and various Congressionally sanctioned agreements designed to implement that Act. *See Cook Inlet Region Inc. v. Ninilchik Native Association, Inc., et a.l,* Case No. 3:09-CV-00035-JWS ("2009 Case"). The 2009 Case was an interpleader action in which CIRI noted competing demands by six village corporations to certain lands CIRI was to transfer to the villages under ANCSA and various agreements, and asked this Court for direction in deciding the dispute among the village corporations. All six village corporations were parties to that 2009 Case.

Ninilchik moved to dismiss the 2009 Case and this Court dismissed it on the grounds that it was not ripe. In doing so, this Court directed CIRI to exercise its discretion in deciding the dispute among the villages. CIRI attempted to transfer to Ninilchik, as well as the other village corporations, their remaining 12(a) entitlements. Ninilchik rejected title to the lands CIRI conveyed, and Ninilchik has now filed suit. Ironically, Ninilchik now asks this Court to decide the very issues it successfully sought to dismiss a year ago. Ninilchik, however, failed to join as parties the other village corporations within the Cook Inlet region that assert an interest in the disputed lands and are thus necessary to this dispute—Chickaloon-Moose Creek Native Association, Inc. ("Chickaloon"), Knikatnu, Inc. ("Knikatnu"), Salamatof Native Association, Inc. ("Salamatof"), Seldovia Native Association, Inc. ("Seldovia"), and Tyonek Native Corporation ("Tyonek") (together with Ninilchik, the "Village Corporations").

II. FACTS AND PROCEEDINGS

The background facts to this dispute are set forth in CIRI's Complaint filed in the 2009 Case. As part of a comprehensive land claims settlement, ANCSA called for the

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withdrawal, selection, and conveyance to Alaska Native regional and village corporations of approximately 44 million acres of federal land within the State of Alaska. At issue here are the Village Corporations' land entitlements under Sections 12(a) and 12(b).

A. Village Corporation Section 12(a) Lands

Under Section 12(a) of ANCSA (43 U.S.C. § 1611(a)), each Village Corporation is entitled to select up to 69,120 acres from lands withdrawn for selection by the federal government in and around the village site. If the available land near the village was insufficient to satisfy a Village Corporation's Section 12 entitlement, selections were to be made from lands withdrawn by the federal government in other areas on the west side of Cook Inlet and the Talkeetna Mountains ("Deficiency Lands").

The lands withdrawn by the government were in fact insufficient to fulfill the Villages' Section 12 entitlement and the federal government withdrew Deficiency Lands from which the Village Corporations were to select their remaining Section 12 lands. The withdrawn areas were made available to all the Villages, thereby necessitating a complicated selection method to ensure an equitable outcome. In 1974, the Village Corporations made their Section 12(a) selections from available Deficiency Lands through a "rounds" process where they selected specific tracts of land through a system akin to a professional sports draft (the "Rounds"). The Rounds included alternative selections based upon various outcomes in contested proceedings involving which entities in the Cook Inlet region would be recognized as "Native villages" under ANCSA. Following resolution of the disputed village status questions, the version of the Rounds known as "Method B" became the operative 12(a) selection method.

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After the Rounds selections were completed and the Village Corporations' Section 12(a) Deficiency Land selections were filed, the federal government rejected most of the Village Corporations' selections on the ground that they violated the "compact and contiguous" requirement of ANCSA. In order to preserve the Village Corporations' land selections, and as part of a complex land settlement with the federal government, CIRI entered into two agreements. First, it entered into an agreement with the federal government to receive, in large blocks, the rejected 12(a) Deficiency Land selections, subject to a requirement that such land be reconveyed to the Village Corporations to satisfy their Section 12(a) entitlements (the "Deficiency Agreement"). Simultaneous with its entry into the Deficiency Agreement, CIRI entered into an agreement with the Village Corporations ("12(a) Agreement," attached as Appendix B to the Deficiency Agreement) to reconvey Village Corporation Section 12(a) lands that CIRI received from the federal government under the Deficiency Agreement to the Village Corporations in the priority order specified in the Rounds selection process.

After these agreements were executed, the Department of the Interior determined that certain lands (the "Appendix C" lands) originally selected by the Village Corporations in the Rounds process were not subject to conveyance to CIRI under the Deficiency Agreement and, accordingly, were unavailable for reconveyance by CIRI to the Village Corporations. CIRI and the Village Corporations litigated this issue against the Secretary of the Interior in federal court and lost. *See Chickaloon-Moose Creek Native Ass'n v. Norton*, 360 F.3d 972 (9th Cir. 2004).

Notwithstanding the Ninth Circuit's ruling in the *Chickaloon* case, five of the six Village Corporations had made sufficient Method B selections in the Rounds process to

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allow CIRI to fulfill its obligations under the 12(a) Agreement. Because a large percentage of its Rounds selections involved "Appendix C" lands that will not be conveyed to CIRI, Ninilchik was the one village that had insufficient Method B selections to fulfill its remaining 12(a) deficiency entitlement.

In 2008, Ninilchik, outside the original Rounds process, identified certain tracts of land that it would like to receive from the west side of Cook Inlet. Ninilchik made its demand with knowledge of plans for the Pebble Mine, and selected lands that could be valuable to that project. Ninilchik formally demanded that these tracts of land be conveyed to, or reserved for, Ninilchik before any of the Village Corporations select or receive their Section 12(b) selections from the remaining Deficiency Lands. In making this demand, Ninilchik invited CIRI to put the issue before a court, but when CIRI did so, Ninilchik successfully obtained dismissal of CIRI's interpleader complaint.[1]

The other five Village Corporations (the "Five Village Corporations") opposed Ninilchik receiving the lands it had identified in 2008, and they made their own proposal involving two key elements. Under the Five Village Corporations' plan, CIRI would convey certain Section 12(a) lands selected in the Method B round to each Village

[1] CIRI, Seldovia, and Tyonek each filed an opposition to Ninilchik's motion to dismiss. Case No. 3:09-CV-00035-JWS, Docket Entries 35–37. In its opposition to Ninilchik's motion to dismiss, Tyonek highlighted how the disagreement between Ninilchik, which it referred to as "NNAI," and the other Village Corporations exposed CIRI to a "multiplicity of competing demands":

> CIRI has legal obligations, by statute and by agreement, to convey Section 12(a) and 12(b) lands to the village corporations. CIRI cannot convey 12(a) lands to NNAI without agreement from the remaining village corporations and, likewise, CIRI cannot convey 12(b) lands to the remaining village corporations without agreement from NNAI. CIRI is necessarily exposed to a multiplicity of competing demands and potential liability as a result.

Opposition to Defendant's Motion to Dismiss, Case No. 3:09-CV-00035-JWS, Docket Entry 36, at 4 (Apr. 22, 2009) (citation omitted).

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Corporation until their 12(a) deficiency entitlements were satisfied or their Method B selections were exhausted. Then all the Village Corporations would engage in a rounds-like process to select all their remaining Section 12 deficiency entitlements, which would include all of the Village Corporations' 12(b) entitlements and Ninilchik's outstanding 12(a) deficiency entitlement.

The tracts of land requested by Ninilchik are among the same lands that under the Five Village Corporations' proposal envision would be available for selection by all Village Corporations in the new rounds-like process.

B. Village Corporation Section 12(b) Lands

Under Section 12(b) of ANCSA (43 U.S.C. § 1611(b)), the Village Corporations were to receive additional lands equal to the difference between the acreage selected by the Village Corporations under Section 12(a) and 22 million acres, and this land was to be allocated to CIRI for "reallocation" to the Village Corporations. Because lands available near their villages proved insufficient to satisfy the Village Corporations' Section 12(b) land entitlement, the selections were to be made from the Deficiency Lands. Due to a variety of factors, the Village Corporations did not have the time to complete a complicated rounds-like process for their respective 12(b) entitlements and, instead, filed overlapping, blanket 12(b) selections on all of the Deficiency Lands. Prior to the execution of the Deficiency Agreement and the 12(a) Agreement, the Village Corporations entered into an agreement called the "12(b) Selection Agreement." Under the 12(b) Selection Agreement, the Village Corporations agreed to meet and prioritize

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their 12(b) selections when certain conditions are met. To date, the Village Corporations have not made specific 12(b) selections or engaged in any rounds-like selection process.

The Five Village Corporations have advised CIRI that they intend to complete their own Section 12(b) selection process and to make a demand upon CIRI for the selected 12(b) lands. Ninilchik objects to the Five Village Corporations' proposal.

C. Reconveyance of Section 12(a) Lands

In rejecting CIRI's interpleader suit on jurisdictional grounds, this Court urged CIRI to "exercise[] its discretion" in reconveying the Village Corporations' 12(a) entitlement. Order and Opinion, Case No. 3:09-CV-0035-JWS, at p. 9 (July 30, 2009). CIRI followed this Court's directive by making final determinations regarding all Section 12(a) selections that CIRI is required to convey pursuant to the 12(a) Agreement signed by all of the Village Corporations.

In late 2009, CIRI delivered to each Village Corporation a detailed worksheet showing all lands still owed under the 12(a) Agreement, together with original quitclaim deeds to all remaining acreage held by CIRI to which each Village Corporation is entitled.[2] Each Village Corporation also received a letter, dated December 23, 2009 ("Section 12(a) Letter," attached as Exhibit A), that explained CIRI's final determinations as to each Village Corporation. With the exception of Ninilchik, all of the Village Corporations' outstanding 12(a) entitlements were fulfilled by the Village Corporations' Method B selections. Because Ninilchik lacked sufficient Method B

[2] In a few instances, CIRI identified acreage as a Section 12(a) entitlement but did not deliver the original quitclaim deed because CIRI has yet to receive an Interim Conveyance of such lands from the federal government.

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selections to complete its outstanding 12(a) entitlement, this entitlement was fulfilled from Ninilchik's Methods A, C, and D selections made in 1974 at the same time all the Method B selections were made by all of the Villages. CIRI conveyed Ninilchik's remaining 12(a) deficiency entitlement in priority order from those selections and did not convey the lands Ninilchik had purported to select in 2008 over the objections of the other Village Corporations.

Ninilchik sent back the deeds that it had received from CIRI, demanded that CIRI convey the 12(a) selections it had made in 2008, and filed a complaint against CIRI that failed to join as parties the Five Village Corporations who have opposed Ninilchik's 2008 selections.

III. ARGUMENT

Ninilchik concedes in its complaint that the Five Village Corporations are "relevant to this dispute." Complaint at 3, ¶ 13. Yet Ninilchik failed to join them as parties. Ninilchik's complaint must be dismissed with leave to file an amended complaint that joins these necessary parties.

Federal Rule of Civil Procedure 12(b)(7) permits a party to challenge by pre-answer motion the complaint's failure to join a necessary party under Rule 19. Rule 19(a) provides that an absent party is necessary and must "[b]e [j]oined if [f]easible" in any of the following three circumstances: (1) "in that person's absence, the court cannot accord complete relief among existing parties," (2) "disposing of the action in the person's absence may . . . as a practical matter impair or impede the person's ability to protect [the person's] interest" that relates to "the subject of the action," and (3)

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"disposing of the action in the person's absence may . . . leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest." The intent of compulsory joinder under Rule 19(a) is "to protect a party's right to be heard and to participate in adjudication of a claimed interest." *Republic of the Philippines v. U.S. Dist. Court for the Dist. of Haw.*, 309 F.3d 1143, 1152 (9th Cir. 2002).

The Five Village Corporations are necessary parties under Rule 19(a) for two reasons. First, the Five Village Corporations' legally protected interest in their Section 12(b) entitlements will be impaired if this action is adjudicated in their absence because the land sought by Ninilchik is among the same lands that the Five Village Corporations have asserted should be available for selection by all Village Corporations to fulfill their Section 12(b) entitlements. *See Wilbur v. Locke*, 423 F.3d 1101, 1112 (9th Cir. 2005) ("In deciding whether Rule 19(a)(2)(i) is satisfied, we must determine whether the absent party has a *legally protected interest* in the suit, and, if so, whether that interest will be *impaired or impeded* by the suit." (internal quotation marks omitted)). As explained in detail in CIRI's Section 12(a) Letter to the Village Corporations, CIRI based its final 12(a) determinations on the requirements of the 12(a) Agreement. Exhibit A at 7–9. Each Village Corporation is a party to the 12(a) Agreement and thus necessary to resolving the proper interpretation of that Agreement. *Wilbur*, 423 F.3d at 1113 ("[I]t is a fundamental principle that a party to a contract is necessary, and if not susceptible to joinder, indispensable to litigation seeking to decimate that contract." (internal quotation marks omitted)).

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The Five Village Corporations are also necessary parties to this action because failure to join them as parties may expose CIRI to "multiple, or otherwise inconsistent obligations." FED. R. CIV. P. 19(a)(1)(B)(ii). Unless all the Village Corporations and CIRI are parties to one action, it is possible that CIRI could be bound by inconsistent interpretations of CIRI's proper duties under ANCSA and the various agreements designed to implement that Act. In one case, a court might uphold CIRI's final 12(a) determinations, and in another case, a court might order CIRI to convey to Ninilchik its 2008 12(a) selections.

Ninilchik incorrectly contends that the Five Village Corporations have "waived any right to sue in protest over §12(a) conveyances to the other villages." Complaint at 18, ¶ 78. The waiver referenced by Ninilchik (entitled "Consent to Conveyance" attached as Exhibit B) mutually waives *only* claims regarding the conveyance of lands originally selected by the parties in the Method B round. These do not include Ninilchik's 2008 12(a) selections. Nor does the Consent purport to waive the right of any Village to contest Ninilchik's 2008 12(a) selections. On the contrary, the agreement expressly observes that one of the unresolved issues expected to remain after signing is "the manner in which Ninilchik Native Association, Inc.'s remaining 12(a) lands will be determined and the order in which they will be conveyed (relative to Section 12(b) conveyances)." Exhibit B, at p. 8.

Ninilchik also raised this waiver argument in its motion to dismiss CIRI's interpleader action. Memorandum in Support of Motion to Dismiss, Case No. 3:09-CV-00035-JWS, Docket Entry 33, at p. 4 (March 6, 2009). In that action, all Five Village Corporations were parties to the case and were afforded the opportunity to dispute

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Ninilchik's interpretation of the Consent to Conveyance to which each Village Corporation was a party. At the very least, the Five Village Corporations should be afforded the same opportunity here. *See Manybeads v. United States*, 209 F.3d 1164, 1166 (9th Cir.2000) (holding that where the plaintiff sought to "undo[]" agreements to which a tribe was a party, the tribe "qualifies as a necessary party under . . . Rule 19(a)").

IV. CONCLUSION

For the reasons stated above, this Court must grant CIRI's motion. Ninilchik should not be allowed to pursue its claims without the other Village Corporations, the other necessary parties to this case. This Court should allow leave for Ninilchik to amend its Complaint and add the other Village Corporations by a date certain. If Ninilchik does not join those other parties by the Court's deadline, this case should be dismissed.

DATED this 10th day of May, 2010.

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Attorneys for Defendants

/s/ Jahna M. Lindemuth
By: Jahna M. Lindemuth, ABA #9711068
Keith A. Sanders, ABA #9009054

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 10th day of May, 2010, a true and correct copy of this document was served on:

Brian Duffy
John Havelock
Havelock & Duffy
632 Christensen Drive, Suite 100
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James Nelson
Betts Patterson & Mines, P.S.
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Seattle, Washington 98101

by electronic means through the ECF system as indicated on the Notice of Electronic Filing, or if not confirmed by ECF, by first class regular mail.

/s/ Jahna M. Lindemuth
Jahna M. Lindemuth, ABA #9711068
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CIRI

December 23, 2009

VIA COURIER

Gary Oskolkoff
President/Chief Executive Officer
Ninilchik Natives Association, Inc.
P.O. Box 39130
Ninilchik, Alaska 99639

CERTIFIED RETURN RECEIPT

Raymond Theodore
President
Knikatnu, Inc.
P.O. Box 872130
Wasilla, Alaska 99687-2130

VIA COURIER

Penny L. Carty
President
Salamatof Native Association, Inc.
P.O. Box 2682
Kenai, Alaska 99611-2682

CERTIFIED RETURN RECEIPT

Geri Simon
General Counsel/Chief Administrative Officer
The Tyonek Native Corporation
1689 C Street, Suite 219
Anchorage, Alaska 99501

CERTIFIED RETURN RECEIPT

Edith Baller
President
Chickaloon-Moose Creek Native Association, Inc.
P.O. Box 875046
Wasilla, Alaska 99687-5046

CERTIFIED RETURN RECEIPT

Leo Barlow
Chief Executive Officer
Seldovia Native Association, Inc.
P.O. Drawer L
Seldovia, Alaska 99663-0250

Re: Final Section 12(a) Determinations

Dear Sirs and Madams:

In accordance with that certain agreement between Cook Inlet Region, Inc. ("CIRI"), Ninilchik Natives Association, Inc. ("Ninilchik"), Knikatnu, Inc. ("Knikatnu"), Salamatof Native Association, Inc., ("Salamatof"), Tyonek Native Corporation ("Tyonek"), Chickaloon Native Association, Inc., ("Chickaloon"), and Seldovia Native Association, Inc. ("Seldovia") (hereinafter collectively, the "Villages" and, individually, a "Village"), dated August 28, 1976 (hereinafter the "Agreement" or the "12(a) Conveyance Agreement"), CIRI hereby makes its final determinations regarding all Section 12(a) selections which CIRI is required to convey pursuant to the Agreement. By separate letter delivered to each Village simultaneously herewith, CIRI has delivered a detailed worksheet showing all lands still owing to such Village under the

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Agreement, together with original quitclaim deeds to all remaining acreage held by CIRI[1] to which such Village is entitled under the Agreement.

The determinations made in this letter are not made frivolously or precipitously by CIRI. They follow decades of litigation, financed by CIRI on behalf of the Villages, in an effort to force the federal government to convey the "Appendix C" lands discussed in greater detail below. The determinations also follow more than two years of effort by CIRI to persuade the Villages to mutually agree upon their differences so that CIRI could convey lands to all concerned with finality and without fear of reprisal. Finally, they follow CIRI's unsuccessful effort to obtain guidance and relief from the federal court regarding CIRI's proper duties under the applicable agreements. In rejecting the latter lawsuit on jurisdictional grounds, the District Court for the District of Alaska urged CIRI to "exercise its discretion" in this matter, and held that, until CIRI has done so, the issues to be placed before the Court were "not knowable."[2] By this Determination Letter, CIRI hereby exercises its discretion in accordance with the Court's directive.

This letter is intended to set forth, with appropriate explanation as to each Village, CIRI's final determination as to all Section 12(a) lands which it has an obligation to convey under the Agreement. A summary worksheet and map, attached hereto as Exhibit A and Exhibit B, respectively, are included for additional reference.

DETERMINATIONS

I. Chickaloon-Moose Creek Native Association, Inc.

In consultation with the Bureau of Land Management ("BLM"), CIRI has determined that it is obligated to convey to Chickaloon a total of 10,704 acres of Section 12(a) selections as referenced in the Agreement. CIRI was able to satisfy this obligation by previously conveying to Chickaloon, in order of priority, 10,704 acres of Section 12(a) selections listed on its "Method B" round sheets, including overselections listed thereon, excluding acreage removed from consideration by agreement or by court order. CIRI has no further obligation to convey Section 12(a) lands to Chickaloon under the Agreement.

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1 In a few instances, acreage is acknowledged as a Village entitlement, but is not delivered because CIRI has yet to receive an Interim Conveyance of such lands from the federal government.

2 Order and Opinion of Judge John Sedwick, dated July 30, 2009 (Case No. 3:09-CV-0035 JWS), at p. 10.

II. Salamatof Native Association, Inc.

In consultation with BLM, CIRI has determined that it is obligated to convey to Salamatof a total of 1,902[3] acres of Section 12(a) selections as referenced in the Agreement. CIRI was able to satisfy this obligation by previously conveying to Salamatof, in order of priority, 1,930 acres of Section 12(a) selections listed on its "Method B" round sheets, including overselections listed thereon, excluding acreage removed from consideration by agreement or by court order. CIRI has no further obligation to convey Section 12(a) lands to Salamatof under the Agreement.

III. Knikatnu, Inc.

In consultation with BLM, CIRI has determined that it is obligated to convey to Knikatnu, a total of 52,390 acres of Section 12(a) selections as referenced in the Agreement. CIRI was able to partially satisfy this obligation by previously conveying to Knikatnu, in order of priority, 48,812 acres of Section 12(a) selections listed on its "Method B" round sheets, including overselections listed thereon, excluding acreage removed from consideration by agreement or by court order. Knikatnu's remaining entitlement of 3,578 acres[4] will be fulfilled from its remaining Method B selections, including overselections, through a quitclaim deed delivered to Knikatnu contemporaneous herewith and a subsequent quitclaim deed to be delivered after CIRI has been conveyed certain lands by the federal government (collectively, the "Deeds"). Current conveyances are described in a detailed worksheet also delivered to Knikatnu contemporaneous herewith.

Upon delivery of the Deeds to Knikatnu, CIRI shall have no further obligation to convey Section 12(a) lands to Knikatnu under the Agreement.

IV. Tyonek Native Corporation

In consultation with BLM, CIRI has determined that it is obligated to convey to Tyonek a total of 42,272 acres of Section 12(a) selections as referenced in the Agreement. CIRI was able to partially satisfy this obligation by previously conveying to Tyonek, in order of priority, 26,188 acres of Section 12(a) selections listed on its "Method B" round sheets, including overselections listed thereon, excluding acreage removed from consideration by agreement or by court order. Tyonek's remaining entitlement of 16,084 acres[5] will be fulfilled from its remaining Method B

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[3] Because CIRI limited its conveyances to no less than one full section, the actual acreage previously conveyed to Salamatof totals 1,930 acres. Any excess acreage conveyed as Section 12(a) acreage will be reconciled as part of the Section 12(b) conveyance process.

[4] Because CIRI limited its conveyances to no less than one full section, the actual acreage to be conveyed to Knikatnu under the Deeds totals 3,832 acres. Any excess acreage conveyed as Section 12(a) acreage will be reconciled as part of the Section 12(b) conveyance process.

[5] Because CIRI limited its conveyances to no less than one full section, the actual acreage conveyed to Tyonek under the Deeds totals 16,219 acres. Any excess acreage conveyed

selections, including overselections, through two quitclaim deeds to be delivered contemporaneous herewith and a subsequent quitclaim deed to be delivered after CIRI has been conveyed certain lands by the federal government (collectively the "Deeds"). Current conveyances are described in a detailed worksheet also delivered to Tyonek contemporaneous herewith.

Upon delivery of the Deeds to Tyonek, CIRI shall have no further obligation to convey Section 12(a) lands to Tyonek under the Agreement.

V. Seldovia Native Association, Inc.

In consultation with BLM, CIRI has determined that it is obligated to convey to Seldovia a total of 47,329 acres of Section 12(a) selections as referenced in the Agreement. CIRI was able to partially satisfy this obligation by previously conveying to Seldovia, in order of priority, 41,181 acres of Section 12(a) selections listed on its "Method B" round sheets, including overselections listed thereon, excluding acreage removed from consideration by agreement or by court order. All Seldovia's remaining entitlement of 6,148 acres[6] will be fulfilled from its remaining Method B selections, including overselections, through a quitclaim deed delivered to Seldovia contemporaneous herewith (the "Deed"). Current conveyances are described in a detailed worksheet also delivered to Seldovia contemporaneous herewith.

Upon delivery of the Deed to Seldovia, CIRI shall have no further obligation to convey Section 12(a) lands to Seldovia under the Agreement.

VI. Ninilchik Native Association, Inc.

In consultation with BLM, CIRI has determined that it is obligated to convey to Ninilchik a total of 37,240 acres of Section 12(a) selections as referenced in the Agreement.[7] CIRI was able to partially satisfy this obligation by conveying to Ninilchik, in order of priority, 29,093 acres of selections listed on its Method B round sheets, including overselections listed thereon, excluding acreage removed from consideration by agreement or by court order. This leaves

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as Section 12(a) acreage will be reconciled as part of the Section 12(b) conveyance process.

6 Because CIRI limited its conveyances to no less than one full section, the actual acreage conveyed to Seldovia under the Deed totals 6,511 acres. Any excess acreage conveyed as Section 12(a) acreage will be reconciled as part of the Section 12(b) conveyance process.

7 Ninilchik's original entitlement was 43,518 acres. However, pursuant to a separate agreement between Ninilchik, the State of Alaska and CIRI dated February 12, 1986, CIRI is required to convey 6,278 acres to Ninilchik as Section 12(a) entitlement and Ninilchik is to reconvey "the same 6,278 acres" to CIRI immediately thereafter. This transaction, designed solely to ensure that Ninilchik's Section 12(a) acreage is properly reflected on the BLM's books, does not involve a substantive land transfer and will be completed following the satisfaction of the Villages' Section 12(b) entitlement.

8,147 acres[8] to be conveyed to Ninilchik at this time. As explained in more detail below, Ninilchik's lack of sufficient Method B round selections to complete its Section 12(a) entitlement under the Agreement, resulted in Ninilchik's outstanding entitlement of 8,147 acres being fulfilled from its remaining Methods A, C and D selections[9]. Such acreage shall be conveyed by quitclaim deeds to be delivered contemporaneous herewith (the "Deeds"). Current conveyances are described in a detailed worksheet also delivered to Ninilchik contemporaneous herewith. Upon delivery of the Deeds to Ninilchik, and subject to the transaction described in footnote 7, CIRI shall have no further obligation to convey Section 12(a) lands to Ninilchik under the Agreement.

CIRI's determination above does not comport with the document entitled "Request for Reconveyance," dated April 9, 2008 and submitted to CIRI by Ninilchik. In that document, Ninilchik claimed, as its Section 12(a) entitlement under the Agreement, certain lands which were "selected" by Ninilchik, unilaterally and over the objections of the remaining Villages, more than 35 years after its initial "rounds" selections were completed. For the reasons more fully set forth below, CIRI rejects Ninilchik's Request for Reconveyance.

A. Background

In late 1974, after consultation with United States Bureau of Land Management ("BLM") officials, the Villages met to choose their respective Section 12(a) ANCSA deficiency lands from large blocks of land withdrawn by the BLM on the west side of Cook Inlet and in the Talkeetna Mountains ("Deficiency Areas"). By prior arrangement with the BLM, the Villages selected 12(a) lands from the Deficiency Areas through a series of "rounds," similar to a major league sports draft. By turns, each Village chose a set number of acres allocated to them in each round until all of their entitlement acreage (together with certain agreed overselections) was selected. At the time the rounds were conducted, it was unknown whether Alexander Creek and Salamatof Native Association would be recognized as Villages by the federal government under the Alaska Native Claims Settlement Act of 1971 ("ANCSA"). Accordingly, the Villages went through the entire rounds process four times, applying separate "Methods" (labeled A, B, C and D), depending on whether the government would recognize village status for either or both

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[8] Because CIRI limited its conveyances to no less than one full section, the actual acreage conveyed to Ninilchik under the Deeds totals 8,179 acres. Any excess acreage conveyed as Section 12(b) acreage will be reconciled as part of the Section 12(b) conveyance process.

[9] In considering Ninilchik's selections subject to conveyance under Methods A, C and D, CIRI disregarded selections that conflicted with other Villages' Method B selections and acreage removed from consideration by agreement or by court order.

of these entities.[10] In December 1974, the Villages filed their 12(a) selections with the BLM based on these "rounds."

In 1975, having mutually agreed on all of their Section 12(a) deficiency lands, the Villages turned their attention to Section 12(b) selections. By agreement dated November 19, 1975 (the "Village 12(b) Agreement"), the Villages unanimously agreed to file blanket 12(b) selections over all of the withdrawn deficiency lands, with the mutual understanding that, once the Section 12(a) lands were established and the Section 12(b) entitlement was known, the Villages would "meet and prioritize their 12(b) land selections such that no overlapping conflicts will arise." (Village 12(b) Agreement, at p. 1)

In May of 1976, despite its earlier assurances, the federal government rejected most of the Section 12(a) selections made through the rounds process, on the grounds that they were not "compact and contiguous," as required by ANCSA. In order to facilitate conveyance of the Villages' Section 12(a) deficiency lands in the manner specified in the rounds, CIRI entered into the 12(a) Conveyance Agreement with the Villages and at the same time an agreement with the federal government dated August 31, 1976 (the "Deficiency Agreement"). Under the Deficiency Agreement, which was approved by an Act of Congress four days after its execution, the federal government agreed to convey the disputed deficiency lands to CIRI in large blocks. CIRI, in turn, agreed to reconvey the land to the Villages "pursuant to" the 12(a) Conveyance Agreement, which was attached as an appendix to the Deficiency Agreement.

Among the lands originally selected by the Villages during the rounds process in 1974 were certain lands identified in "Appendix C" to the Deficiency Agreement, which the federal government had identified for potential inclusion in Lake Clark National Park. After decades of litigation, the Ninth Circuit Court of Appeals, based on certain prohibitive language in the Deficiency Agreement, determined that these "Appendix C" lands could not be conveyed to the Villages. This meant that CIRI was required to satisfy the Villages' Section 12(a) selections without including any selections of "Appendix C" lands. For most Villages, this was not a problem, as most had made sufficient overselections in the rounds process to allow CIRI to convey all of their remaining Section 12(a) entitlement based solely on selections made in "Method B" of the rounds.[11] However, Nunilchik had selected so many "Appendix C" acres in the Method B rounds selection process that, when Appendix C lands were excluded, Nunilchik would be left 8,147 acres short of its full Section 12(a) entitlement if selections were based upon Method B alone.

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[10] Method A assumed the government would recognize both Salamatof and Alexander Creek as Villages; Method B assumed it would recognize only Salamatof; Method C assumed it would recognize only Alexander Creek; Method D assumed it would recognize neither entity.

[11] Method B was the round "method" which contemplated the state of affairs that finally came about (i.e., the federal government recognizing Salamatof Native Association as a Village, but not Alexander Creek).

Ninilchik maintains that CIRI, faced with insufficient Method B selections to fulfill Ninilchik's Section 12(a) selections under the Agreement, must allow Ninilchik to make and submit new selections, more than 35 years after their original selections were filed, from the pool of Appendix A lands still held by CIRI. Ninilchik asserts that these new "selections," which Ninilchik has now identified, should be deemed the "Section 12(a) selections" referenced in the Agreement, which CIRI is obligated to convey before the other Villages may be permitted to proceed with establishing their respective Section 12(b) priorities. CIRI disagrees.

B. Discussion

The 12(a) Conveyance Agreement provides, among other things, that:

> Cook Inlet Region will reconvey the surface estate to such land in the Village Corporation entitled thereto under their Section 12(a) selections as rapidly as possible, [ ].

Agreement at p. 2 (emphasis added).

It further provides that:

> Unless the affected Village Corporations otherwise agree, their Section 12(a) selections, including the specific tract selected and the priorities listed in those selections, shall govern.

Id. at 5.

The Agreement does not define the term "Section 12(a) selections," nor does it directly address the manner in which Section 12(a) land selections should be addressed, where, as here, a Village's selections in the Method B rounds are exhausted, with additional entitlement remaining. Ninilchik suggests that the term should be read to require entirely new selections to be made by Ninilchik in 2008 from the Appendix A lands still held by CIRI. However, we think the better reading is that the term "Section 12(a) selections" in the Agreement should be read to include, not just the "Method B" selections made in 1974, but the Methods A, C and D selections as well, at least to the extent necessary to fulfill Ninilchik's entitlement.

This approach was first suggested by Judge Singleton in his original trial court decision in Chickaloon-Moose Creek Native Association v. Norton, (Dist. AK Case No. A97-04020 CV). There, the Court held that all Appendix C lands were barred from conveyance to CIRI and the Villages by the terms of the Deficiency Agreement. The parties argued, among other things, that Ninilchik would be unjustly denied some of its Section 12(a) lands if the Appendix C lands were not conveyed. Judge Singleton rejected the claim, noting in his "Findings of Fact and Conclusions of Law":

> Ninilchik's 12(a) selections may be satisfied without encroaching into Appendix C lands despite no more Method B selections in Appendix A. Ninilchik has selections in Appendix A, chosen under Methods A, C and D, that are not in conflict with another Village's

> selections. Ninilchik's selections under Methods A and D total less than 15,000 acres, but the amount of acreage selected under Method C is unclear. Additional acreage may also be taken from Appendix A, in accordance with a "12(b) Selection Agreement" executed between the Villages. In short, this Agreement would allow Ninilchik to satisfy its 12(a) entitlement before addressing the Villages' 12(b) entitlement. Accordingly, Ninilchik's 12(a) selections may be satisfied without using Appendix C lands despite no more Method B selections in Appendix A.[12]

Findings of Fact and Conclusions of Law, dated August 17, 2001, at p. 26 (emphasis added). The Ninth Circuit Court of Appeals, without endorsing any particular approach to this problem, also hinted at this approach. In considering Ninilchik's claim that it "had no more 12(a) selections among lands listed on Appendix A," the Court observed that, although the "operative" round was Method B, "[t]here are available lands within Appendix A that Ninilchik selected in the alternative rounds that were based on contingencies that did not occur." Chickaloon-Moose Creek Native Association, Inc. v. Norton, 360 F.3d 972, 984 n.5 (9th Cir. 2004).

The notion that Ninilchik's Section 12(a) selections in Methods A, C and D may be used to satisfy its remaining entitlement under the Agreement is likewise supported by standard contract principles. In interpreting a contract, the overriding consideration "is to ascertain and give effect to the parties' reasonable expectations and attempt to give effect to all of the contract terms, if possible." Wolff v. Cunningham, 187 P.2d 479, 482 (Alaska 2008). Here, Ninilchik asserts that it should be permitted to make entirely new Section 12(a) selections in 2008, which should take priority over the other Villages' Section 12(b) priorities. It is CIRI's view that this position is neither reasonable nor consistent with the "reasonable expectations" of the parties to the Agreement. In the 35 years that have followed since the original 1974 rounds selections, much has changed. Most recently, developers of a project on the west side of Cook Inlet known as the "Pebble Mine," have confirmed what is estimated to be one of the largest mineral deposits ever discovered in the state. Land under consideration for certain infrastructure to support the mine (i.e., roads, ports, etc.), includes certain Appendix A lands within the Deficiency Area. Not surprisingly, some of the land "selected" by Ninilchik in 2008 includes land in this potential development corridor.

The economic development opportunity at Pebble Mine was not known to the Villages when, in 1974, they devised a careful scheme to fairly divide the available lands in the Deficiency Area. Nor was this opportunity known when, in 1975, they agreed to "meet" at a later date to decide on a mechanism for dividing up the Section 12(b) lands. We think the obvious assumption underlying both agreements was that all parties were to select lands on a level playing field. That is, in the Section 12(a) rounds process, it was expected that all parties had

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[12] Taking into account the acreage offset referenced in footnote 7, above, there is sufficient acreage in Ninilchik's Method A, C and D Section 12(a) selections to fulfill Ninilchik's entitlement. Accordingly, it is not necessary, as Judge Singleton suggests, to get "additional acreage" from the 12(b) pool of lands.

equal access to known information, and that each party would, because of acreage limits on a "per round" basis, be permitted fair access to the most valuable lands in the available pool. As for the expectation underlying the Section 12(b) Agreement, the parties surely knew that their Section 12(b) decisions would be made at a later date and with more information at hand. However, they also undoubtedly assumed, in 1975, that all Section 12(a) lands had been pre-determined in the "rounds" each Village had concluded in 1974. It is doubtful any Village would have made an "agreement to agree" as to Section 12(b) lands in 1975 had they understood that a single Village might be permitted to pick out the most valuable lands in the Section 12(b) land pool before the other Villages were permitted to proceed with their Section 12(b) priority process.

For the reasons noted above, we believe that construing the Agreement to permit Ninilchik, more than 35 years after the initial selection process, to make unrestricted new Section 12(a) selections from the pool of potential Section 12(b) lands would constitute an unreasonable reading of the Agreement, and one which is inconsistent with the reasonable expectations of the parties. We also think it would be fundamentally unfair to those affected.

Instead, CIRI believes the Agreement is best interpreted to require that CIRI, in conveying land to the Villages under the Agreement, first exhaust all Section 12(a) selections made by a Village in the Method B rounds; thereafter, CIRI should convey lands from such Village's Section 12(a) selections in the Method A, C and D rounds, which do not conflict with Method B selections of other Villages, in order of priority, until such selections are exhausted or the Village's Section 12(a) entitlement is fulfilled. We believe this approach is the only reasonable interpretation of the contract, and one that is consistent with the expectation of the parties. First, the Agreement simply references "Section 12(a) selections" when describing CIRI's obligation to convey lands. The Method A, C and D selections are clearly "Section 12(a) selections," even though they may be made in the alternative; that is, no one contends that such selections were made pursuant to any provision other than Section 12(a) of ANCSA. Second, unlike the 2008 selections, the Method A, C and D selections were made at a time contemporaneous with the Method B selections, when everyone had access to the same information and the parties were on a level playing field relative to each other. Third, the various "Methods" were specifically designed to serve as alternatives under changed fact patterns. Here, it is the pool of lands that has changed, rather than the number of participants eligible to select such lands. Nonetheless, we think the alternative Method A, C and D selections represent the most reasonable basis for determining which lands would have been chosen by Ninilchik had they known, in 1974, that additional selections were required to be made in Method B. Accordingly, we think treating such selections as "Section 12(a) selections" subject to conveyance under the Agreement most reasonably accords with the reasonable expectations of the parties to the original Agreement.

C. Conclusion

For the reasons set forth above, CIRI has determined that, after conveying to Ninilchik all Section 12(a) selections contained in its Method B round selections, CIRI is required to satisfy Ninilchik's remaining entitlement by conveying lands from Ninilchik's Section 12(a)

selections in the Method A, C and D rounds, in descending order of priority, until its Section 12(a) entitlement is satisfied.

As noted above, the total acreage conveyed to Ninilchik is 8,178 acres, as opposed to 14,425 acres. This number reflects an offset for the 6,278 acres of land to be reconveyed by Ninilchik to CIRI pursuant to the agreement referenced in footnote 7, above. When this offset is taken into account, the quitclaim deeds delivered to Ninilchik contemporaneous herewith fully discharges CIRI's obligations to Ninilchik under the 12(a) Conveyance Agreement.

SUMMARY

Subject to delivery of all of the Deeds referenced above, and to subsequent reconveyance of those lands as to which CIRI has not yet received Interim Conveyance from the federal government, CIRI's obligations to convey Section 12(a) lands to the Villages under the Agreement are hereby fully and completely discharged.[13]

There are still Section 12(b) selections to be made. Now that the Section 12(a) selections are resolved, the Villages should meet to establish their Section 12(b) priorities under the Village 12(b) Agreement. All villages will have an equal opportunity to select the lands that are most valuable, including those affected by the Pebble Mine project. CIRI believes this result is the most fair to all concerned.

Thank you for your attention to this matter. If you have questions regarding the foregoing, please direct your inquiries to Kim Cunningham, CIRI's Director of Land and Resources.

Sincerely,

COOK INLET REGION, INC.

Margaret L. Brown
President & Chief Executive Officer

[13] To the extent any Village had remaining overselections in any round "method" after conveyance of its full Section 12(a) entitlement under the Agreement, CIRI considers such selections void and without further legal effect. Any consideration of such overselections in the Section 12(b) process is subject to mutual agreement of the Villages.

SUMMARY WORKSHEET

12(a) Deficiency Entitlement recap by Village

December 2009

	VILLAGE ACREAGE					
	Chickaloon	Knikatnu	Ninilchik	Salamatof	Seldovia	Tyonek
12(a) Deficiency Entitlement	10,704	52,390	37,240 *	1,902	47,329	42,272
Acres Previously Conveyed by CIRI	10,704	48,812	29,093	1,930	41,181	26,188
Acres Remaining to be Conveyed by CIRI	-	3,578	8,147	(28)	6,148	16,084
Acres Conveyed by CIRI December 2009	-	3,667	8,179	-	6,511	15,130
Acres per Pending Conveyances	-	165	-	-	-	1,089
Over Conveyed Acreage	-	254	32	28	363	135

*Ninilchik 12(a) Deficiency Entitlement is 43,518 acres less 6,278 acres, which is the acreage due CIRI in accordance with the February 12, 1986 Lake Clark Trade Out Agreement between Ninilchik, CIRI and the State of Alaska.

CONSENT TO CONVEYANCE

WHEREAS, Chickaloon-Moose Creek Native Association, Inc., Knikatnu, Inc., Tyonek Native Corporation, Salamatof Native Association, Inc., Ninilchik Native Association, Inc., and Seldovia Native Association, Inc. (collectively the "Villages") are entitled to receive certain lands pursuant to Section 12(a) and Section 12(b) of the Alaska Native Claims Settlement Act of 1971 ("ANCSA"); and

WHEREAS, in 1974 the Villages made certain ANCSA Section 12(a) land selections of lands located on the west side of Cook Inlet and in the Talkeetna Mountains ("Appendix A Lands"); which selections were made pursuant to an agreed methodology, known as the "Rounds," which included alternative selections based upon various outcomes in contested proceedings involving which Cook Inlet Region entities would be recognized as "Villages" under ANCSA; and

WHEREAS, following resolution of the disputed village status questions, the version of the "Rounds" known as "Method B" became the operative and controlling Village selections for the Appendix A Lands ("Method B Rounds"); and

WHEREAS, following initial rejection of the "Rounds" selections by the United States, the Villages entered into agreements designed to ensure that certain lands to which the Villages were entitled under Sections 12(a) and 12(b) of ANCSA were conveyed to the Villages, including the Section 12(a) lands selected in the Method B Rounds; and

WHEREAS, these agreements include that certain agreement by and between CIRI and the Villages (together with Alexander Creek Native Association, Inc.) dated August 28,

1976 and entitled "ANCSA 12(a) Conveyance Agreement Between Cook Inlet Region, Inc. and the Village Corporations of Ninilchik, Knikatnu, Alexander Creek, Salamatof, Tyonek, Chickaloon and Seldovia" ("Village 12(a) Agreement") and that certain agreement by and between the Villages (together with Alexander Creek Native Association, Inc.) dated November 19, 1975 and entitled "12(b) Selection Agreement" ("Village 12(b) Agreement"); and

WHEREAS, CIRI entered into certain agreements with the United States, including that certain agreement by and between CIRI and the United States dated August 31, 1976 and entitled "Terms and Conditions" ("Terms and Conditions") and that certain agreement by and between CIRI and the United States dated August 31, 1976 and entitled "Agreement" ("Deficiency Agreement"), which agreements facilitate or affect conveyance of lands to the Villages pursuant to the Village 12(a) Agreement and the Village 12(b) Agreement; and

WHEREAS, pursuant to these agreements, the surface interests on certain of the Appendix A Lands remain to be conveyed by CIRI to the Villages; and

WHEREAS, the Villages have not reached unanimous agreement on certain issues relating to the Appendix A Lands, including, without limitation, (1) the manner in which Ninilchik Native Association, Inc.'s remaining 12(a) lands will be determined and, the order in which they will be conveyed (relative to Section 12(b) conveyances); and (2) the methodology by which Section 12(b) lands will be selected or designated for conveyance by each individual Village; and

WHEREAS, despite such unresolved issues, the Villages unanimously agree that CIRI should convey certain lands selected by individual Villages pursuant to the Method B Rounds as more fully described below.

IT IS THEREFORE AGREED THAT:

1. CIRI shall convey to each of the Villages, in the priority specified in the Method B Rounds selections, the surface estates to those Appendix A Lands more specifically described in Exhibit A hereto (the "Section 12(a) Conveyance") which are currently held by CIRI and identified in Appendix A of the Deficiency Agreement; provided that such lands shall not include (1) lands identified in Appendix C to the Deficiency Agreement; (2) lands previously relinquished by any Village or (3) lands in excess of the total ANCSA Section 12(a) acreage which any Village is entitled to receive pursuant to the Village 12(a) Agreement.

2. The parties mutually consent to the Section 12(a) Conveyances by CIRI pursuant to the Village 12(a) Agreement, and each party releases and forever discharges each other party from any and all claims, complaints, causes of action, proceedings, lawsuits, damages, losses, costs, expenses, and legal objections of any kind ("Claims") to the Section 12(a) Conveyances under the Village 12(a) Agreement, the Village 12(b) Agreement, the Deficiency Agreement, the Terms and Conditions, or any other contract, undertaking or agreement, or under ANCSA or any provision of state, federal or local law.

3. Nothing in this Consent to Conveyance shall be construed to waive or release any Claim of any kind, under any agreement or law referenced in paragraph 2,

relating to lands, or the right to lands, other than the Section 12(a) Conveyances. The parties expressly acknowledge that conveyance of the Section 12(a) Conveyances may not satisfy Ninilchik Native Association Inc.'s ("NNAI's") 12(a) land entitlement under the Village 12(a) Agreement and ANCSA, and NNAI reserves all rights and remedies related to its additional entitlement, except the right to contest the Section 12(a) Conveyances, as more fully described in paragraph 2 above and authorized herein.

IN WITNESS HEREOF AND INTENDING TO BE LEGALLY BOUND HEREBY the parties hereto have executed this Consent to Conveyance.

COOK INLET REGION, INC.

BY:_____

DATED:_____

CHICKALOON-MOOSE CREEK NATIVE ASSOCIATION, INC.

BY._____

DATED:_____

KNIKATNU, INC.

BY: _____

DATED: _____

TYONEK NATIVE CORPORATION

BY:_____

DATED: _____

SALAMATOF NATIVE ASSOCIATION, INC.

BY: _____

DATED: _____

NINILCHIK NATIVE ASSOCIATION, INC.

BY:_____

DATED: 8-29-08

SELDOVIA NATIVE ASSOCIATION, INC.

BY: _____

DATED: _____

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IN WITNESS HEREOF AND INTENDING TO BE LEGALLY BOUND HEREBY the parties hereto have executed this Consent to Conveyance.

COOK INLET REGION, INC.

BY:_____

DATED:_____

CHICKALOON-MOOSE CREEK NATIVE ASSOCIATION, INC.

BY._____

DATED:_____

KNIKATNU, INC.

BY: _____

DATED: _____

TYONEK NATIVE CORPORATION

BY:_____

DATED: _____

SALAMATOF NATIVE ASSOCIATION, INC.

BY: _____

DATED: _____

NINILCHIK NATIVE ASSOCIATION, INC.

BY: _____

DATED: _____

SELDOVIA NATIVE ASSOCIATION, INC.

BY: Leo H. Barlow, CEO

DATED: 8/14/08

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IN WITNESS HEREOF AND INTENDING TO BE LEGALLY BOUND HEREBY the parties hereto have executed this Consent to Conveyance.

COOK INLET REGION, INC.

BY:_____

DATED:_____

CHICKALOON-MOOSE CREEK NATIVE ASSOCIATION, INC.

BY._____

DATED:_____

KNIKATNU, INC.

BY: _____

DATED: _____

TYONEK NATIVE CORPORATION

BY:_____

DATED: _____

SALAMATOF NATIVE ASSOCIATION, INC.

BY:

DATED: 8-06-08

NINILCHIK NATIVE ASSOCIATION, INC.

BY: _____

DATED: _____

SELDOVIA NATIVE ASSOCIATION, INC.

BY: _____

DATED: _____

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IN WITNESS HEREOF AND INTENDING TO BE LEGALLY BOUND HEREBY the parties hereto have executed this Consent to Conveyance.

COOK INLET REGION, INC.

BY:_____

DATED:_____

CHICKALOON-MOOSE CREEK NATIVE ASSOCIATION, INC.

BY Edith Keller President

DATED: 8-20-08

KNIKATNU, INC.

BY: _____

DATED: _____

TYONEK NATIVE CORPORATION

BY:_____

DATED: _____

SALAMATOF NATIVE ASSOCIATION, INC.

BY: _____

DATED: _____

NINILCHIK NATIVE ASSOCIATION, INC.

BY: _____

DATED: _____

SELDOVIA NATIVE ASSOCIATION, INC.

BY: _____

DATED: _____

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IN WITNESS HEREOF AND INTENDING TO BE LEGALLY BOUND HEREBY the parties hereto have executed this Consent to Conveyance.

COOK INLET REGION, INC.

BY:_____

DATED:_____

CHICKALOON-MOOSE CREEK NATIVE ASSOCIATION, INC.

BY._____

DATED:_____

KNIKATNU, INC.

BY: Raymond Theodore

DATED: August 20, 2008

TYONEK NATIVE CORPORATION

BY:_____

DATED: _____

SALAMATOF NATIVE ASSOCIATION, INC.

BY: _____

DATED: _____

NINILCHIK NATIVE ASSOCIATION, INC.

BY: _____

DATED: _____

SELDOVIA NATIVE ASSOCIATION, INC.

BY: _____

DATED: _____

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IN WITNESS HEREOF AND INTENDING TO BE LEGALLY BOUND HEREBY the parties hereto have executed this Consent to Conveyance.

COOK INLET REGION, INC.

BY:_____

DATED:_____

CHICKALOON-MOOSE CREEK NATIVE ASSOCIATION, INC.

BY._____

DATED:_____

KNIKATNU, INC.

BY: _____

DATED: _____

TYONEK NATIVE CORPORATION

BY: Donita L. Slawson

DATED: 8/29/08

SALAMATOF NATIVE ASSOCIATION, INC.

BY: _____

DATED: _____

NINILCHIK NATIVE ASSOCIATION, INC.

BY: _____

DATED: _____

SELDOVIA NATIVE ASSOCIATION, INC.

BY: _____

DATED: _____

4844-1108-8898\1\45130000029

CONSENT TO CONVEYANCE

EXHIBIT "A"

To be provided prior to execution.