**Senate Bill 202 becomes Alaska state law**

**By ANVCA Staff**

ANVCA has been pushing for legislative solutions to the issue of ANCSA contaminated lands since 2012. After around eight months of advocacy work from ANVCA Staff and our Members and Partners, from the time of our Juneau Fly-In in February to the 2018 AFN Convention, Senate Bill 202 (SB202) is now Alaska state law, marking 2018 as a productive year for ANVCA’s efforts on this issue.

Signed by former Governor Bill Walker on October 17, 2018, SB202 modified Alaska Statute Title 46 Chapter 3 Section 822 to lift legal liability for contamination that is present on lands currently owned by ANCs. Specifically, ANCs who did not cause or contribute to the release or threatened release of hazardous substances, by act or omission, are no longer found liable if that can be proven.

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 Alaska Native Corporations. Recognizing the unjustness of conveying contaminated lands to Alaska Native Corporations 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.

(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 total known sites, 328 have been cleaned up, 338 require more clean up, 242 have sufficient land use controls to prevent human exposure, and 12 sites have no confirmed release of contaminants. Forty-one sites were conveyed to ANCSA Corporations, 8 more are under a Native Entity, there are 19 unknowns, and 11 located on Municipality, School, and/or Borough lands.

Though it was found that the majority of these sites were the result of Federal land conveyances, ANCs were still considered “potentially responsible parties” (PRPs) under Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Being a PRP prohibits an entity from accessing Federal Brownfields mitigation grants, and other sources of cleanup funds.

With the help of our Partner, Waste Management, similar contaminated lands language was inserted into H.R. 1625, the 2018 Consolidated Appropriations Act, lifting liability at the Federal level from ANCs for contaminated lands that were present at the time of conveyances. SB202’s passage further qualifies ANCs for this much-needed Federal grant funding by further eliminating liability at the State level.

Without access to these grant funds, ANCs were without the necessary resources to take control of clean-up efforts. Now that legal liability is lifted, ANCs will soon be able to access these grant funding opportunities and get to work mitigating lands that often pose direct public health risks.

SB202 officially takes effect on January 15, 2019.