

**TESTIMONY OF JIM HUGHES
DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT
DEPARTMENT OF THE INTERIOR
BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE
ON PUBLIC LANDS AND FORESTS
REGARDING S. 924, A BILL TO AUTHORIZE THE EXCHANGE OF LANDS BETWEEN THE NEWTOK
NATIVE CORPORATION AND THE DEPARTMENT OF THE INTERIOR**

June 4, 2003

Mr. Chairman and members of the subcommittee, I want to thank you for the opportunity to appear before you today to present the views of the Department of the Interior on S.924, which would direct a land exchange between the Department of the Interior and Newtok Native Corporation. The purpose of this exchange is to provide a new site for the Native Village of Newtok, Alaska, on lands within the Yukon Delta National Wildlife Refuge on Nelson Island. The present village site is experiencing severe erosion along the banks of the Ninglick River. The average annual erosion rate is 90 feet per year, and it is expected that the land under the homes, schools, and businesses of Newtok will erode within seven years.

We support the desire of the residents of Newtok to relocate their village from its present site across the Ninglick River to an upland area on the Yukon Delta National Wildlife Refuge that is adjacent to other Newtok Village owned lands on Nelson Island.

The new bill, S. 924, represents the results of discussions had last year on S. 2016 in the 107th Congress. The Department had several concerns last year regarding the earlier version of the bill, including insufficient acres to support the future needs of the community, a complex appraisal process, and ambiguities regarding the effect of the exchange on Newtok's ANCSA entitlement and the United States' ability to protect valid existing rights and enforce treaty obligations. Since that time, we have worked cooperatively with Newtok representatives and the Committee to achieve consensus on a bill that will allow for the relocation and re-establishment of the Village to more suitable terrain and still protect the fish and wildlife resources and supporting habitat within the National Wildlife Refuge System. We support S. 924. We do, however, on further examination of the bill, have suggestions for several minor technical clarifications to the bill, discussed below.

Lands to Be Acquired By The Federal Government

Under the terms of the exchange as proposed in S. 924, Newtok will give up approximately 11,105 acres of land referred to as the Aknerkochik parcel and relinquish selection rights to approximately 996 acres on Baird Inlet Island. The Aknerkochik parcel lies about 14 miles northwest of the current community of Newtok and includes important wildlife habitat which will be restored to unencumbered refuge status. Baird Inlet Island lies between the current village of Newtok and the site proposed for relocation of the village. This island is the summer home to 4,500 pairs of Pacific brant which nest and brood their young there. The Baird Inlet Island brant population accounts for about one quarter of the entire Pacific brant population within the Yukon Delta National Wildlife Refuge. With the relinquishment of Newtok's selections, the U.S. Fish and Wildlife Service will be able to retain administrative jurisdiction over all of Baird Inlet Island thus assuring the ongoing protection of this important colony.

Lands To Be Conveyed To Newtok

In exchange for these lands and selection rights, Newtok Native Corporation will receive title to approximately 10,943 acres of surface and subsurface estate on the northern shore of Nelson Island adjacent to lands already owned by the corporation. This proposal does not increase Newtok Native Corporation's ANCSA entitlement. The corporation will remain charged for lands which had previously been conveyed to it and will also be charged for the selections it relinquishes. Following survey of the lands on Nelson Island conveyed to Newtok under this proposal, the Bureau of Land Management will adjust Newtok's entitlement so that the corporation will be ultimately be charged 1.1 acres for each acre to be conveyed under this bill. The additional charge of one tenth of an acre is to compensate the

government for conveyance of the subsurface estate to Newtok Native Corporation, an additional benefit not extended to village corporations under the original ANCSA.

Approximately 70 acres within the area to be conveyed to Newtok Native Corporation fall within the boundaries of the former Clarence Rhode National Wildlife Range. For that reason, these 70 acres would normally remain subject to statutory and regulatory restrictions imposed by Section 22(g) of ANCSA. Because such restrictions could limit Newtok's ability to develop these lands for their intended purpose, the Department agrees that the lands conveyed to Newtok should be free from restrictions imposed by Section 22(g) of ANCSA. The Department also agrees that it is appropriate for the conveyance to Newtok to be free from the standard 14(c) reconveyance requirements of ANCSA intended to benefit residents and communities occupying land as of 1971 and that the lands conveyed to Newtok shall no longer be considered part of the Yukon Delta National Wildlife Refuge.

When a village corporation such as Newtok Native Corporation exchanges selection rights prior to receiving title under ANCSA, there can be ambiguity as to the effect on the Regional Corporation whose right to equivalent subsurface acreage is derived from conveyance of the surface estate. The bill includes a provision that assures that Calista Corporation will not lose subsurface acreage as a result of this exchange.

Because detailed site plans and surveys for the new village have not yet been completed, the bill gives the Secretary of the Interior the flexibility to adjust the exchange to meet the intended purposes of the bill should Newtok determine at a later date that a larger site is needed for the relocated community.

Suggested Technical Amendments

The Department suggests five small technical amendments. 1) In section 4(b), add the word "Delta" to the name Yukon National Wildlife Refuge so it reads "Yukon Delta National Wildlife Refuge," the correct name. 2) In section 4d), after "subsistence resources on", delete "those public lands" and add "those Newtok lands." This will be clearer and avoid ambiguity. 3) In section 4e), second sentence, change "This additional entitlement" to read "This equivalent entitlement." This is a more accurate description of the entitlement. Also in section 4(e), third sentence, change "this additional entitlement" to "this equivalent entitlement." 4) Further, in section 4e), at the end, after "acreage" add the phrase "from lands within the region but outside any conservation system unit." This will help clarify the areas from which lands may and may not be selected. Finally, in section 4f), strike the word "original" before "exchange" and add the words "herein authorized" after "exchange," to clarify the exchange referenced. There is really no "original" exchange. We have attached a copy of the bill showing the suggested changes.

I appreciate the opportunity to comment on S. 924. The Department is satisfied that S. 924, with the suggested clarifying technical amendments, will safeguard both the fish and wildlife resources of the Yukon Delta National Wildlife Refuge and Newtok's future as a viable community.