

114TH CONGRESS
1ST SESSION

S. 1316

To provide for the retention and future use of certain land in Point Spencer, Alaska, to support the mission of the Coast Guard, to convey certain land in Point Spencer to the Bering Straits Native Corporation, to convey certain land in Point Spencer to the State of Alaska, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 13, 2015

Ms. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for the retention and future use of certain land in Point Spencer, Alaska, to support the mission of the Coast Guard, to convey certain land in Point Spencer to the Bering Straits Native Corporation, to convey certain land in Point Spencer to the State of Alaska, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Point Spencer Land
5 Conveyance Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

3 (1) Major shipping traffic is increasing through
4 the Bering Strait, the Bering and Chukchi Seas, and
5 the Arctic Ocean and will continue to increase
6 whether or not development of the outer Continental
7 Shelf of the United States is undertaken in the fu-
8 ture and will increase further if such outer Conti-
9 nental Shelf development is undertaken.

10 (2) There is a compelling national, State, Alas-
11 ka Native, and private sector need for permanent in-
12 frastructure development and for a presence in the
13 Arctic region of Alaska by appropriate agencies of
14 the Federal Government, particularly in proximity to
15 the Bering Strait, to support and facilitate search
16 and rescue, shipping safety, economic development,
17 oil spill prevention and response, protection of Alas-
18 ka Native archaeological and cultural resources, port
19 of refuge, Arctic research, and maritime law enforce-
20 ment on the Bering Sea, the Chukchi Sea, and the
21 Arctic Ocean.

22 (3) The United States owns a parcel of land,
23 known as Point Spencer, located between the Bering
24 Strait and Port Clarence and adjacent to some of
25 the best potential deepwater port sites on the coast
26 of Alaska in the Arctic.

1 (4) Prudent and effective use of Point Spencer
2 may be best achieved through marshaling the en-
3 ergy, resources, and leadership of the public and pri-
4 vate sectors.

5 (5) It is in the national interest to develop in-
6 frastructure at Point Spencer that would aid the
7 Coast Guard in performing its statutory duties and
8 functions in the Arctic on a more permanent basis
9 and to allow for public and private sector develop-
10 ment of facilities and other infrastructure to support
11 purposes that are of benefit to the United States.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) ARCTIC.—The term “Arctic” has the mean-
15 ing given that term in section 112 of the Arctic Re-
16 search and Policy Act of 1984 (15 U.S.C. 4111).

17 (2) BSNC.—The term “BSNC” means the
18 Bering Straits Native Corporation authorized under
19 section 7 of the Alaska Native Claims Settlement
20 Act (43 U.S.C. 1606).

21 (3) COUNCIL.—The term “Council” means the
22 Port Coordination Advisory Council established
23 under section 5(a).

1 (4) PLAN.—The term “Plan” means the Port
2 Management Coordination Plan developed under sec-
3 tion 5(c).

4 (5) POINT SPENCER.—The term “Point Spen-
5 cer” means the land known as “Point Spencer” lo-
6 cated between the Bering Strait and Port Clarence
7 and withdrawn by Public Land Order 2650 (pub-
8 lished in the Federal Register on April 12, 1962),
9 and located in Townships 2, 3, and 4 South, Range
10 40 West, Kateel River Meridian, Alaska.

11 (6) SECRETARY.—Except as otherwise specifi-
12 cally provided, the term “Secretary” means the Sec-
13 retary of the department in which the Coast Guard
14 is operating.

15 (7) STATE.—The term “State” means the State
16 of Alaska.

17 (8) TRACT.—The term “Tract” means Tract 1,
18 Tract 2, Tract 3, Tract 4, Tract 5, or Tract 6, as
19 appropriate.

20 (9) TRACTS 1, 2, 3, 4, 5, AND 6.—The terms
21 “Tract 1, Tract 2, Tract 3, Tract 4, Tract 5, and
22 Tract 6” each mean the land generally depicted as
23 Tract 1, Tract 2, Tract 3, Tract 4, Tract 5, or
24 Tract 6, respectively, and generally depicted as such
25 Tract on the map entitled the “Point Spencer Land

1 Retention and Conveyance Map”, dated January
2 2015, and on file with the Department of Homeland
3 Security and the Department of the Interior.

4 **SEC. 4. AUTHORITY TO CONVEY LAND IN POINT SPENCER.**

5 (a) **AUTHORITY TO CONVEY TRACTS 1, 3, AND 4.**—
6 The Secretary of the Interior shall convey, subject to valid
7 existing rights, all right, title, and interest of the United
8 States in and to the surface and subsurface estates of
9 Tract 1, Tract 3, and Tract 4 in accordance with sub-
10 section (d) if the Secretary notifies the Secretary of the
11 Interior that the Coast Guard no longer needs to retain
12 jurisdiction over any portion of Tract 1, Tract 3, or Tract
13 4 and the requirements of subsection (f) are met for each
14 such Tract to be conveyed.

15 (b) **AUTHORITY TO CONVEY TRACTS 2 AND 5.**—The
16 Secretary of the Interior shall convey, subject to valid ex-
17 isting rights, all right, title, and interest of the United
18 States in and to the surface and subsurface estates of
19 Tract 2 and Tract 5 in accordance with subsection (d)
20 if the requirements of subsection (f) are met for each such
21 Tract to be conveyed.

22 (c) **AUTHORITY TO TRANSFER TRACT 6.**—The Sec-
23 retary of the Interior shall convey, subject to valid existing
24 rights, all right, title, and interest of the United States
25 in and to the surface and subsurface estates of Tract 6

1 in accordance with subsection (e) if the requirements of
 2 subsection (f) are met.

3 (d) ORDER OF OFFER TO CONVEY TRACT 1, 2, 3,
 4 4, OR 5.—

5 (1) DETERMINATION AND OFFER.—

6 (A) TRACT 1, 3, OR 4.—If the Secretary
 7 makes the determination under subsection (a)
 8 and the requirements of subsection (f) are met
 9 for Tract 1, 3, or 4, or a portion of such Tract,
 10 the Secretary of the Interior shall offer such
 11 Tract or portion of such Tract for conveyance
 12 to BSNC under the Alaska Native Claims Set-
 13 tlement Act (43 U.S.C. 1601 et seq.).

14 (B) TRACT 2 OR 5.—If the requirements of
 15 subsection (f) are met for Tract 2 or Tract 5,
 16 the Secretary of the Interior shall offer such
 17 Tract for conveyance to BSNC under the Alas-
 18 ka Native Claims Settlement Act (43 U.S.C.
 19 1601 et seq.).

20 (2) OFFER TO BSNC.—

21 (A) ACCEPTANCE BY BSNC.—If BSNC
 22 chooses to accept an offer of conveyance of a
 23 Tract under paragraph (1), the Secretary of the
 24 Interior shall consider such Tract as within
 25 BSNC's entitlement under section 14(h)(8) of

the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)) and shall convey such Tract to BSNC.

(B) DECLINE BY BSNC.—If BSNC declines to accept an offer of conveyance of a Tract under paragraph (1), the Secretary of the Interior shall offer such Tract for conveyance to the State under the Act of July 7, 1958 (commonly known as the “Alaska Statehood Act”) (48 U.S.C. note prec. 21; Public Law 85–508).

(3) OFFER TO STATE.—

(A) ACCEPTANCE BY STATE.—If the State chooses to accept an offer of conveyance of a Tract under paragraph (2)(B), the Secretary of the Interior shall consider such Tract as within the State’s entitlement under the Act of July 7, 1958 (commonly known as the “Alaska Statehood Act”) (48 U.S.C. note prec. 21; Public Law 85–508) and shall convey such Tract to the State.

(B) DECLINE BY STATE.—If the State declines to accept an offer of conveyance of a Tract offered under paragraph (2)(B), such Tract shall be disposed of pursuant to applicable public land laws.

1 (e) ORDER OF OFFER TO CONVEY TRACT 6.—

2 (1) OFFER.—If the requirements under sub-
3 section (f) are met for Tract 6, the Secretary of the
4 Interior shall offer such Tract for conveyance to the
5 State.

6 (2) OFFER TO STATE.—

7 (A) ACCEPTANCE BY STATE.—If the State
8 chooses to accept an offer of conveyance of
9 Tract 6 under paragraph (1), the Secretary of
10 the Interior shall consider Tract 6 as within the
11 State’s entitlement under the Act of July 7,
12 1958 (commonly known as the “Alaska State-
13 hood Act”) (48 U.S.C. note prec. 21; Public
14 Law 85–508) and shall convey Tract 6 to the
15 State.

16 (B) DECLINE BY STATE.—If the State de-
17 clines to accept an offer of conveyance of Tract
18 6 under paragraph (1), the Secretary of the In-
19 terior shall offer Tract 6 for conveyance to
20 BSNC under the Alaska Native Claims Settle-
21 ment Act (43 U.S.C. 1601 et seq.).

22 (3) OFFER TO BSNC.—

23 (A) ACCEPTANCE BY BSNC.—

24 (i) IN GENERAL.—Subject to clause

25 (ii), if BSNC chooses to accept an offer of

1 conveyance of Tract 6 under paragraph
 2 (2)(B), the Secretary of the Interior shall
 3 consider Tract 6 as within BSNC's entitle-
 4 ment under section 14(h)(8) of the Alaska
 5 Native Claims Settlement Act (43 U.S.C.
 6 1613(h)(8)) and shall convey Tract 6 to
 7 BSNC.

8 (ii) LEASE BY THE STATE.—The con-
 9 veyance of Tract 6 to BSNC shall be sub-
 10 ject to BSNC negotiating a lease of Tract
 11 6 to the State at no cost to the State, if
 12 the State requests such a lease.

13 (B) DECLINE BY BSNC.—If BSNC declines
 14 to accept an offer of conveyance of Tract 6
 15 under paragraph (2)(B), the Secretary of the
 16 Interior shall dispose of Tract 6 pursuant to
 17 the applicable public land laws.

18 (f) TERMS OF CONVEYANCE.—

19 (1) ENVIRONMENTAL COMPLIANCE.—

20 (A) TRACT 1, 2, 3, 4, 5, OR 6.—

21 (i) IN GENERAL.—The Secretary of
 22 the Interior shall not convey Tract 1,
 23 Tract 2, Tract 3, Tract 4, Tract 5, or
 24 Tract 6 under this section until—

1 (I) the Secretary certifies that
2 the applicable requirements under sec-
3 tion 120(h) of the Comprehensive En-
4 vironmental Response, Compensation,
5 and Liability Act of 1980 (42 U.S.C.
6 9620(h)) and other applicable envi-
7 ronmental laws have been satisfied for
8 land in such Tract; or

9 (II) the Board of Directors of
10 BSNC adopts and submits to the Sec-
11 retary of the Interior a resolution
12 stating that BSNC is willing to accept
13 Tract 1, Tract 2, Tract 3, Tract 4,
14 Tract 5, or Tract 6, as appropriate,
15 “as is” at the time of such convey-
16 ance, based on known contamination.

17 (ii) AS IS.—In this subparagraph, the
18 term “as is” means the physical condition
19 of Tract 1, Tract 2, Tract 3, Tract 4,
20 Tract 5, or Tract 6, as appropriate, at the
21 time of the conveyance of such Tract, in-
22 cluding with respect to any known con-
23 tamination by hazardous materials or sub-
24 stances.

1 (B) LAND TO BE CONVEYED TO THE
2 STATE OR BSNC.—

3 (i) ENVIRONMENTAL COMPLIANCE.—

4 To the extent cleanup and remediation of
5 hazardous substances on land in a Tract to
6 be conveyed to the State or to BSNC are
7 required by existing law, all environmental
8 compliance activities pursuant to section
9 120(h) of the Comprehensive Environ-
10 mental Response, Compensation, and Li-
11 ability Act of 1980 (42 U.S.C. 9620(h))
12 and other applicable environmental laws
13 shall be satisfied.

14 (ii) MONITORING OF KNOWN CON-
15 TAMINATION.—Notwithstanding section
16 120(h) of the Comprehensive Environ-
17 mental Response, Compensation, and Li-
18 ability Act of 1980 and other applicable
19 environmental laws, any known contamina-
20 tion in a Tract to be conveyed that does
21 not pose an immediate or long-term health
22 or environmental risk may be routinely
23 monitored and managed by the State or
24 BSNC, as applicable, through institutional

1 controls in accordance with the laws of the
2 State.

3 (iii) LATER FOUND CONTAMINA-
4 TION.—If preexisting contamination from
5 hazardous materials and substances are
6 found to be present in a Tract after the
7 date the Tract is conveyed to the State or
8 BSNC, responsibility for cleanup and re-
9 mediation of such contamination shall con-
10 tinue to be governed by section 120(h)(3)
11 of the Comprehensive Environmental Re-
12 sponse, Compensation, and Liability Act of
13 1980 (42 U.S.C. 9620(h)(3)), applicable
14 provisions of chapter 19 of title 14, United
15 States Code, and applicable laws of the
16 State.

17 (C) LAND TO BE RETAINED BY THE COAST
18 GUARD.—With respect to land in Tract 1, Tract
19 3, or Tract 4 to be retained by the Coast
20 Guard, nothing in this section may be construed
21 to limit the obligation of the Coast Guard to
22 comply with applicable environmental law, in-
23 cluding section 120(h) of the Comprehensive
24 Environmental Response, Compensation, and
25 Liability Act of 1980 (42 U.S.C. 9620(h)).

1 (2) AIRSTRIP USE.—

2 (A) USE BY COAST GUARD.—All convey-
 3 ances under this section shall be subject to—

4 (i) an easement granting unlimited
 5 use of all existing and future landing pads,
 6 airstrips, runways, and taxiways that are
 7 located on such Tract conveyed, at no cost
 8 to the Coast Guard; and

9 (ii) the right to access such landing
 10 pads, airstrips, runways, and taxiways, at
 11 no cost to the Coast Guard.

12 (B) USE BY STATE.—

13 (i) IN GENERAL.—For any Tract con-
 14 veyed to BSNC under this section, BSNC
 15 shall provide to the State, if requested and
 16 pursuant to negotiated terms with the
 17 State, for no compensation—

18 (I) an easement over all existing
 19 and future airstrips, runways, and
 20 taxiways located on such Tract; and

21 (II) a right of access to and from
 22 such airstrips, runways, and taxiways.

23 (ii) RIGHT OF ACCESS.—If the State
 24 requests a right of access for a road from
 25 the airstrip to the southern tip of Point

1 Spencer, the location of such right of ac-
2 cess shall be determined by the State, in
3 consultation with the Secretary and
4 BSNC, so that such access is compatible
5 with other existing or planned infrastruc-
6 ture development at Point Spencer.

7 (3) RELATIONSHIP TO PUBLIC LAND ORDER

8 2650.—

9 (A) TRACTS NOT CONVEYED.—Any Tract
10 that is not conveyed under this section shall re-
11 main withdrawn pursuant to Public Land Order
12 2650 (published in the Federal Register on
13 April 12, 1962).

14 (B) TRACTS CONVEYED.—For any Tract
15 conveyed under this section, Public Land Order
16 2650 shall automatically terminate upon
17 issuance of a conveyance document for such
18 Tract.

19 (4) ARCHEOLOGICAL AND CULTURAL RE-
20 SOURCES.—Conveyance of any Tract under this sec-
21 tion shall not affect criminal jurisdiction and respon-
22 sibilities regarding the potential theft or vandalism
23 of archeological or cultural resources located in or
24 on such tracts.

25 (5) PERSONAL PROPERTY.—

1 (A) CASH SALES AUTHORIZED.—The Sec-
2 retary of Homeland Security is authorized to
3 make cash sales of personal property that is lo-
4 cated on Tract 4 to BSNC or to the State.

5 (B) VALUE.—The total value of the per-
6 sonal property referred to in subparagraph (A)
7 shall be deemed to be \$5,580,000.

8 (C) PROCEEDS.—Pursuant to section 559
9 of the Department of Homeland Security Ap-
10 propriations Act, 2010 (Public Law 111–83),
11 the proceeds from the sale of the personal prop-
12 erty referred to in subparagraph (A)—

13 (i) shall be deposited as offsetting col-
14 lections into the Coast Guard Environ-
15 mental Compliance and Restoration Ac-
16 count;

17 (ii) shall be available without further
18 appropriation for environmental compli-
19 ance and restoration activities associated
20 with any tract conveyed or to be conveyed
21 under this Act; and

22 (iii) shall remain available until ex-
23 pended.

24 (D) UNEXPENDED BALANCES.—If unex-
25 pended balances remain in the Coast Guard

1 Environmental Compliance and Restoration Ac-
2 count after the completion of the activities de-
3 scribed in subparagraph (C)(ii), such balances
4 may be expended for any other environmental
5 compliance and restoration activities of the
6 Coast Guard.

7 (g) MAPS AND LEGAL DESCRIPTIONS.—

8 (1) PREPARATION OF MAPS AND LEGAL DE-
9 DESCRIPTION.—As soon as practicable after the date of
10 the enactment of this Act, the Secretary of the Inte-
11 rior shall prepare maps and legal descriptions of
12 Tract 1, Tract 2, Tract 3, Tract 4, Tract 5, and
13 Tract 6. In doing so, the Secretary of the Interior
14 may use metes and bounds legal descriptions based
15 upon the official survey plats of Point Spencer ac-
16 cepted on December 6, 1978.

17 (2) LEGAL EFFECT.—The maps and legal de-
18 scriptions shall have the same force and effect as if
19 the maps and legal descriptions were included in this
20 Act, except that the Secretary of the Interior may
21 correct any clerical and typographical errors in the
22 maps and legal descriptions.

23 (3) AVAILABILITY.—Copies of the maps and
24 legal descriptions shall be available for public inspec-
25 tion in the appropriate offices of—

1 (A) the Bureau of Land Management; and

2 (B) the United States Coast Guard.

3 (4) SURVEY.—Not later than 5 years after the
4 date of the enactment of this Act, the Secretary of
5 the Interior shall survey Tracts conveyed and patent
6 the Tracts in accordance with the official plats of
7 survey.

8 (h) PUBLIC ACCESS EASEMENTS.—No public access
9 easements may be reserved to the United States under
10 section 17(b) of the Alaska Native Claims Settlement Act
11 (43 U.S.C. 1616(b)) with respect to the land conveyed
12 under this Act.

13 **SEC. 5. PORT COORDINATION ADVISORY COUNCIL FOR**
14 **POINT SPENCER.**

15 (a) ESTABLISHMENT.—There is established the Port
16 Coordination Advisory Council for the Port of Point Spen-
17 cer.

18 (b) MEMBERSHIP.—The Council shall consist of a
19 representative appointed by each of the following:

20 (1) The State.

21 (2) BSNC.

22 (c) DUTIES.—The duties of the Council are as fol-
23 lows:

24 (1) To develop a Port Management Coordina-
25 tion Plan to help coordinate infrastructure develop-

1 ment and operations at the Port of Point Spencer,
2 that includes plans for—

3 (A) construction;

4 (B) funding eligibility;

5 (C) land use planning and development;

6 and

7 (D) public interest use and access, emer-
8 gency preparedness, law enforcement, protection
9 of Alaska Native archaeological and cultural re-
10 sources, and other matters that are necessary
11 for public and private entities to function in
12 proximity together in a remote location.

13 (2) Update the Plan annually for the first 5
14 years after the date of the enactment of this Act and
15 biennially thereafter.

16 (3) Facilitate coordination among stakeholders
17 at Point Spencer, including the Coast Guard, on the
18 development and use of the land and coastline as
19 such development relates to activities at the Port of
20 Point Spencer.

21 (4) Assess the need, benefits, efficacy, and de-
22 sirability of establishing in the future a port author-
23 ity at Point Spencer under State law and act upon
24 that assessment, as appropriate, including taking

1 steps for the potential formation of such a port au-
2 thority.

3 (d) PLAN.—The Plan shall be developed and imple-
4 mented by the Council in such a manner so as to facilitate
5 and support, and not interfere with nor impede, the statu-
6 tory missions, duties, and operations of the Coast Guard
7 in the Arctic.

8 (e) COSTS.—Operations and management costs for
9 airstrips, runways, and taxiways at Point Spencer shall
10 be determined pursuant to provisions of the Plan, as nego-
11 tiated by the Council.

12 **SEC. 6. WAIVER.**

13 Section 229 of the Howard Coble Coast Guard and
14 Maritime Transportation Act of 2014 (Public Law 113–
15 281; 128 Stat. 3040) shall not be construed to prohibit
16 any transfer or conveyance of lands under to this Act or
17 any actions that involve the dismantling or disposal of in-
18 frastructure that supported the former LORAN system
19 that are associated with the transfer or conveyance of
20 lands under this Act.

