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THE WHITE HOUSE  
WASHINGTON

October 20, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JIM CANNON  
FROM: JIM CONNOR JEC  
SUBJECT: Edwardsen Case  
(Alaskan Native Claims)

The President reviewed your memorandum of October 16 and approved the following:

"Support Stevens Amendment"

Please follow-up with appropriate action.

cc: Don Rumsfeld



THE WHITE HOUSE

WASHINGTON

DECISION

October 16, 1975

MEMORANDUM FOR THE PRESIDENT  
FROM: JIM CANNON *J. Cannon*  
SUBJECT: EDWARDSSEN CASE (Alaskan Native Claims)

Some time ago, I sent you a memorandum outlining the issues concerning the Alaskan Native lawsuit in which they have argued that the Alaska Native Claims Settlement Act of 1971 did not extinguish their claims. (Copy of my September 8 memo at Tab A.)

Hearings have been held by Senator Jackson on proposed amendments to the Native Claims Act, one of which is a proposal by Senator Stevens which would seek to clarify Congressional intent to the effect that the claims were extinguished by the 1971 Act. Senator Jackson has asked for an Administration position on the Stevens Amendment.

Interior favors direct support of Senator Stevens' Amendment because the Administration has consistently taken the position in the litigation that Congress did intend to extinguish those claims by the 1971 Act, and Governor Hammond strongly supports this position.

Justice would prefer to state that the Stevens Amendment is not inconsistent with the legal position it took in the Edwardsen case, or with its present views, and that Justice believes a proper interpretation of the original 1971 Act would produce the same result that the Stevens Amendment seeks to achieve. Justice's preference for a more neutral approach, rather than a direct support statement, is motivated by the fact that the government, after an adverse ruling in the District Court for the District of Columbia, entered into a stipulation for tactical reasons, that would cause trespass litigation to be filed in Alaska. Justice has filed those trespass suits, and its outright support of the Stevens Amendment might appear to be inappropriate in light of its agreement to the stipulation. In addition,



Justice believes the Congress should be aware that subsequent legislative interpretation of an earlier statute will be given great weight in statutory construction by the courts, but will not be necessarily dispositive or absolutely binding.

DECISION

1. Support Stevens Amendment.

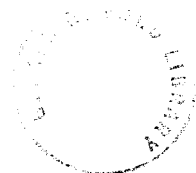
Favor: Interior (Frizzell), Governor Hammond, Lynn, Friedersdorf, Cannon and Senator Stevens.

Approve WEL Disapprove \_\_\_\_\_

2. Do not take a position in direct support of the Stevens Amendment but state that the Administration continues to believe that all claims were extinguished by the 1971 Act; that the Stevens Amendment would not be inconsistent with the legal position that Justice took in the Edwardsen case and continues to maintain; and that the Stevens Amendment would be given great weight in statutory construction by the courts.

Favor: Justice and Buchen.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_



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WASHINGTON

September 8, 1975

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON *JC*

SUBJECT:

EDWARDSSEN CASE (Alaskan Native Claims)

In a meeting with you last week, Governor Hammond of Alaska stated that he was concerned about the position taken by Interior and Justice Department in the Edwardsen case which involves native claims. You instructed us to look into the matter.

The Alaska Native Claims Settlement Act, which became law in December, 1971, has been challenged in a complex law suit, Edwardsen v. Morton, and the critical issue concerns whether or not the Act extinguishes preexisting trespass claims by the Alaskan natives. Interior and Justice Department, along with the State of Alaska and various private interests, such as the oil companies, take the position that the claims are extinguished, but the natives think otherwise and believe that the total claims may exceed \$100 million.

The law suit was originally filed in the District of Columbia (a court which is generally not favorable to the government's position), and in 1974 the Interior Department (with Justice's concurrence) agreed to compromise with the Alaskan natives and conduct trespass investigations and recommend litigation. This was a tactical decision designed to move the case from the District of Columbia to Alaska where the ultimate question concerning the scope of the Native Claims Settlement Act would be decided by the Federal courts out West (the Ninth Circuit) which is more likely to be favorable to our position.

In the meantime, Senator Ted Stevens, who strongly believes that Congress intended to extinguish these trespass claims, has introduced legislation designed to make this clear. The Senate Interior Committee will hold hearings September 24 on the Stevens Amendment, and Senator Jackson has asked Justice and Interior for their position.

We are currently taking the steps to arrive at an Administration position concerning the proposed legislation, and a decision paper will be prepared for you. I have also asked Phil Buchen to review the status of the court case, and this will be reflected in the decision paper concerning the legislation.

