

# ANILCA PROMISES BROKEN: THE DEMISE OF THE KANTISHNA MINING DISTRICT

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## Background:

### "d2" Proposed Addition for Kantishna.

The Kantishna Hills was an active mining district prior to enactment of ANILCA. In 1905, Territorial Judge James Wickersham made an unsuccessful ascent of Mt. McKinley. He descended the north side of the Alaska Range and arrived in the Kantishna Hills. He found gold there and triggered a minor gold rush through 1905-06. Hundreds of mining claims were located and relocated in the Kantishna Hills over the last century. The Kantishna Mining District was formed under the General Mining Law of 1872 prior to enactment of organic legislation for the National Park Service in 1916, as well as enabling legislation for Mt. McKinley National Park in 1917.

Section 17(d)(2) of the Alaska Native Claims Settlement Act ("ANCSA") directed the Secretary of Interior to identify suitable "national interest lands" in the public domain of Alaska. The Interior Department made various "d(2)" proposals, including additions to Mt.

McKinley National Park. ANCSA authorized interim public withdrawals pending subsequent legislation on national interest lands. In 1975, the National Park Service ("NPS") commissioned Russell Chadwick, an economic geologist from Spokane, Washington, to prepare a gross mineral appraisal of mining claims located within the park as well as the Kantishna Hills. In 1977, Congressman Morris Udall, a principal author of ANILCA, visited the Kantishna Hills and observed mining operations on the Wielers' Glen Creek claims. In December 1978, President Jimmy Carter promulgated the "Denali National Monument" as an executive land withdrawal pursuant to the Antiquities Act of 1906 because ANCSA's temporary withdrawal authority had expired. The Denali National Monument included the Kantishna Mining District, and beginning in 1979, the NPS acquired surface management authority over Kantishna mining operations.

In the spring of 1979, then Alaska Representative Steve Cowper wrote an opinion column in the Fairbanks Daily News Miner on the pending d(2) legis-

<sup>4</sup> The views expressed herein are those of the author only. Footnotes and citations have been omitted for brevity. Portions of this article are condensed from a statement submitted before Subcomm. on Public Lands, Sen. Comm. on Energy & Nat. Resources, Mining Activities in Units of the National Park System, 103d Cong, 1st. Sess, Sen. Hearing Doct. 103-577 (1993). Evidence supporting this article is set forth in various condemnation cases pending before the U.S. District Court, District of Alaska.

lation. He criticized proposed additions to National Park System units in Alaska. Cowper anticipated that in-holders created by new parks would have difficulties accessing their property and realizing their property rights. His words were to the effect that "you do not want the National Park Service as your neighbor." Cowper foresaw the outcome for Kantishna mining claimants if Mt. McKinley National Park were expanded.

### **ANILCA Treatment of Kantishna & Mining Operations Through 1985.**

With passage of ANILCA, Congress incorporated the Kantishna Hills into an expanded national park, and designated the new park the Denali National Park and Preserve. As a consequence, Kantishna mining claims became subject to NPS surface management authority through the Mining in the Parks Act (MPA). ANILCA prohibited further mineral entry in the new park. However, Congress protected Kantishna mining claimants through a "valid existing rights" provision.

The average price of gold in December of 1980 was \$623 per troy ounce. During the ensuing five years, the NPS routinely permitted Kantishna mining operations. A "Plan of Operations" was submitted on typewritten NPS form accompanied by a NPS typewritten "Environmental Report." Sometimes plans were submitted and approved on a printed form issued by the Alaska Dept. of Natural Resources for state mining claimants. In 1983, twenty-one plans were permitted for operations in eight different stream drainages in the

Kantishna Hills. Larger operations were processing placer material at rates of 100 cubic yards per hour, working 200,000 cubic yards per year or more, and recovering in excess of 2,000 ounces of placer gold. Virtually all of the unpatented mining claims had no validity determination and the Park Service never challenged validity or initiated mineral examination of claims subject of plans of operation.

ANILCA directed the Secretary of Interior and the Alaska Land Use Council to study the mineral potential of the Kantishna and Dunkle Hills, estimate the costs for acquiring mineral properties, and examine the environmental consequences of further mineral development. The Alaska Land Use Council and U.S. Bureau of Mines contracted with two consulting firms to respond to ANILCA's study mandate. The result was the report "Mining Properties Acquisition Costs: Kantishna Hills and Dunkle Mine Study Area," authored by DOWL Engineers, and Plangraphics, Inc. (DOWL Report). According to the consultants, the cost of acquiring all the placer and lode claims in the Kantishna Hills and Dunkle Mine areas was \$157 million in 1983. This estimate concerned 233 mining claims, and only 1% of the value was allocable to the Dunkle Mine area. The DOWL Report emphasized that its valuation only concerned existing mining claims and not the potential value of other mineral lands within the Kantishna study area.



### **1985 Court Injunction; Cumulative EIS Study & Suspension of Operations.**

In 1985, various environmental groups sued the NPS for improperly permitting mining operations and failing to conduct cumulative environmental assessments under the National Environmental Policy Act. District Court Judge James von der Heydt ruled for the plaintiffs and entered an injunction in July of 1985 originally pertaining to the Wrangell St. Elias National Park. The court ordered a cessation of all permitted mining operations and required the NPS to engage in cumulative environmental impact assessment of mining. In December of 1985, the injunction was amended to include mining operations in Denali National Park. The amended injunction authorized individual mining claimants to apply for relief upon a showing that a proposed operation would not pose cumulative adverse effects on the park environment.

Upon entry of the 1985 court injunction, Kantishna mining claimants typically believed this was a temporary setback and they would eventually be allowed to operate when NPS completed its environmental assessment. The Park Service held out to the mining claimants that plans of operation could still be submitted and approved if no adverse effects were demonstrated. Several plans were submitted for the 1986 mining season in the Kantishna Hills. However, the Park Service consistently rejected the submittals because they did not provide sufficient information for regulatory and environmental review. The miners were undeterred and continued to submit supplemental plans

and analyses far in excess of the documentation required prior to the 1985 court injunction. NPS nonetheless denied all the revised plan submittals.

The 1985 court injunction expanded to three national parks in Alaska—Denali, Wrangell-St. Elias, and Yukon Charley. The Park Service decided that significant staff expansion was necessary to undertake the cumulative environmental assessments. A variety of professional personnel were hired to review plans of operation, initiate mineral examinations, conduct resource surveys, and topographically map all the major claim groups at large scale. During the ensuing five-year period, NPS spent untold millions of taxpayer dollars scrutinizing the Kantishna Mining District. Finally, in August of 1990, the NPS issued its Final Environmental Impact Statement: Cumulative Impacts of Mining—Denali National Park and Preserve, Alaska. Later in the year, NPS moved to lift the court injunction, certifying that its record of NEPA compliance was complete. On January 2, 1991, Judge von der Heydt lifted his court injunction. In theory, the Park Service once again had authority to approve mining operations in the Kantishna Hills.

Between 1986-1990, the Kantishna Mining District was totally shut down. Not one plan of operation was approved in the Kantishna Hills, and commercial mining ceased to exist. Moreover, the Park Service refused to determine whether plan submittals were complete within the regulatory requirements. Kantishna miners were uniformly told to come again another day with more paperwork.

The single exception to this outcome was Sam Koppenberg. Koppenberg (d/b/a K.L.K., Inc.) held 5 1/2 association placer claims on middle Caribou Creek and acquired a reputation as an efficient and innovative placer miner. He developed a mining method that incorporated a mobile wash plant, rerouting of the stream channel, discharge of tailings into processed mining cuts, and design of wastewater retention ponds to eliminate stream turbidity. Koppenberg submitted the only plan of operations which NPS determined to be "administratively complete" in October of 1986. However, by April of 1987, the Park Service told Koppenberg it could not process his plan and determine approval due to the uncertainty of cumulative environmental effects. After completion and approval of the FEIS in May of 1991, the NPS finally denied Koppenberg's plan. The NPS reasoned his operation would generate surface disturbance, resulting in habitat destruction for various species, and therefore, the "Resource Protection Goals" established for cumulative effects assessment would be violated.

### **NPS Regulatory Practices.**

Since 1986, Kantishna miners perceived that NPS was imposing onerous requirements in the review of mining plans. Moreover, the miners suspected NPS was not dealing in good faith and had a hidden agenda to frustrate their rights. Through litigation discovery years later, their suspicions are well substantiated. Illustrated here are the summary views of two former NPS employees. Both persons, Larry Brown and Tom Ford, were substantially involved

in reviewing mining plans of operation for the Kantishna Hills between 1986 and 1992, when both left government service.

Brown, a geologist, had prior experience in validity examination, as well as practical experience operating a mine. After six months on the job with NPS in 1986, Brown formed the opinion that no mining operations would be permitted on Caribou Creek or anywhere else in the Kantishna Hills. Brown also believed that supervisory NPS personnel provided guidance that plan reviews should be as complicated and prolonged as much as possible. Brown was incensed with NPS' deception of Sam Koppenberg and thought that NPS had reached a foregone conclusion that Koppenberg's plan for middle Caribou Creek would never be approved, and yet Koppenberg was encouraged to spend additional money for naught.

Tom Ford's regulatory experience was remarkable. Ford was a NPS environmental specialist recruited from the Death Valley National Monument in California. When he came to NPS in Alaska, he already had six years experience with MPA permitting of mining operations in Death Valley. His experience was that some 50 plans of operation were all eventually approved, typically with conditions or stipulations. Ford could not recall single instance in which a mining plan of operation was denied on the merits at Death Valley National Monument.

After six years with NPS in Alaska, Ford could not identify a single plan of operations for the Kantishna Hills that was ever approved. Moreover, Ford in-



dictated that none of the several plans submitted was ever adjudicated on the merits with the single exception of Koppenberg's plan. Regarding Koppenberg's plan, Ford was responsible for drafting the environmental assessment and findings that supported plan denial. His intention, shared by the NPS staff, was that denial of Koppenberg's plan would mean denial of all future mining operations in Denali.

After Brown and Ford's departure in 1992, NPS continued its dilatory practices. From the period of the 1985 injunction until condemnation actions were filed in 1998, not one plan of operation for commercial mining operations was approved for Kantishna. Additionally, NPS refused to process plans for commercial operations on grounds that they were incomplete and required more information. NPS did approve a plan for George Bailey's Discovery claims on Eureka Creek. Bailey characterized his plan as "recreational mining" wherein he would process twelve cubic yards per day maximum. His plan involved only 0.75 acre surface disturbance on ground that had previously been worked near the confluence of Eureka and Moose Creeks. Bailey stated his plan was not economic and distinguished it from commercial operations existing in Kantishna prior to the injunction.

The Park Service also approved a plan in 1995 for appraisal sampling on Lower Caribou Creek, Friday Creek and Glacier Creek claims. Steve Hicks submitted a plan on behalf of Arnold Howard and co-owners for their Lower Caribou Howtay Assn.. claims, and on

behalf of Milan Martinek for his Alder and Little Audrey claims. Hicks' request to use mechanized equipment on undisturbed ground was denied. NPS instead approved portable equipment known as a "Winky drill" and "Digger 50" if these items were helicoptered in. Since NPS did not permit sampling operations with mechanized equipment on previously undisturbed ground, any commercial mining operations on the claims would have been denied but for NPS' refusal to process incomplete plan submittals.

Interestingly, in current discovery disputes involving Martinek's claims in condemnation, the court authorized mechanized equipment for bulk sampling of his placer deposits. Martinek had a crew of four persons on his former claims for ten weeks during the 2000 field season. Approximately 80 sample sites (five cubic yards or greater) were tested with a 20 ton Mitsubishi excavator and a custom-built portable wash plant (modeled after a Goldfield "Alaskan 10"). When nuggets started to showing up in the sluice on Friday Creek sampling, NPS got nervous and decided to undertake its own "parallel sampling program." NPS contracted with Don Stevens, although he had only four weeks to do his work. With NPS' tactical decision to engage in mechanized sampling of Kantishna claims, its prior objections to surface disturbance and valuation enhancement were evidently abandoned.

## **The Mining Claimants' Impetus for Property Acquisition.**

After a few years of the court injunction, Kantishna miners worried about their prospects. Complaints to Alaska's congressional delegation occurred regularly. In August 1988, Senator Ted Stevens arranged for congressional committee staff to visit Kantishna and assess the situation. Kantishna miners attended meetings at the North Face Lodge and Kantishna Roadhouse. Senator Stevens proposed funding for property acquisition if mining operations were not going to be approved. Sam Koppenberg proudly wore a polyester jacket to the meetings. On the back of his jacket, Koppenberg had silkscreened in large Gothic script "Thou Shalt Not Steal" followed with "The National Park Service Does Not Like Competition" in plain text. Koppenberg's jacket aptly expressed the frustration of Kantishna miners at the time.

Congress declined to approve Senator Stevens' funding request for Kantishna claims acquisition. Instead, the Interior appropriations bill for FY 1989 authorized another study on acquisition costs even though the 1984 DOWL Report had already done this pursuant to ANILCA. According to the legislation, NPS was to prepare a "Resource Management Plan" regarding acquisition costs and priorities for the Kantishna mining claims. Included in the legislation was guidance that "Resource protection by frustration is not an acceptable strategy. For example, if mining is clearly not permissible in certain areas or circumstances, then a speedy rejection is preferable to a pro-

tracted maze of administrative hurdles whose successful completion holds no likely benefit to the applicant." The Park Service's regulatory actions over the next several years ignored this congressional command.

The NPS completed its Kantishna Resource Management Plan (RMP) in July of 1990. Contemporaneous with RMP completion, NPS issued its FEIS in August 1990. In both documents NPS expressed an official policy that acquisition of all valid mining claims was the preferred management alternative. NPS also stated that "approvable plans of operation" would be permitted pending acquisition. The RMP estimated the total cost for acquisition of 244 mining claims to be \$17,240,000. The EIS separately contained a "gross cost estimate" that valued all Kantishna claims at 16 to 21 million dollars (Nov. 1, 1988 valuation). In the Interior appropriations bill for FY 1991, Senator Stevens obtained a \$6,000,000 appropriation for Kantishna mining claims acquisition.

## **The Failure of NPS' Mining Claim Acquisition Program.**

The Mining in the Parks Act of 1976, as with other public lands legislation of that era, authorized property acquisition. ANILCA further authorized "hardship acquisition" of inholdings within conservation system units. But Congress never appropriated any funds. With the support of Alaska's congressional delegation, NPS received approximately \$12,000,000 in appropriations for acquisition of Kantishna mining claims. The appropriations occurred in fiscal years 1991 through 1993. Despite this



support, NPS' acquisition program became a failure for several reasons:

First, acquisition of mining claims required a validity determination and an approved Mineral Report. When NPS embarked on its acquisition program in the summer of 1990, almost all Kantishna unpatented mining claims had yet to undergo validity examinations. The only claims to undergo validity examinations were those under patent application. It took the Park Service years to do mineral examinations on unpatented claim groups and finally arrive at validity determinations. Mineral examinations on upper Caribou Creek claims started as early as 1987 and were not completed until ten years later.

Second, the Park Service had no experience in mineral property valuation. In 1989, the chief of NPS lands acquisition in Anchorage wrote to one Kantishna mining claimant stating the NPS lacked experience in appraisal of mining claims and "the exact procedures and mechanisms for the purchases remains to be established." In response to a FOIA inquiry circa 1993, the NPS could not establish a single instance of voluntary acquisition of an unpatented mining claim even though the Mining in the Parks Act was enacted seventeen years earlier.

Third, the Park Service has a notorious history during at least half of the twentieth century for "low ball" property valuation. More than one report of the General Accounting Office or DOI office of Inspector General has criticized the NPS for its real property acquisition and valuation practices. In a reported court decision involving the

Voyageurs National Park in Minnesota, a NPS lands acquisition officer is quoted as saying "my job is to acquire this land for the National Park Service. I hope to acquire it for about 30 cents on the dollar." Curiously, this NPS employee failed to appear at trial and testify on behalf of the United States.

Fourth, the NPS refused to apply the income approach to valuation of Kantishna mining claims. Its first contract appraiser for valuation of Kantishna mining claims was Luther Clemmer. He was an experienced appraiser of mineral property for the federal government. Clemmer drafted appraisals on the KLK and Gold King claims. Clemmer went through four draft appraisals on the Gold King claims with his initial opinion of value at 2.4 million dollars and his last draft at approximately \$737,000. NPS would only consider income valuation of the owner's royalty interest although the Gold King claims were not leased on the date of valuation. Clemmer insisted the entire mineral estate should be appraised according to the income approach, and this is the preferred approach to valuation of mineral property. According to NPS, Clemmer's drafts did not comply with the government's Uniform Appraisal Standards for Federal Land Acquisitions. NPS never approved Clemmer's appraisals.

Fifth, NPS' approved appraisals for Kantishna unpatented claims are so ridiculously low that none of miners (with one exception) has accepted its valuations. After Clemmer's work became unacceptable to the Park Service, it hired a second contract appraiser, Onstream Resource Managers, Inc. (ORM). ORM has consistently applied

the comparable sales approach to several Kantishna claim groups from 1993 to present. Its valuations started out at approximately \$1,000 an acre for the KLK and Gold King claims, and have gone down ever since.

At trial on just compensation for Kantishna Mining Company's claims (upper Caribou Creek), ORM valued 540 acres of association placer claims at approximately \$100,000 (\$185/acre). By comparison, the DOWL Report valued the same claims at over \$18,000,000. ORM separately valued 11 placer claims held by Mick Martinek for \$91,000. In 1984, Martinek recovered a 90 troy ounce nugget from his Glacier Creek claims that was appraised in 1987 for \$150,000—more than ORM's valuation of 190 acres of placer ground.

The only mining claimant who voluntarily sold to the NPS is Louise Gallop. Gallop is a widow who owned the Discovery Claim on Friday Creek. Gallop accepted a valuation of \$22,000 for her single placer claim, which included \$12,000 for a cabin constructed on the claim. In 1981, Leonard Kragness and John Hayhurst mined 2,700 ounces of gold from Gallop's claim. Kragness believed significant placer deposits remained after the 1981 mining season, but Gallop didn't want her remaining ground disturbed. She had constructed a "nature walk" on her ground which John Hayhurst had offered \$30,000 to mine. She declined his offer and preferred to sell her "nature walk" mining claim to the Park Service for \$22,000.

By the summer of 1994, NPS had only been able to spend about 3 million of the 12 million dollars appropri-

ated for Kantishna claims acquisition. All of NPS' purchases went to patented claims, notably the Kantishna Mines, Ltd. group of claims on Quigley Ridge and vicinity. Even with those claims, NPS' appraisals valued the surface only and disregarded the mineral interest. The best that a willing seller of patented mining claims could realize for mineral value was a tax deduction under Section 170(h) of the Internal Revenue Code. In one case, the IRS proved to be an additional adversary by contesting the deductible value of mining claims donated in the Wrangell-St. Elias National Park.

NPS' inability to negotiate acquisition of unpatented Kantishna claims resulted in rescission of over \$6,000,000 in appropriated funds in August of 1994. During that fall, the Alaska Miners Association convened a working group to draft legislation for Kantishna. In the November 1994 election, the Republicans regained a majority in Congress and Senator Frank Murkowski became Chairman of the Senate Energy & Natural Resources Committee. Senator Murkowski introduced a comprehensive bill for remedying acquisition procedures and NPS valuation practices on Kantishna mining claims. Sensing trouble, NPS responded with an internal working group detailed to its Alaska Regional Office.

NPS' internal review resulted in the "Denali-Kantishna Task Group Report." Issued in May of 1995, the report acknowledged difficulties in NPS' acquisition program. Among the difficulties acknowledged were differences in opinion between NPS appraisers and



the mining claimants on valuation methodologies. The report recommended existing acquisition procedures be retained and discouraged legislative reform. Viewed critically, the Task Group Report was whitewash that didn't solve NPS' acquisition problems. By comparison, a report draft was more candid: "After ten years in limbo, the National Park Service should issue a clear policy position concerning whether mining will be allowed in Kantishna. . . . If the answer is that mining will not be allowed, then immediate acquisition should be initiated." A more cynical assessment is that NPS' "Kantishna Task Group" functioned to scuttle Senator Murkowski's proposed legislation. The Task Group achieved its objective.

### **1997 Legislation Authorizing Just Compensation — the Shift to the Courthouse.**

By 1997, a stalemate had been reached between NPS and Kantishna mining claimants on voluntary acquisitions. Individual claimants were evaluating litigation options for achieving just compensation.

One approach is a declaration of taking (DT). When a condemnation action is accompanied by a DT, title is divested immediately to the United States. In exchange for immediate acquisition of title, the United States is required to deposit into court its estimate of just compensation. The advantage of this approach is that the property owner may withdraw the government's estimate of just compensation and use this for discretionary purposes, e.g. litigation expense.

During the summer of 1997, Kantishna counsel worked with Senator Stevens' office in drafting special legislation that would incorporate the declaration of taking procedure. The outcome was Section 120 of Pub. Law. No. 105-83, the Interior Appropriations Bill for FY 1998. This legislation allowed Kantishna mining claimants to consent to a taking within ninety days of enactment (November 12, 1997). If the claimant expressed his consent, then title to his claims vested in the United States ninety days after enactment (February 12, 1998). Thereafter, either party had the right to bring an action sounding in just compensation. Provisions of the Declaration of Taking Act were incorporated by reference into the Section 120 legislation. If a Kantishna miner opted not to participate under the Section 120 legislation, his existing rights were preserved.

Almost all of the Kantishna mining claimants, both patented and unpatented claimants, elected to participate in the Section 120 legislation. At last count, five Section 120 actions have been filed in the U.S. District Court for the District of Alaska. A sixth mining claimant, Milan Martinek, arranged for a condemnation under the Declaration of Taking Act due to prior litigation filed in the Court of Federal Claims. Approximately 50 mining claims are involved in the six actions. In 1995, Sam Koppenberg settled an inverse condemnation lawsuit filed in 1992 after his plan of operation was denied. Koppenberg received \$662,5000 in settlement of his takings claim.



A survey of the pending litigation is beyond the scope of this article. Suffice it to say that Kantishna miners' just compensation claims will be resolved in a court of law rather than with the National Park Service. The lead case is *Kantishna Mining Co. v. Babbitt*, No. F98-0006 CV (JKS) (D-Alaska) (KMC). A stipulated date of taking of January 2, 1991, was established in that case prior to trial on taking issues. On that date, the 1985 court injunction was lifted. Trial on just compensation concluded on June 17, 2000, and the parties await a decision from Chief Judge James K. Singleton, Jr.

*KMC* concerns 14 1/2 upper Caribou Creek claims held by John Hayhurst and Leonard Kragness. The miners offered proof at trial that their claims were worth \$5,990,000 in mineral value, and \$2,000,000 in surface value due to the prospective patenting. The United States offered proof that the claims were worth approximately \$100,000 in mineral value and zero in surface value. Any damage award for property taking refers to the fair market value on the date of taking. In addition, *KMC* will be entitled to accrued interest on the damage award from January 2, 1991 to the date of judgment. With compounding of accrued interest on a principal sum, the ultimate damage award could be two to three times greater than the value of the property taken.

Many of the issues presented in *KMC* will be revisited in subsequent condemnation litigation. Both counsel and the judge in *KMC* appreciate the importance of that case, and that it will be precedent to the subsequent cases. The

trial went on for seventeen days. Between the parties, there were ten lawyers assigned to the case. John Hayhurst and Leonard Kragness, along with their counsel, Patton Boggs LLP, should be commended for their tremendous effort in advancing the cause of just compensation due Kantishna mining claimants.

## CONCLUSION

In retrospect, ANILCA authorized condemnation of the Kantishna Mining District. Although Congress did not have this specific objective, the outcome became inevitable. Commercial mining is an anathema to the National Park Service and its mission function. Once the Kantishna Hills were incorporated within a national park, rigorous application of the Mining in the Parks Act precluded any profitable operations with mechanized equipment. Though the scientific basis of NPS' cumulative effects assessment can be criticized, the national environmental community would never tolerate mining within an Alaska National Park.

After the injunction was lifted in 1991, NPS' decisional standard in review of Kantishna mining plans turned on surface disturbance: If operations generated more than an acre of surface disturbance, then habitat protection goals would be violated, and mining must be disallowed. Ten years after the court injunction, NPS promulgated a policy statement indicating that only "minimal mining activity" would be allowed in Denali Park. In NPS' lexicon, "minimal mining activity" is a euphemism for no commercial mining. ANILCA's promise to protect the "valid existing rights" of Kantishna mining



claimants has been broken and plainly repudiated by the National Park Service.

As surface lands manager, NPS cannot be faulted for regulating mining activity pursuant to its statutory obligations. However, NPS should be castigated for refusing to timely adjudicate the rights of Kantishna mining claimants and proceed with just compensation. Though the agency was motivated to avoid takings, the public interest is not served by prolonged regulation that costs the taxpayers several millions of dollars before a dime in compensation is rendered.

The 1984 DOWL Report estimated the costs of mineral valuation of Kantishna claims at 16 to 20 million dollars. The consultants believed such expenditure was not warranted because the public interest is better served by allowing continued mining operations under special regulations. Whatever the

wisdom of this policy recommendation, the Park Service probably spent 16 to 20 million dollars since the 1985 court injunction administering the demise of the Kantishna Mining District. To date, the only just compensation paid for Kantishna minerals is approximately \$10,000 in acquisition of Louise Gallop's Discovery Claim, and \$662,500 in settlement of Sam Koppenberg's taking case.

Whether total compensation paid for Kantishna minerals will match the public sector "transaction costs" remains to be seen. One would hope so. In this regard, taxpayers and property owners alike should be vigilant of conservation legislation authorizing billions of dollars for more land acquisition: Are the acquisitions in the public interest? If so, what is the most efficient means for conferring just compensation?