

**DEPARTMENT OF THE INTERIOR****Office of the Secretary**

[DD-7000-DO1]

**Notice of Request for Comments on Lifting the Bar to Statutory Approval of Alaska Native Allotment Applications Under Section 905 of Alaska National Interest Lands Conservation Act (ANILCA) Following the Withdrawal of Protests****AGENCY:** Office of the Secretary, Interior.**ACTION:** Request for comments on proposed Secretarial decision.

**SUMMARY:** This Notice is published in accordance with the authority of the Secretary of the Interior to review a determination of the Interior Board of Land Appeals (IBLA) or any employee of the Department and to render a final decision. Two Alaska Natives have requested the Secretary to review IBLA decisions concerning their allotment applications under the Alaska Native Allotment Act. While awaiting a legal opinion from the Solicitor, the Secretary herein requests comments on the implications of granting the portion of the petition that would regard allotment applications as approved under § 905 of ANILCA if protests against such applications have been withdrawn.

**DATES:** Submit comments by April 15, 1997. The Office of the Secretary may, but need not, consider comments received or postmarked after this date in preparing the final decision.

**ADDRESSES:** If you wish to comment, you may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW, Washington, DC; or mail comments to the Bureau of Land Management, Administrative Record, Room 401LS, 1849 C Street, NW, Washington, DC 20240. You may also transmit comments electronically, via the Internet to WOCComment@wo.blm.gov. Please include "Attn: Secretarial Decision", your name and address in your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452-5030.

You will be able to review comments at Bureau of Land Management's Regulatory Affairs Group office, Room 401, 1620 L Street, NW, Washington, DC, during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

If you wish to withhold your name or street address, except for the city or town, from public review or disclosure under the Freedom of Information Act,

you must state this prominently at the beginning of your comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

**FOR FURTHER INFORMATION CONTACT:** Sandra J. Ashton, Office of the Solicitor, (202) 208-6526.

**SUPPLEMENTARY INFORMATION:** Under 43 CFR § 4.5(a), the Secretary of the Interior may take jurisdiction at any stage of a matter before the IBLA or an employee of the Department and render a final decision in the matter reviewed. By petition dated March 27, 1996, Edward N. O'Leary requested that the Secretary take jurisdiction concerning his allotment application filed under the Alaska Native Allotment Act, 34 Stat. 197, repealed by the Alaska Native Claims Settlement Act (ANCSA), 85 Stat. 688 (1971).

In the same petition, another allotment applicant requested that the Secretary review the denial of his application based on application of the "statutory life" regulation of the Bureau of Land Management (BLM). This request is not being addressed in this Notice but is being considered separately.

Section 905 of the ANILCA, 43 U.S.C. § 1634, sets forth a statutory approval of pending applications for Alaska Native allotments, if certain conditions are met, unless a timely and sufficient protest was filed. In the *O'Leary* case, 132 IBLA 337 (1995), the IBLA ruled that the BLM was required to adjudicate an allotment application even though a protest to the allotment application had been withdrawn. The petition asserts that the IBLA incorrectly interpreted § 905 in reaching this result. The petitioner believes that allotment applications qualify for automatic approval under § 905 if and when a protest which prevented such approval is withdrawn.

The Secretary is favorably disposed to granting that portion of the petition which would have § 905 approval vest upon withdrawal of protests to allotment applications. This action would require the Secretary to overrule the IBLA interpretation of § 905, which is that allotment applications must be adjudicated if a sufficient protest was filed even though the protest was subsequently withdrawn.

If the Secretary takes this action, the withdrawal of a protest against an allotment application will have the

effect of regarding that application as approved under § 905.

This result would arguably fulfill the purposes for which § 905 was enacted: to expedite the approval of allotment applications and to fulfill the commitments of the 1971 ANCSA where no countervailing interests requiring full adjudication were presented.

The Secretary has requested that the Solicitor review § 905 of ANILCA, ANCSA, relevant regulations and caselaw, and the IBLA decisions, specifically including the decision that first articulates IBLA's holding, *Steven Northway*, 96 IBLA 301 (1987), in order to determine the authority of the Secretary to pursue this course of action and to evaluate the effects of lifting the bar to § 905 approval of Alaska Native Allotment Applications.

While the Solicitor conducts his review, interested persons and organizations may submit their legal and factual arguments on the authority of the Secretary to pursue this course of action and on the effects of applying § 905 this way. Although comments on any possible or potential effects will be welcomed, comments are encouraged concerning the effect that this application of § 905 would have on public access across allotments that would be approved under this course of action. Specific comments also are requested on whether a Secretarial decision along these lines should be applied to all open Native allotment applications, regardless of the stage of the application, or whether it should be limited to applications that have not been processed beyond a certain stage; for example, on which no contest proceeding has been held.

Dated: February 7, 1997.

Bob Armstrong,

*Assistant Secretary of the Interior.*

[FR Doc. 97-3700 Filed 2-13-97; 8:45 am]

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**Bureau of Land Management**

[ES-930-07-1320-01-241A]

**Alabama: Request for Public Comment on Fair Market Value, Maximum Economic Recovery and the Environmental Assessment; Coal Lease Application ALES 47886**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public hearing and comment period.

**SUMMARY:** The Bureau of Land Management requests public comments on the input concerning the

Environmental Assessment, method of obtaining maximum economic recovery, and input to fair market value of certain coal resources it proposes to offer for competitive lease sale. The coal to be offered is underground-minable, potentially bypass, coal. The lands included in Coal Lease Application ALES 47886 are located in Sec. 34 NENW, T. 21 S., R. 4 W., Shelby County, Alabama containing 40.47 acres. The application is for the Thompson, Gholson, Clark and Coke (Youngblood) Seams. The proximate analysis of the coal seams are as follows:

Thompson Seam estimated recoverable coal.....108,000 Tons

*Proximate Analysis (%)*

Moisture .....2.8  
Ash .....12.4  
Volatile .....29.9  
Fixed Carbon .....54.8  
Btu/lb.....12,620  
Sulfur.....1.2

Gholson Seam estimated recoverable coal.....143,000 Tons

*Proximate Analysis (%)*

Moisture .....4.01  
Ash .....3.1  
Volatile .....34.7  
Fixed Carbon .....58.2  
Btu/lb.....14,150  
Sulfur.....0.7

Clark Seam estimated recoverable coal.....143,000 Tons

*Proximate Analysis (%)*

Moisture .....2.3  
Ash .....8.2  
Volatile .....35.0  
Fixed Carbon .....54.3  
Btu/lb.....13,580  
Sulfur.....0.6

Coke Seam estimated recoverable coal.....150,000 Tons

*Proximate Analysis (%)*

Moisture .....2.7  
Ash .....5.2  
Volatile .....34.7  
Fixed Carbon .....57.4  
Btu/lb.....14,160  
Sulfur.....1.3

The public is invited to provide written comments on the fair market value and the maximum economic recovery of the above tract. In addition, a public hearing will be held on the environmental assessment, the proposed sale, the fair market value and the maximum economic recovery of the proposed lease tract.

**DATES:** Written comments must be received on or before March 21, 1997.

**ADDRESSES:** The written comments must be submitted to the Bureau of Land Management, Jackson District Office, 411 Briarwood Drive, Suite 404, Jackson, Mississippi 39206.

The public hearing will be held on March 14, 1997, 5:00 p.m., Holiday Inn Express, 260 Cababa Valley Road, Pelham, Alabama 35124, (205) 987-8888

**FOR FURTHER INFORMATION CONTACT:**

For more complete data on this lease application, please contact Tondi Ballard (703) 440-1539 at the Bureau of Land Management, Eastern States, 7450 Boston Boulevard, Springfield, Virginia 22153.

**SUPPLEMENTARY INFORMATION:** In accordance with the Federal Coal Management Regulations 43 CFR parts 3422 and 3425, not less than 30 days prior to the publication of notice of sale, the Secretary shall solicit public comments.

The public comments should address, but not necessarily be limited to, the following information:

1. The method of mining to be employed in order to obtain maximum economic recovery of the coal and factors which may affect this determination.
2. The impact that mining the coal in the proposed leasehold may have on the area, including, but not limited to, impacts on the environment; and
3. Methods of determining the fair market value of the coal to be offered and factors which may affect this determination.

Letters should be submitted to the Bureau of Land Management, Jackson District, at the above address. Data marked proprietary shall be treated confidential in accordance with the Freedom of Information Act (FOIA). A copy of the comments submitted by the public on fair market value and maximum economic recovery, except those portions identified as confidential by the public and meeting exemptions stated in the FOIA, will be available for public inspection at the Bureau of Land Management, Jackson District.

Dated: February 11, 1997.

Walter Rewinski,

*Deputy State Director, Division of Resources Planning, Use and Protection.*

[FR Doc. 97-3792 Filed 2-13-97; 8:45 am]

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**[CA-350-1020-00]**

**Revised Notice of Intent To Prepare Land Use Plan Amendment and Associated Environmental Impact Statement**

**AGENCY:** Bureau of Land Management, Department of the Interior, Eagle Lake Resource Area, California.

**ACTION:** Revision to Notice of Intent published November 28, 1994.

**SUMMARY:** The Notice of Intent to Prepare a Land Use Plan Amendment and Environmental Impact Statement for three Land Use plans was published on pages 60822-60823 in the November 28, 1994 Federal Register. The planning process to date included scoping, public meetings and development of an Analysis of the Management Situation. On October 2, 1995 the Susanville District was formally dissolved, and the new organization is structured to have the Resource Area Managers report directly to the State Director. Therefore, this revision to the Notice of Intent is specifically for the Cal-Neva Management Framework Plan of 1982.

**PUBLIC PARTICIPATION:** Scoping commenced on November 28, 1994 with the publication of the original Notice of Intent in the Federal Register. Public meetings were held on January 10, 1995 in Sacramento, California; January 11, 1995 in Reno, Nevada; January 12, 1995 in Susanville, California; and January 13, 1995 in Alturas, California. All comments received since scoping commenced and during the public meetings are being considered in this process. A new scoping period is not being started.

**FOR FURTHER INFORMATION OR RELATED**

**DOCUMENTS CONTACT:** Linda Hansen, Area Manager, Eagle Lake Resource Area, 2950 Riverside Drive, Susanville, California 96130. Telephone: (916) 257-0456.

**SUPPLEMENTARY INFORMATION:** The Cal-Neva Management Framework Plan is in the area of the Northwest Great Basin in Northern Washoe County, Nevada and Eastern Lassen County, California and is locally known as the East Lassen Area. The scoping, public participation and Analysis of the Management Situation that has been completed covers the whole of the East Lassen Area which is in the management responsibility of three different resource areas. These are the Alturas Resource Area, the Surprise Resource Area and the Eagle Lake Resource Area, all of which comprised the old Susanville District. This draft plan amendment for the Cal-Neva Management Framework Plan portion of the East Lassen area is scheduled for completion in early June, 1997.

Dated: February 5, 1997.

Linda Hansen,  
*Area Manager.*

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