

ALASKA NATIVE VILLAGE CORPORATION ASSOCIATION



OBJECTIVES

Support legislation that will:

- **Swap undesirable ANCSA lands with unencumbered Federal property**

BACKGROUND

Through the Alaska Native Claims Settlement Act (ANCSA), the Federal government conveyed to Alaska Native Corporations 44 million acres of land and approximately \$962 million in direct payments and mineral royalties to settle the aboriginal land claims of Alaska Native people. Congress directed the Department of the Interior (DOI) to oversee the transfer of Federal lands to Alaska Native Corporations.

The Alaska Native community raised concerns in the 1990s that DOI was conveying contaminated land to Alaska Native Corporations. In 1995, Congress directed the Secretary of the Interior to prepare a report on the extent of contamination on lands conveyed pursuant to ANCSA. In December of 1998, the DOI-Bureau of Land Management (BLM) submitted a report to Congress entitled *Hazardous Substance Contamination of Alaska Native Claims Settlement Act Lands in Alaska*.

DOI acknowledged conveying approximately 650 contaminated sites to ANCs. Recognizing the unjustness of conveying contaminated lands to ANCs in settlement of aboriginal rights to land, the DOI “recommended an approach to fully identify contaminated sites and cleanup needs on ANCSA lands,” with six specific recommendations:

- (1) Establish a forum of ANCSA land owners and Federal, state, local, and Tribal agencies for exchanging information, discussing issues, and setting priorities.
- (2) Compile a coordinated, comprehensive inventory of contaminated sites with input from all parties.
- (3) Apply Environmental Protection Agency (EPA) policies to ANCSA landowners, not to impose landowner liability to Federal transferees for contamination existing at the time of conveyance, where the landowner has not contributed to contamination. (done) Section 107 of CERCLA, 42 U.S.C. 9607.
- (4) Analyze the data collected and report to Congress on sites not covered in existing programs and recommend whether further Federal programs or actions are needed.
- (5) Modify policies to address contaminants and structures that may affect public health and safety on ANCSA lands.

ALASKA NATIVE VILLAGE CORPORATION ASSOCIATION (ANVCA)

Representing the nearly 200 Alaska Native Village Corporations established under the Alaska Native Claims Settlement Act of 1971 (ANCSA), ANVCA is a member based nonprofit organization.

Mission

ANVCA promotes the success of our Village Corporations and protection of our Native lands.

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(6) Continue to develop, under the leadership of EPA and any other relevant agencies, a process to train and enable local residents to better participate in clean-up efforts.

According to the 2016 Update to the original 1998 DOI-BLM Report on Contaminated Lands, of the 920 known sites, 328 have been cleaned up, 338 require more clean up, 242 have (arguably) sufficient land use controls to prevent human exposure, and 12 sites have no confirmed release of contaminants. The report also highlighted the fact that none of the original 6 recommendations provided in the 1998 report were implemented .

WHY IS THIS IMPORTANT?

It was never the intent of Congress to settle aboriginal land claims with contaminated lands that resulted in millions of dollars in liability. Alaska Natives were to receive economically viable lands so that they could provide for their own people through shareholder dividends, scholarships, and job opportunities in perpetuity. Some of these sites have been in clean-up programs for several decades, severely limiting development opportunities, revenues, and profits otherwise possible on their lands.

PROPOSED SOLUTIONS

Introduce legislation that will allow the “swap” of any undesirable lands that were transferred as part of the Alaska Native Claims Settlement Act for unencumbered Federal Property. Legislative language has been developed to start the conversation (attached)

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ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA)

Authorization for Federal Lands Swap of ANCSA-Conveyed Lands

Findings and Purpose – FOR DISCUSSION ONLY

(a) Title 43, United States Code, is amended to insert section 1601(a), as follows:

“§ 1601(a) Further Congressional findings and purpose

“(a) FINDINGS. —The Congress finds that—

“(1) Access to a healthy environment free from contaminants is critical for the economic, social, and cultural self-determination of Alaska Native communities.

“(2) Alaska Natives face continued obstacles in their access to healthy environments, resulting in ongoing economic, social, and cultural instability.

“(3) In 1998, the U.S. Department of the Interior reported to Congress that the United States conveyed numerous contaminated lands to Alaska Native Corporations pursuant to the Alaska Native Claims Settlement Act for the settlement of aboriginal land claims. The findings of the Department of the Interior’s 1998 Report to Congress: Hazardous Substance Contamination of Alaska Native Claims Settlement Act Lands in Alaska are hereby recognized.

“(4) In 2016, the U.S. Department of the Interior reported to Congress that 920 contaminated land sites were conveyed to Alaska Native Corporations under the Alaska Native Claims Settlement Act. At least 338 of those land sites required additional cleanup. The full number of currently contaminated lands conveyed pursuant to Alaska Native Claims Settlement Act is unknown. The findings of the Department of the Interior’s 2016 Updated Report to Congress: Hazardous Substance Contamination of Alaska Native Claims Settlement Act Lands in Alaska are hereby recognized.

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“(5) It is not, and was never, the intent of Congress to convey contaminated lands, or lands with the risk of contamination, to Alaska Native Corporations for the settlement of aboriginal land claims.

“(6) There is an immediate need to address the environmental and health risks to Alaska Natives presented by the United States’ conveyance of contaminated lands, and lands at risk for contamination, to Alaska Native Corporations. This should be done rapidly, with certainty, without litigation, and in conformity with the real economic, social, and cultural needs of Alaska Natives.

“(7) Permitting Alaska Native Corporations to exchange lands conveyed pursuant to the Alaska Native Claims Settlement Act, regardless of existing proof of contamination, for other, non-contaminated federal lands for lands will promote the welfare Alaska Natives and their communities.

“(8) Alaskan Native Corporations have successfully assisted Alaska Natives by supporting the preservation of traditional Alaskan Native lifestyles, while providing for the economic needs of Alaskan Natives. In support of Alaska Native self-determination, Alaska Native Corporations must be full partners in the implementation of this Chapter and in the exchange of lands conveyed pursuant to the Alaska Native Claims Settlement Act.”

Report and Recommendations for Identification of Land Swaps

(a) Title 43, United States Code, is amended to insert section 1629(i), as follows:

“§ 1629(i) **Federal Land Swap Reports and Recommendations**

“(a) As used in this section the term “contaminant” means a hazardous substance harmful to public health or the environment, including friable asbestos.

“(b) Within 6 months of January 1, 2019, and after consultation with the Secretary of Agriculture, State of Alaska, and appropriate Alaska Native Corporations and organizations, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report addressing issues presented by the presence of contaminants on lands conveyed or prioritized for conveyance to such corporations pursuant to this chapter. Such report shall consist of—

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“(1) existing information concerning the nature and types of contaminants present on such lands prior to conveyance to Alaska Native Corporations;

“(2) existing information identifying to the extent practicable the existence and availability of potentially responsible parties for the removal or remediation of the effects of such contaminants;

“(3) identification of existing remedies;

“(4) recommendations for any additional legislation that the Secretary concludes is necessary to remedy the problem of contaminants on the lands; and

“(5) in addition to the identification of contaminants, identification of structures known to have asbestos present and recommendations to inform Native landowners on the containment of asbestos.

“(b) Within 6 months of January 1, 2019, and after consultation with the Secretary of Agriculture, State of Alaska, and appropriate Alaska Native Corporations and organizations, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report recommending options for implementing an exchange of lands conveyed to Alaska Native Corporations pursuant to the Alaska Native Claims Settlement Act, for available federal lands of equivalent fair market value. Such report shall consist of—

“(1) identification of existing non-contaminated federal lands available for conveyance to Alaska Native Corporations;

“(2) identification of lands conveyed to Alaska Native Corporations pursuant to the Alaska Native Claims Settlement Act, and that the Alaska Native Corporation desires to exchange for available federal lands of equivalent fair market value;

“(3) recommendations for legislation that the Secretary concludes will facilitate the exchange of lands conveyed pursuant to the Alaska Native Claims Settlement Act for available, non-contaminated federal lands.”