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NORTH AMERICA SERIES

August 1998

Indigenous Land Tenure and  
Land Use in Alaska:  
Community Impacts of the  
Alaska Native Claims  
Settlement Act

Harvey M. Jacobs and Brian H. Hirsch



Land Tenure Center

AN INSTITUTE FOR  
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RURAL INSTITUTIONS,  
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# **INDIGENOUS LAND TENURE AND LAND USE IN ALASKA: COMMUNITY IMPACTS OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT**

by

**Harvey M. Jacobs and Brian H. Hirsch**

**WORKING PAPER, NO. 16**

**NORTH AMERICA SERIES**

**Land Tenure Center  
University of Wisconsin–Madison**

**August 1998**

Prepared for the North American Program of the Land Tenure Center of the University of Wisconsin–Madison, as part of the project “Indigenous Land Tenure and Community Structure in Alaska: A Two Community Comparison.”

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## ACRONYM GLOSSARY

ADEC	Alaska Department of Environmental Conservation
AFN	Alaska Federation of Natives
ANCSA	Alaska Native Claims Settlement Act of 1971
ANILCA	Alaska National Interest Lands Conservation Act of 1980
ANS	Arctic North Slope
ARCO	Atlantic Richfield Company
BIA	Bureau of Indian Affairs
BP	British Petroleum
CIRI	Cook Inlet Region, Inc.
CMCNA	Chickaloon-Moose Creek Native Association
CRNA	Copper River Native Association
CVTC	Chickaloon Village Traditional Council
IHS	Indian Health Service
IRA	Indian Reorganization Act
KKI	Kluti Kaah, Inc.
KKTC	Kluti Kaah Tribal Council
MSB	Matanuska-Susitna Borough
NEPA	National Environmental Policy Act
NPR-A	Naval Petroleum Reserve - Alaska
NRDC	Natural Resources Defense Council
PL	Public Law
SCF	South-Central Foundation
TAPS	Trans-Alaska Pipeline System
USBIA	United States Bureau of Indian Affairs (same as BIA)
USDOI	United States Department of Interior
WDNR	Wisconsin Department of Natural Resources

# INDIGENOUS LAND TENURE AND LAND USE IN ALASKA: COMMUNITY IMPACTS OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT<sup>1</sup>

by

Harvey M. Jacobs and Brian H. Hirsch<sup>2</sup>

## 1. INTRODUCTION

*“Next to shooting Indigenous Peoples, the surest way to kill  
us is to separate us from our part of the Earth.”*

Vice President, World Council of Indigenous Peoples  
(In Wilmer 1993)

The primary distinction between indigenous peoples and all other social and cultural groups is the continued connection that indigenous peoples maintain with a specific place of origin (Perry 1996; Indigenous Women’s Network 1992). Though often marginalized and generally dismissed as atavistic cultural remnants of previous eras, there are currently some 300 million indigenous people globally—a population larger than the United States—with recognized and/or officially filed claim to billions of acres of land (Assies 1994, p. 34; Burger 1990). As modern and post-modern societies continue to expand their reach across the planet, there is increasing recognition of the peoples, places, lifestyles, and resource management skills that are lost in this globalization of markets, corporate power, and urban cultural dominance (Mander and Goldsmith 1996; Weaver 1996).

Such increased recognition is primarily the result of indigenous peoples becoming more outspoken and assertive in defending their resources and traditional cultures (Hirsch 1996; Stavenhagen 1994; Gedicks 1993). Many observers have noted the historical trend, accelerating even today, in which geographically and politically isolated tribal groups from around the world have collectively “redefined themselves as ‘indigenous peoples’” (Bodley 1990, p. 2). These

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<sup>1</sup> Prepared for the North American Program of the Land Tenure Center of the University of Wisconsin–Madison, as part of the project, “Indigenous Land Tenure and Community Structure in Alaska: A Two Community Comparison.”

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people have come together as a global political force with strategic initiatives at the United Nations and other prominent venues aimed at preserving cultural and territorial integrity (Wilmer 1993; Fleras and Elliott 1992; Burger 1990, 1987).

Bodley (1990, p. 3) defines “tribes” as “small-scale sovereign nations that tend to manage local ecosystems for long-term sustained use.”<sup>1</sup> In assessing ongoing conflicts between tribal peoples and modern industrial states, Bodley (1990) concludes that the two systems are essentially at odds and incompatible. Modern states are inherently expansionist, consumerist, and unstable (Goldsmith 1996). Alternatively, simply by virtue of their continued existence over thousands of generations, indigenous peoples have demonstrated their skill and ability to sustainably manage themselves and the lands and waters that have provided for them since “time immemorial” (Perry 1996, p. 8).<sup>2</sup>

Connection to a place of origin manifests itself through unique, and often complicated, forms of land tenure that embody indigenous groups’ material needs, land use patterns, belief systems, and governing structures—in short, a culture (DePalma 1998; Glavin 1990; Cronon 1983; Sutton 1975). Though dated, Sutton (*ibid.*, p. 2) states, “[s]o much pivots around the land as a locus of tribalism that in many ways land tenure constitutes *the* fundamental access, the one through which, as if it were a window, observers must look in order to discover the Indian” (emphasis in original). Reaching back even further, Sutton (*ibid.*, p. 5) quotes Fried (1952, p. 392) to explain that “[w]hen two quite different cultures interact...‘it is in the struggle over systems of tenure or ownership that the contest between social systems for the control of an area is to be understood.’”

Though all situations differ in their specifics, typically indigenous groups practice some form of *collective* tenure that distributes use, or usufructuary rights, to members of the group. These rights are often handed down along familial or broader tribal lineages (Parker 1989; Brody 1987, 1981; Ortiz 1980). In a historical and comparative study of American Indian and Native Hawaiian struggles for their land and sovereignty vis-à-vis the United States, Parker (*ibid.*, p. 10) writes:

Concepts of private or absolute ownership of land did not exist among either Indians or Hawaiians. Ownership in fee simple that prevailed in Western societies entailed the privilege of use and the right of alienation. The former prevailed among Indians and Hawaiians, but the right of alienation existed only in a few instances and even then was highly restricted.... Among

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<sup>1</sup> Throughout this paper, “tribe,” “nation,” and “peoples” will be used interchangeably when referring to a cohesive indigenous group. For a detailed discussion of such terminology, see Perry (1996, pp. 4–13), Stavenhagen (1994), and Assies (1994). The most common definition of “indigenous” within this literature is that offered by Jose R. Martinez Cobo (1987, p. 29), United Nations Special Rapporteur for the Commission on Human Rights:

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples in accordance with their own cultural patterns, social institutions and legal systems.

<sup>2</sup> The phrase “from time immemorial” is common language found in numerous early treaties signed by indigenous nations and colonizing powers across the Americas. This phrase implicitly acknowledges tribes’ claims that they have been “here,” wherever “here” is, since the beginning of time, and an ongoing obligation to abide by the Treaties (Perry 1996). *From Time Immemorial* is also the name of Perry’s (1996) book on this subject.



the few Indian landholding groups that permitted alienation, this privilege only allowed for the transfer of land or its resources to members of the local group occupying the land....

Land tenure, like other social and cultural institutions, is not static, but rather changes over time in response to surrounding circumstances. Over the past 500 years, clearly the most extreme impacts to traditional indigenous land tenure systems in the Americas have arisen as a result of contact with European societies. Perhaps the most common dynamic in these land tenure clashes has been Europeans' attempts to supplant collective or communal tenure with individual, freehold title.

Initially premised on the "Doctrine of Discovery," European colonization of North America, and the subsequent U.S. and Canadian consolidation, incorporation, and administration of indigenous peoples and lands can be viewed as one prolonged attempt to convert indigenous land tenure systems into the European private property model.<sup>3</sup> Westerners continue to justify such efforts with a variety of economic, sociological, political, legal, religious, and other paradigms. For example, North and Thomas (1977, p. 241) state:

When common property rights over resources exist, there is little incentive for the acquisition of superior technology and learning. In contrast, exclusive property rights which reward the owners provide a direct incentive to improve efficiency and productivity, or, in more fundamental terms, to acquire more knowledge and new techniques. It is this change in incentive that explains the rapid progress made by mankind in the last 10,000 years in contrast to his slow development during the era as a primitive hunter/gatherer.<sup>4</sup>

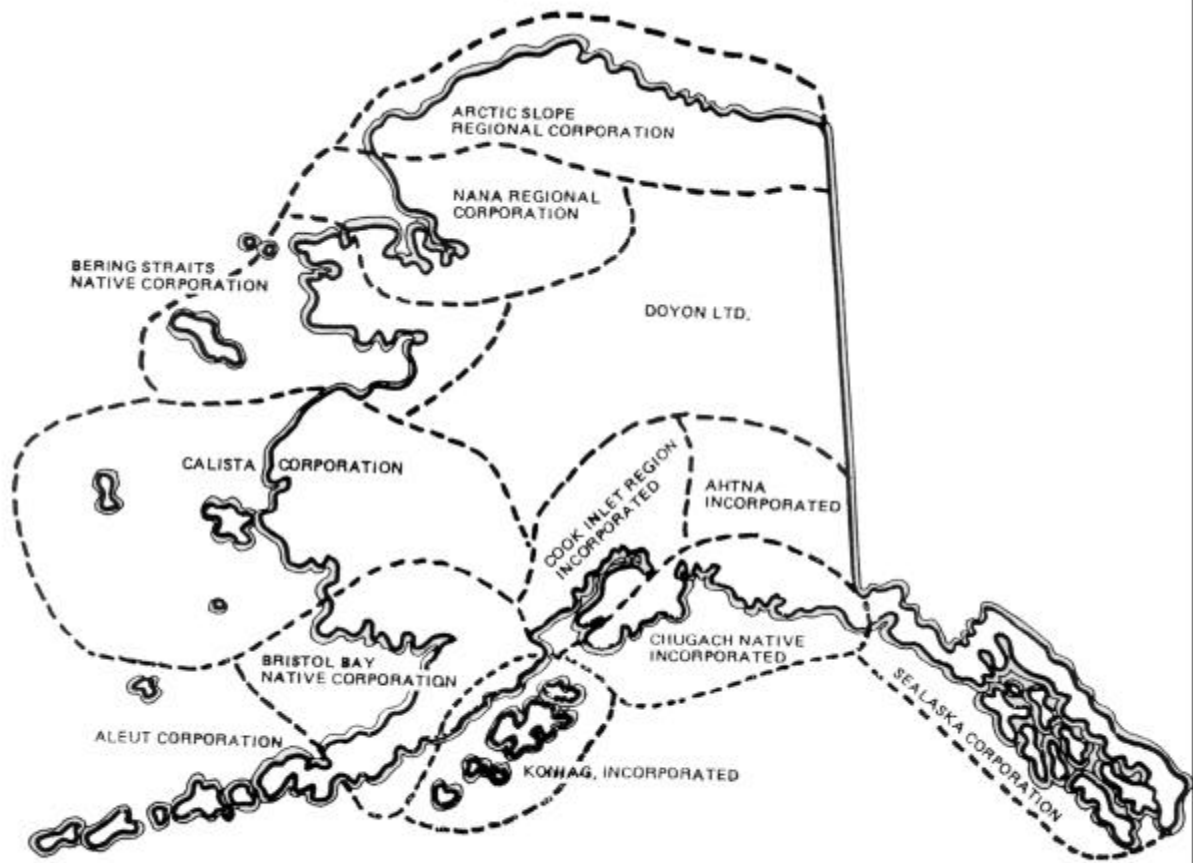
One fairly recent legislative application of this logic in the United States is the Alaska Native Claims Settlement Act of 1971 (ANCSA, P.L. 92-203). Guided by the perceived shortcomings of earlier federal-Indian policies in the contiguous 48 states of the United States, at the time of its enactment ANCSA was widely regarded as the most generous and enlightened land claims settlement between a modern state and indigenous peoples in history (McNickle 1973). The terms of the Settlement Act were unprecedented: nearly \$1 billion and 44 million acres of land, almost 11 percent of Alaska, were to be conveyed to newly chartered corporations created under the laws of the state of Alaska. All of the approximately 225 native villages and 12 regions that covered the entire state were each "given" an ANCSA corporation to manage this land and money (see Figure 1). These new corporations would be comprised exclusively of shareholders who were Alaska Natives born on or before 18 December 1971.<sup>5</sup> Pre-existing tribal governments and any other forms of collective organization among Alaska Natives were summarily ignored in the legislation.

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<sup>3</sup> This controversial doctrine is the foundation of European justification for appropriating indigenous lands and resources. The logic, and the flaws, of the Doctrine of Discovery are outside the scope of this paper, but have been thoroughly examined elsewhere (Berger 1991; Williams 1990; Kickingbird and Ducheneaux 1973). For a discussion on the Doctrine's application to Alaska, see Case (1984, p. 64).

<sup>4</sup> Though to some this quote may seem absurd and extreme, it should be noted that the lead author, Douglass C. North, is a Nobel Prize winning economist.

<sup>5</sup> The term "Alaska Native" is a *legal* definition that is intended to include all indigenous peoples from Alaska.



**Figure 1**  
**Geographic Boundaries of Alaska Native Regional Corporations under ANCSA**  
From author's private collection; source unknown

ANCSA has become a much studied topic and subject of debate since its passage in 1971, but to date there has never been an explicit analysis of ANCSA that examines how shifting land tenure has affected land use and management as well as community structure. Though the literature and relationships between land tenure and land use are fairly well developed in Third World agrarian structures (e.g., Chambers et al. 1989; Alvarado 1987) and the self-interested “rational actor” model of capitalist economies (e.g., North and Thomas 1977; Rostow 1960), this dynamic is relatively unexplored in the contemporary North American indigenous context, especially in the northern reaches of the continent. While it is conventional wisdom that private land ownership within a market economy facilitates efficient management and use, thus avoiding the “tragedy of the commons” (Hardin 1968), recent research from Africa (Archer 1995; Atwood 1990) to Latin America (Thiesenhusen 1995; Rounds 1987) has begun to challenge this assumption with regard to communal land tenure and more traditional and culturally based governing structures. This project extends such analysis to North America with populations that historically held and managed land collectively and now experience varying tenure arrangements under ANCSA.

This research draws from and builds upon earlier efforts of both authors. Jacobs has authored numerous texts on property rights and land tenure across North America and elsewhere (Jacobs 1998a, 1998b, 1996; Bassett and Jacobs 1997). Hirsch has conducted investigations on indigenous land tenure and land use in northern Athabaskan communities in Canada and Alaska (Beckley and Hirsch 1997; Hirsch 1996). This current effort is part of a broader project to document Alaska Natives’ adaptations in the face of shifting land tenure institutions and will be a major component of Hirsch’s doctoral dissertation.

Through the utilization of qualitative methods such as archival analysis, semi-structured interviewing, comparative and extended case studies, and observation, this paper closely examines two related Alaska Native communities (Johnson 1990; Spradley 1979; Yin 1994; Burawoy 1992). Our purpose is to document ANCSA’s impacts on land tenure, land use, and community structure. With support from the North American Program of the Land Tenure Center of the University of Wisconsin–Madison, interviews and archival analysis were performed primarily over the summer of 1997, with some additional interviews conducted through the fall of 1997 and spring of 1998. In all, 41 interviews were conducted, though several individuals were interviewed more than once. The list of interviewees is included as the appendix. The interviews were semi-structured, with a focus on three issues: (1) the role of the tribal government in relation to the regional and village corporate structure; (2) the recent changes in traditional land uses; and (3) how group decisions are made regarding land management and distribution of resources.

We believe that this research is a significant contribution to the North American literature on indigenous land tenure. By locating ANCSA within a broader context of economic, political, and cultural globalization that seeks to substitute traditional collective rights in land with individual tenure in a “free market” economy, the findings of this research may carefully and cautiously be applied beyond North America to other indigenous-state struggles regarding control of land and resources.

## 2. THE ALASKAN CONTEXT

“Alaska” means “Great Land” in Aleut, one of many languages native to what is the 49th state of the United States (Lemonick 1989; Woerner 1986). As the travel brochures advertise, Alaska is a land of extremes. If it were superimposed on the lower 48 contiguous United States, Alaska would extend from Florida to California and from Minnesota to Texas. Alaska is one-fifth as large as the rest of the United States. It has the tallest mountain in North America—Denali, or the “Great One” in a native Athabascan tongue—with the largest change in elevation on the globe. Its salmon fisheries are the most productive on the planet, feeding, among others, the largest grizzly bears in the world. Over 70 percent of all federal lands are located in Alaska, with some of the largest intact and undisturbed ecosystems on earth. From bald eagles to beluga whales, from coastal rainforests to mile-high glaciers, Alaska exudes fecundity and fragility, while serving as a benchmark for assessing how far industrialized society has removed itself from the natural world.

Regardless of their origins, native peoples have been living in Alaska for thousands of years, hunting, fishing, boating, whaling, land traveling, and keeping themselves warm in a variety of ways.<sup>1</sup> Staying warm spurred great ingenuity, and required notable help from the natural world, such as animal skins and furs, seal oil and whale blubber, wood, moss and hide dwellings, and a steady fire when fuel was available.

The land and climate are quite diverse across the 378 million acres, yet are almost uniformly unsuitable for large-scale farming. Whale and seal hunting were the central economic and cultural activities for most coastal villages, supplemented to varying degrees by walrus, numerous species of fish, especially salmon, birds and birds’ eggs, berries and other naturally occurring vegetation. Land-based animals, such as caribou and moose but also sheep, bear, snowshoe hare, beaver, and other species, served the same role for the interior Athabascan Tribes, with freshwater fish and various birds supplementing the subsistence base. Essentially self-sufficient, these indigenous peoples also developed a complex trade network for certain luxury and distant items, such as tools and flints from special rocks and culinary delicacies from different eco-regions. This network extended from Greenland to Siberia, from the Arctic Ocean to the Gulf of Alaska and beyond (Oswalt 1967, pp. 132–137; Glavin 1990).

Alaska Natives are generally divided into four broad genetic and cultural groups: Aleuts, who originated from the Aleutian Islands jutting into the Bering Sea in Southwest Alaska; various subgroupings of Inuit or Eskimos, who occupy most of the rest of coastal Alaska above the panhandle, as well as much of northern coastal Canada, Greenland and Siberia;<sup>2</sup> Athabascan or Dene Indians, who live in the interior of Alaska and are linguistically and culturally related to Amer-Indian tribes in subarctic Canada and the lower 48 United States, such as the Slavey,

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<sup>1</sup> Many indigenous peoples explain that they emerged from the earth of their traditional homelands, not from some African or Asian migration (Sarah James, pers. comm., 6/5/98; Glavin 1990; Brody 1981). Thornton (1987, p. 9) suggests that human origins on the North American land mass may have occurred as much as 40,000 years ago.

<sup>2</sup> “Eskimo” literally means “eater of raw flesh.” To some, it is derogatory, obscuring their more specific Yupik or Inupiaq or other group identity. To others, however, “Eskimo” is what they call themselves, and prefer to be called by others. Because of media stereotypes and inaccuracies, all Alaska Natives are assumed to be Eskimos by the general public, but this is false (Brody 1987).

Tutchone, Navajo, and Apache; and the Tlingit, Haida, and Tsimshian people, residing along the Southeastern panhandle of the state, some of whom are related to the various potlatch cultures extending southward into coastal British Columbia, Canada, all the way down the Pacific coast to Washington (Berger 1985; Fienup-Riordan 1990; Oswalt 1967). These groupings are convenient though imprecise at best, and sources of division and contention at worst: even within the Athabascan grouping, for example, there exist numerous mutually unintelligible dialects that are spoken a mountain range or a river valley apart. The important point here is that there is tremendous cultural diversity that defies generalization and is not fully represented by the legally expedient term “Alaska Native.”

Accordingly, the generalizations contained herein are meant to be illustrative, not definitive. At contact, the great majority of these diverse peoples lived in small villages dotted across Alaska’s 34,000 miles of coastline and widely dispersed throughout Alaska’s interior as well. There were almost no communities greater than 1,000 people, and the entire population was estimated to range between 25,000 and 72,600, though these demographics are also disputed.<sup>3</sup>

## 2.1 WHITE “DISCOVERY”

Vitus Bering, a Dane serving the Russian Czar, is considered the first white person to come to Alaska, though many claim that other Russians preceded him by at least 10 years (Dumond 1977). Sailing east from Siberia through what is now called the Bering Sea, Bering eventually landed on the Aleutian Islands of southwestern Alaska in 1741. Russian traders were soon commonly sailing the Bering Sea headed for the Aleutian Islands in search of sea mammal pelts (Berry 1975). The exploitation of pelts required the enslavement and systematic slaughter of “the hardy Aleuts, a seafaring people whose rough existence contrasted sharply with their dainty handiwork, grass baskets, and bird gut parkas” (Berry 1975, p. 12). The Russians gradually expanded into other coastal areas and parts of the interior, establishing Russian Orthodox Missions and trade posts fortified by their military. Their primary economic focus was on trading with the natives for furs for markets back in Russia, not on occupying and controlling the land, on which they had a very weak hold (Mitchell 1997; Berry 1975). Unsustainable rates of harvest reduced yields, and eastward expansion resulted in competition with Hudson’s Bay Company of Great Britain in Canada. Such competition resulted in increased costs and military concerns about defending this vast territory. In response to this dynamic, the Russian Czar sold Russia’s interest in Alaska to the United States in 1867 for \$7.2 million. Though it would appear questionable as to whether or not the Czar ever “owned” Alaska in the first place, given the tacitly agreed-upon European ideals of private property ownership and geopolitical military realities it is no surprise that he sold it.<sup>4</sup>

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<sup>3</sup> The low estimate of 25,000 was offered by Oswalt (1967, p. 24), while Thornton (1987, p. 241) cites Mooney’s 72,600 figure from Mooney’s demographic work in 1928. Thornton believes that Mooney’s estimate was potentially very low, though he does not offer his own upper bound assessment. These estimates are complicated not only by the lack of data, but by the overlapping—and changing over time—political and cultural boundaries between Canada, the United States, and native peoples.

<sup>4</sup> Ewen Moses Laumoff, an Alaska Native, had this to say 101 years after the sale of Alaska by Russia to the U.S.: “They tell me Russians sold our land to the Government. There were no Russians on our land. There were no white

The 1867 Russian/U.S. “Treaty of Cession” for the 378 million acres known as Alaska barely mentions the native inhabitants. Effectively the only sentence in the entire treaty dealing with Alaska Natives is: “The uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country.” The U.S. military “ruled” Alaska for the first 17 years, with fewer than 300 white men living in Alaska as of 1880; all but 30 of them were living on a single island in the Southeastern panhandle of the state (Federal Field Committee for Development Planning in Alaska 1968).

Federal Indian policy at the time was still officially guided by the Northwest Ordinance of 1787, which claimed in part: “The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property rights and liberty they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress.” Boosted in status from a custom’s district to a land district via the Organic Act of 1884, Alaska became subject to U.S. mining laws, in particular the Mineral Location Act of 1872, which established sub-surface property rights for those who located minerals regardless of the surface ownership.<sup>5</sup> As well, the Organic Act explicitly acknowledged the natives, stating “that the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them but the *terms under which such persons may acquire title to such lands is reserved for future legislation by Congress...*” (emphasis added). The Organic Act squarely placed the burden of settling native land claims on Congress, instead of the typical decision-making vehicle of the courts.

While initially viewed as an icebox and a wasteland, with the discovery of gold and then copper in the mid-1880s Alaska quickly became a destination for those interested in unlocking the vast northern storehouse of wealth.<sup>6</sup> Each commercial development brought Alaska deeper into the fold of the U.S. economy and polity, yet its geographic isolation, along with the extractive nature of its resource wealth, served to keep Alaska as a peripheral raw material provider for the industrialized lower 48.<sup>7</sup> This relationship continues today.

By the early 1900s, the Alaska Native population had been devastated by smallpox, whiskey, broken promises, and resource exploitation by the Russians and then the Americans. Thornton (1987, p. 242) cites the U.S. Census of 1910, with 25,331 Alaska Natives, as the probable nadir, and quotes estimates that this was perhaps as much as a 90 percent decline of the aboriginal population. Meanwhile, white settlers continued to move in, attracted by mineral,

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people. White people never came there. They never saw it. I think Government buy stolen property maybe. Tough luck for Government. Can buy whole world that way.” Quoted in Berry (1975, p. 10).

<sup>5</sup> This law still applies today.

<sup>6</sup> As is well known, Alaska was originally called “Seward’s Folly,” after William Henry Seward, the Secretary of State responsible for the purchase of Alaska. The New York *Daily Tribune* of 11 April 1867, trumpeted “We may make a treaty with Russia but we cannot make a treaty with the North Wind or the Snow King....We simply obtain the nominal possession of impassable deserts of snow, vast tracts of dwarf timbers, frozen rivers, inaccessible mountain ranges....Ninety-nine hundredths of Russian America are absolutely useless. No energy of the American people will be sufficient...to reclaim wildernesses which border on the Arctic Ocean.” This quote is from Coates (1991, p. 30). Cronon’s (1992) history of copper mining at Kennecott, Alaska, describes the frontier mentality that predominated at the time.

<sup>7</sup> The November 1898 issue of *Atlantic Monthly* carried an article by David Starr Jordan “decrying the systematic exploitation of the Alaska Territory by various commercial interests.” Quoted in Trover (1972, p. 57).

animal, and fiber abundance. Legally, Alaska remained a Land District under the Organic Act, governed for the most part by the same laws as the Territory of Oregon.

In the lower 48, the John Muir- and Gifford Pinchot-inspired conservationist movement was sweeping the nation. The nation's first and largest national forest, the Tongass, in southeast Alaska, was established in 1902 and expanded seven years later. This began a trend of the federal government setting aside land in Alaska for specific uses, primarily recreational—such as the Chugach National Forest in 1906, and Mt. McKinley (later re-named “Denali”) National Park in 1916—but also for development and national security, namely, the 23-million acre Naval Petroleum Reserve–Alaska (NPR-A) in 1923.<sup>8</sup>

While the federal government was continuing to rezone chunks of Alaska into national parks, forests, and refuges, the entire region became a territory in 1912 via the Alaska Home Rule Bill. This bill created a legislature for the territory and provided a non-voting representative in Congress. The Territorial Legislature soon voted to recognize Alaska Natives, though this was not made official until 1924, when the U.S. Congress provided citizenship to all indigenous peoples born within U.S. boundaries (Woerner 1986).

## 2.2 THE INDIAN REORGANIZATION ACT AND WORLD WAR II

The 1934 Indian Reorganization Act (IRA) was a major event in U.S.-Indian policy (Getches et al. 1993). Along with stemming the loss of Indian land by revoking the Allotment or Dawes Act of 1887 (Washburn 1975), the IRA created boilerplate constitutions that guaranteed oversight and veto authority to the Bureau of Indian Affairs (BIA) for any tribal decision of consequence (Deloria and Lytle 1984). In the lower 48, many extant tribal governments operating on reservations were re-formulated under these IRA constitutions. In Alaska, the IRA meant the creation of federal trust Indian lands, that is, the emergence of reservations and IRA-sanctioned tribal governments. However, IRA reservations did not appear in Alaska until 1943.<sup>9</sup> By then, the national mood had soured toward creating more “ethnic enclaves” and only 6 reservations were actually formed within the state, thus leaving most Alaska Natives and their lands in the same limbo status as before the IRA.

Though it took nearly a decade for the IRA to fully apply to Alaska Natives, other federal legislation aimed at helping non-natives moved relatively swiftly. “In 1935, during the Great Depression, a farm colonization effort was initiated when the [federal] government transported two hundred destitute families from Minnesota, Michigan, and Wisconsin” to the one part of Alaska suitable for farming: the Matanuska Valley, just north of Anchorage (Woerner 1986, p. 10). This effort met with mixed success, with most families abandoning farming but staying in Alaska. The Matanuska Valley continues to be a target for government-subsidized agriculture and is the locus of one of the two research communities in this paper.

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<sup>8</sup> The four-and-a-half million acre Chugach National Forest was set aside in response to development pressures toward mining the rich coal deposits under this coastal rainforest (Berry 1975, p. 21). The NPR-A has recently received a great deal of attention as the next locus of Alaskan oil production.

<sup>9</sup> The IRA was officially extended to Alaska in 1936, only two years after its passage and application in the lower 48; it simply took until 1943 for the federal government to act in Alaska on some of the more significant provisions of the IRA, such as establishing reservations.

World War II brought a new dimension to Alaska's status as a resource—it was now a geopolitical strategic asset as well. Almost immediately after Japan declared war on the United States in 1941, the 1,420-mile Alaska Highway—connecting Alaska with the lower 48 and Canada via one of the longest dirt roads in the world—was begun by the U.S. military and Public Roads Administration (Naske and Slotnick 1979, pp. 118–19). The highway, now paved, is still the primary overland route into Alaska and has profoundly influenced land use and increased non-native migration into Alaska.

By 1943, over 140,000 military personnel were located in Alaska (Woerner 1986, p. 10). The federal government spent well over one billion dollars in the territory between 1941 and 1945 supporting the war effort (Naske and Slotnick 1979, p. 123). The military's role in Alaska's economic "development" did not stop with the end of World War II. The ensuing Cold War with the former Soviet Union focused even more attention on Alaska's strategic location. At its peak, in 1953, the U.S. military spent \$512.9 million in the territory (*ibid.*, pp. 124–30). The military's influence continues and is a significant impact on many native communities, including one of the study communities here.

## 2.3 STATEHOOD

Alaska became a state on 3 January 1959. While many (non-native) Alaska residents had tirelessly fought for such recognition for years, Cold War strategy and the discovery of oil on the Kenai Peninsula south of Anchorage in 1957 also played significant roles.

The terms under which Alaska received statehood are unique. Federal legislators saw Alaska differently from the rest of the United States: it was isolated and with few people, land and resource rich while cash poor, and supported an undiversified economy based on government expenditures and natural resource extraction. In an attempt to obviate the need for massive federal aid and oversight in the future, the newly formed state of Alaska was granted 104 million acres of land—almost a third of the entire state. Under the traditional formula used to determine land grants to other western states, Alaska would have received 21 million acres, that is, one-fifth of what it actually received (Berry 1975, p. 27).

Congress also allowed the state to select among its 104 million acres land for which the primary use would be mineral extraction. As well, the state government was to receive 90 percent of lease revenue on both state and federal lands, an unprecedented allowance. No other state has received as generous an arrangement, especially with revenues from federal land (Berry 1975, p. 28). The result of this situation, as might be expected, is that the State of Alaska is dependent on, and thus encourages, non-renewable mineral extraction, including petroleum.

It should be noted that the vote for Alaska statehood occurred while English-only election laws, much like "Jim Crow" in the southern United States, were in effect. Since speaking and reading English were pre-requisites for entering the polls, most voting-age natives at the time were disenfranchised, while military personnel stationed in Alaska were encouraged to vote despite laws in the rest of the United States requiring military personnel to file absentee ballots from their home districts (David Harrison, pers. comm., 8/12/97). Many natives still protest the original statehood vote on these grounds, arguing that Alaska Natives did not consent to be



governed by the newly created state (Faye Ewan, pers. comm., 7/30/97; Harry Lord, pers. comm., 8/26/97).

## 2.4 OIL IN THE ARCTIC

In June 1968, oil was discovered in Prudhoe Bay on the Arctic North Slope (ANS) of the Brooks Mountain Range. One of the most northern and unforgiving spits of land in the world, Prudhoe Bay was estimated to hold 10 billion barrels of oil—one-third of the entire reserves for the rest of the country, and the largest single oilfield on the continent (*US News and World Report* 1968). Prudhoe Bay was one of the largest reservoirs of hydrocarbons in the world. Expectations ran high for similar finds in nearby geologically analogous areas.

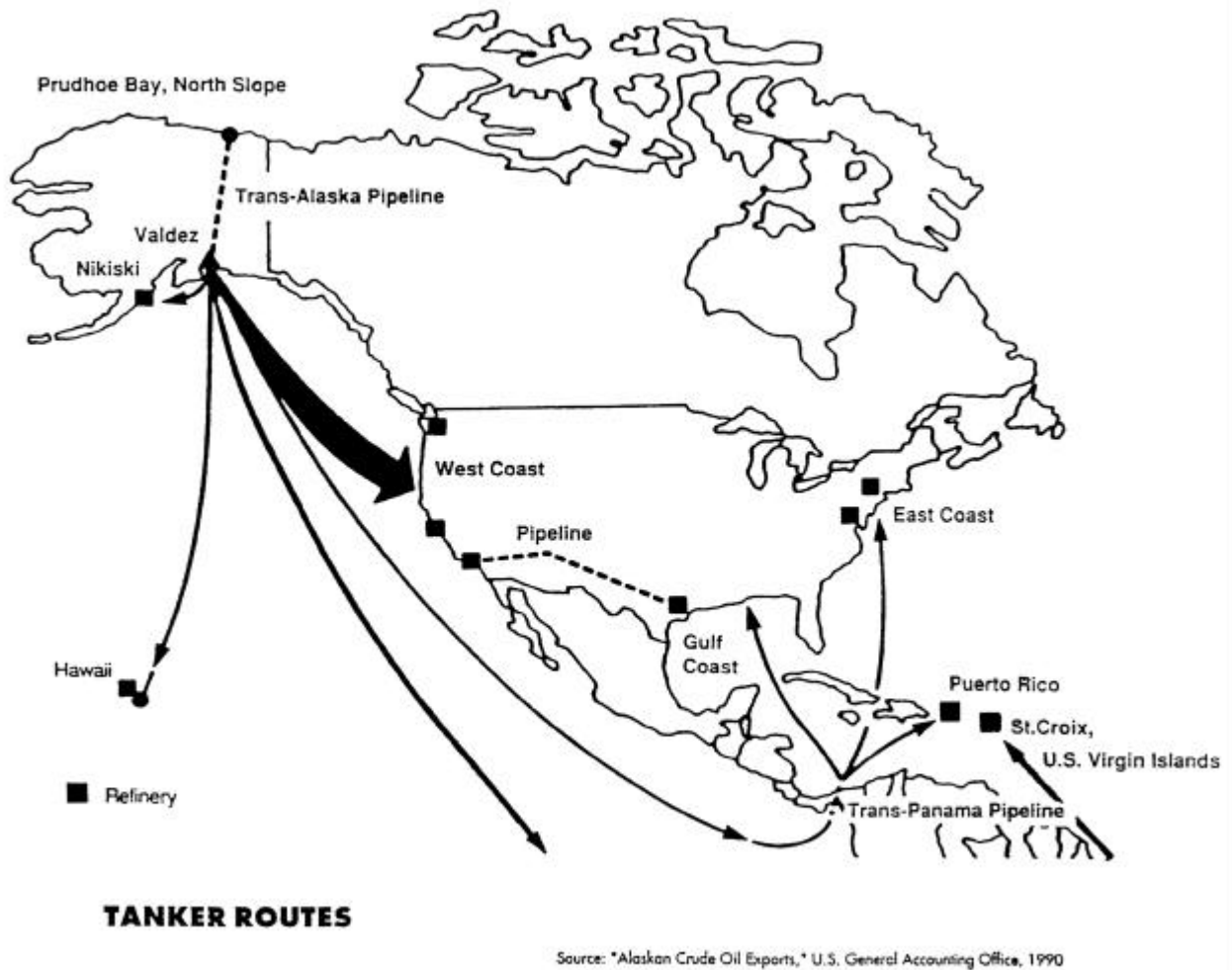
Less than nine months after the announcement of the discovery at Prudhoe Bay, Atlantic Richfield Company (ARCO), Jersey Standard (now Exxon), and British Petroleum (BP)—the corporations with the largest stakes in Prudhoe—announced plans to form a joint unincorporated entity, eventually known as Alyeska. This new venture would be responsible for construction of a projected \$500 million Trans-Alaska Pipeline System (TAPS) to pipe the crude oil to the warm-water, southern Alaska port at Valdez for shipping to lower 48 domestic markets (*US News and World Report* 1969; *Dun's Review* 1968).<sup>10</sup> (See Figure 2.)

Alyeska confronted many technological problems with TAPS that caused long and expensive delays, such as melting permafrost, crossing over mountains and under rivers, earthquake and volcano zones, and fluid dynamics of uneven temperature crude oil. The most confounding problem, however, involved securing a right-of-way for the 800-mile pipeline route. Despite heady visions and large capital investments made right after the oil discovery, all development activity soon stopped because of previously unsettled native land claims. Native land tenure had been essentially ignored since the U.S./Russian Treaty of Cession in 1867, and by now, over a century later, Alaska Native communities had officially filed claim to approximately 337 million out of Alaska's 378 million acres, including the entire 800-mile proposed TAPS corridor (Berry 1975).

Suddenly aware of the retarding effect of unsettled land tenure for the entire state, the oil companies quickly and powerfully pushed for a government settlement of native land claims. Between the 1968 oil discovery and late 1971, when ANCSA was finally signed into law by President Richard Nixon, these oil companies hired influential lawyers and lobbyists for newly formed native organizations to negotiate land claims with the U.S. Congress (Berry 1975; McBeath and Morehouse 1980). Since this package was to be paid for by the federal government, with the settlement then allowing pipeline construction to proceed in an orderly fashion, the oil companies had no qualms about advocating for a very generous and expedient settlement for the natives.

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<sup>10</sup> The final cost of TAPS was approximately \$8 billion, or 16 times the original projected costs (Coates 1991; Berry 1975). Prudhoe Bay has already produced over 15 billion barrels of oil, and is still the primary oil regime in the U.S., with nearly 20% of domestic production (Scott 1996). In other words, one out of every five barrels of oil produced in the United States comes from Prudhoe Bay and surroundings.



**Figure 2**  
**Map of TAPS and Destination Markets for Prudhoe Bay oil**  
**(Thickness of arrows indicates quantity of oil to that destination)**  
 Reproduced from NRDC et al. (n.d.), "Tracking Arctic Oil: The Environmental Price of Drilling the Arctic National Wildlife Refuge"

As soon as ANCSA was signed, however, the oil companies essentially disassociated themselves from the natives and, within a year, they were opponents in court. The dispute centered on natives' authority to tax oil revenues, which, of course, the oil companies opposed. The natives eventually won the dispute.<sup>1</sup>

## 2.5 THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

The Alaska Native Claims Settlement Act (ANCSA, P.L. 92-203) was signed by President Nixon on 18 December 1971. ANCSA provided 44 million acres of land and \$962.5 million to twelve regional and over two hundred village corporations, all comprising Alaska Natives, and one regional corporation for all natives living outside the state regardless of cultural or ethnic origin. All corporations were required to be chartered under the laws of the State of Alaska. The regional corporations divided Alaska into twelve geographic zones, partially corresponding to traditional boundaries of different native groups, though in some cases, these boundaries divided a single cultural group into two different corporations, or placed different groups into a single corporation. These regional corporations, intended for profit-making, received money and outright fee-simple title to land within their regional boundaries, and *subsurface* rights to village corporation land. Further, all corporations were initially subject to a 20-year freeze on sales or alienation of land and stock.

The over 200 village corporations could choose either for-profit and/or non-profit status, and received *surface* title to an amount of land based on a population formula that completely ignored individual communities' traditional land uses or unique geographic circumstances. ANCSA also required the regional corporations to distribute part of the settlement monies to the village corporations, though the regional corporations were granted authority to withhold these cash distributions based on their review and approval of financial and land use management plans submitted to the regional corporations by the village corporations. All Alaska Natives born on or before 18 December 1971, received 100 shares of stock in their village and/or regional corporations, depending on documentation that "proved" their membership to their village and their timely enrollment for inclusion in the settlement provisions. No Alaska Natives born after this date were included in the settlement.

Broadly, land and money were exchanged for yielding a right-of-way for TAPS and extinguishment of all other "aboriginal rights" of use or occupancy by natives, including past and future land claims or subsistence harvesting.<sup>2</sup> Constituted with ANCSA rhetoric promoting capitalism with a social conscience, these corporations were also expected to provide jobs, education, health care, and other municipal and government services to their shareholders (Hirschfield 1992).

Clearly reflecting both the oil companies' and the U.S. government's motives in negotiating the land claims, over half of the total monetary settlement from ANCSA (\$500 million out of

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<sup>1</sup> See Kruse et al. (1982) and Jorgensen (1990) for in-depth case studies on the North Slope Borough, the chief native protagonists and beneficiaries in the tax dispute with oil companies.

<sup>2</sup> Some subsistence activities on federal lands not included in ANCSA were still maintained. This was codified, albeit ambiguously, in the Alaska National Interest Lands Conservation Act (ANILCA).

\$962.5 million) was directly tied to future oil revenues from Prudhoe Bay and the to-be-constructed TAPS (ANCSA, Sections 9b-g). Since Alaska Natives were a powerful enough force that they could not be entirely ignored, federal legislators aimed to create native stakeholders in the exploitation of Alaska's natural resources, especially oil; but the native stakeholders were expressly *not* to be tribal governments, but rather, economically "efficient" institutions, that is, corporations (Weiss and Maas 1992; Flanders 1989; Anders 1989, 1985). Like the statehood Act that preceded it, the land tenure arrangement that emerged from ANCSA was explicitly designed to facilitate construction of TAPS and future resource extraction across Alaska (Weiss and Maas 1992; Morehouse 1989; Berger 1985).<sup>3</sup>

The Alaska Federation of Natives (AFN) was the negotiating body for the natives, whose representatives sat in on numerous legislative mark-up sessions with various members of the U.S. Congress, arranged and paid for by the oil companies (Berry 1975). The AFN was not a duly elected or representative body of any Alaska Native community, village, tribe, nation, or traditional government, but was treated as the official native governing entity by the federal government and the oil companies. Many of AFN's early leaders during this negotiation phase went on to become the chief executive and financial officers of the newly formed native corporations. As with the Alaska Statehood Act, Alaska Natives were never offered an opportunity to vote on ANCSA, despite the Indian Civil Rights Act of 1968 (P.L. 90-284), which states that all federal Indian legislation requires consent by those whom it will impact (Gary Harrison, pers. comm., 6/24/97).

Despite its problems, ANCSA was at first widely heralded as the most generous settlement ever negotiated by the U.S. government, or any national government, with its indigenous peoples (Berger 1985, p. 6; McNickle 1973). The corporate structure created by ANCSA was touted by some as an appropriate and necessary vehicle to propel aboriginal inhabitants of arctic and subarctic lands into the modern world of big business and industrial development (Mitchell 1997). Indeed, native corporations were called "the new harpoon" by an early AFN representative involved in the negotiations (Edwardsen 1974, p. 251). Yet, as it has unfolded, some have vigorously opposed the structure of the settlement, including the individual who had earlier called the corporations the new harpoon (Edwardsen, pers. comm. 8/26/97; Rude 1996; Berger 1985; Bigjim and Ito-Adler 1974). Many opponents argued that Alaska's Natives had never lost a war, never signed a treaty, and, under most international laws, could have made a very strong case for the hundreds of millions of acres of land that they claimed but did not receive title to under ANCSA (David Harrison, pers. comm. 7/1/97). As well, native claims to the various mineral, oil, and other natural resource riches outside the 44 million acres, including Prudhoe Bay, were summarily ignored.

No meaningful discussion of contemporary Alaska politics and peoples can occur without at least some consideration of ANCSA and oil. Attitudes toward oil and other resource exploitation are symbolic of the cultural differences embedded in the settlement. Two quotes by parties involved in the ANCSA negotiations capture the different cultures' approaches and goals. The

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<sup>3</sup> One of the primary provisions in ANCSA is the withdrawal of the entire TAPS corridor from land selections for the newly formed native corporations. See *Alyeska Pipeline Service Co. et al. v. Kluti Kaah Native Village of Copper Center et al.* argued in the U.S. Ninth Circuit Court on 7 October 1996, and decision filed on 20 November 1996 (101 F3d 610). Also see Case (1984).

first is a slogan that emerged in 1971 as the rallying cry for the AFN: “Take our land, take our life” (Berry 1975, p. 124). Maintaining a land base was *the* crucial element for continuance of native cultures based on subsistence harvesting of naturally occurring renewable resources. The second quote was uttered in the spring of 1970 by Henry Pratt, who was an advisor to Alaska’s governor, Keith H. Miller: “Hell, this country’s so goddam big that even if industry ran wild, we could never wreck it” (Berry 1975, p. 85).

ANCSA negotiations were underscored by a well-publicized Presidential address in July 1970, in which President Nixon stated, “The time has come to break decisively with the past and to create the conditions for a new era in which the Indian future is determined by Indian acts and Indian decisions” (quoted in McGuire 1990, p. 207). What was *not* stated in this oft-noted call for self-determination and independence, however, was the implicit assumption that a government-certified check was at least as good a hedge for one’s future as was land. In other words, in white capitalist culture, money and land are, for the most part, substitutable capital investments. The projected oil revenues would more than make up for any economic loss of land value, so this argument goes, and in the name of efficiency and utility maximization, all involved parties would be better off if the oil, and money, were to flow.

ANCSA negotiations began with the government offering all cash and no land. Alaska Natives responded that they wanted “a land claim, not a federal welfare program” (McBeath and Morehouse 1980, p. 50). Of course, the natives were not about to turn down cash associated with the settlement, but this was always secondary—small compensation for relinquishing access to almost 300 million acres of their life support network. “Our land is like our parent. It provides us food, clothing and shelter. Without our land, we would be homeless, we would be like orphans” (Berger 1985, p. 73, quoting Louie Commack, an Alaska Native). While emphasis on the land was nothing new for Native Americans when negotiating with the U.S. government, the government “getting it,” so to speak, was indeed groundbreaking. The provisions in ANCSA led many to perceive that, after several centuries of private property ideals justifying actions taken *against* them, indigenous peoples in Alaska were about to turn the tables and have capitalism work *for* them.

Legislatively, however, ANCSA was nothing if not an elaborate attempt to get natives off the federal dole and allow big business to get on with big business. Non-profit native corporations at the village level, for example, were seen as the future provider of services previously performed by various federal and state agencies. General Assistance from the BIA was terminated in Alaska in 1982 because, in part, the state and the natives were seen as oil and cash rich (McNabb 1990). This was the true essence of President Nixon’s self-determination speech.

Though many natives (and others) still did not like the idea of oil and an 800-mile long pipeline slashing through their hunting grounds, in June 1972, while environmental groups were suing oil companies to prevent construction of TAPS on environmental and procedural violations, the AFN stated: “The rejection or substantial delay of the Trans-Alaska Pipeline could easily undermine and violate the intent and terms of ANCSA” (Coates 1991, p. 227). Suddenly, more than just oil companies had invested “capital” in Prudhoe Bay.

The for-profit corporate structure mandated by ANCSA is still the most controversial aspect of the settlement.

Native people here [in Alaska] are proud of their tribal heritage, but Congress did not convey the land to tribal entities. When Congress enacted ANCSA, it considered tribal governments to be an impediment to assimilation. Instead, the law required the Natives to set up village and regional corporations to obtain title to the land. The land that ANCSA conveyed does not belong to Alaska Natives, it belongs to these corporations. Hence, the Native corporations are the most visible structures established under this legislation. But these corporate structures put the land at risk. For Native land is now a corporate asset. Alaska Natives fear that, through corporate failure, corporate takeovers, and taxation, they could lose their land (Berger 1985, p. 6).

Aside from the ambiguous responsibilities created by conflicting corporate, state, and “Indian country” legal precedents, Alaska Native corporations are unique in that they were established by a government decree, rather than developing around a product or provision of a service (Anders 1985; Branson 1979). Ignoring for a moment the managerial difficulties involved in thrusting multi-million dollar corporations onto indigenous peoples with little or no training in such business matters, ANCSA created native corporations with two assets: land and natural resources. Indeed, the only “profitable” (or more accurately, non-bankrupt) native corporations to date have been those that have exploited their natural resources at non-sustainable extraction rates while tax exemption is still in effect, emphasizing timber, sea food, mining, oil, and real estate development (Jorgensen 1990, pp. 287–289).

According to ANCSA, corporate landholdings, that is, the 44 million acres, could not be sold or otherwise alienated for 20 years. Congress viewed this as a necessary “adjustment period” for native corporations to better understand and master capitalism (Berger 1985; Berry 1975). After that time, all native corporations were to be legally treated as any other corporate entity, including the payment of corporate taxes, offering shares of public stock, and the requirement that they sell their assets if they are in debt.

And debt has become *the* four-letter word of native corporate Alaska. “More than \$320 million of the initial settlement was lost in failed investments in hotels, construction companies, a logging mill, seafood plants and other ventures. The corporations also spent more than \$360 million on huge legal fees, accountants and other office overhead” (Bernton 1992, p. A3). According to another study, as of 1985, only one regional corporation had not reported losses since its formation, and many had to consider bankruptcy (Flanders 1989). Much of the legal fees were spent on cases in which one native corporation sued another native corporation because of vague language and/or byzantine structures created by ANCSA itself. Legal battles of particular note involved the required sharing of mineral and timber revenues among regional corporations; the division of surface and sub-surface rights on the same piece of land between village and regional corporations; and even whether gravel is a surface or sub-surface resource (McBeath and Morehouse 1980, p. 61; Berger 1985, pp. 31–32).

Numerous village corporations have dissolved in bankruptcy, including one of the study communities here. In 1986, a federal tax law, authored by Alaska Senator Ted Stevens explicitly for indebted ANCSA corporations, allowed these corporations to sell part of their debts (for 30 cents on the dollar) to profitable companies; these profitable companies, such as Walt Disney, Marriott, and Quaker Oats, were then allowed to write off these purchases as tax liabilities (at 40 cents on the dollar, thus making a 10 cent profit on each dollar purchased). This federal law, known as the Tax Reform Act, has facilitated “sales” of Alaska Native corporate losses in excess of \$950 million, approximating the constant dollar total of ANCSA (Rude 1996; Flanders 1989).

Many Alaska Natives now denounce the corporations' policies and call for a return of the land to the traditional tribal councils (Morehouse 1989), while in the past decade some of the regional corporations have become financially "successful," at least in terms of compensating their management and providing small dividends for their shareholders. Though tax exemptions, closed corporate shares, and other protections in ANCSA were slated for removal in 1991, the settlement has become such an imbroglio that Congress has passed several amendments to prop up the native corporations while continuing to ignore the burgeoning tribal government movement in Alaska (Morehouse 1989, 1987; Thomas 1988, 1986). Some of the main concerns that prompted the legislative fixes, codified most notably in the 1987 ANCSA Amendments (P.L. 100-241), are the desire to maintain native control, management, and use of the land, as well as to include natives born after 18 December 1971 (Bernton 1992). There are inherently tribal identity and membership issues that do not lend themselves well to corporate structures and administration (Hirschfield 1992; Morehouse 1989; Berger 1985).

All of these ANCSA legacies—private property, cash economies, and age disenfranchisement—are essentially new problems for Alaska Natives, but are quite typical for American Indians overall. Monetization in particular seems to breed a dependency cycle that is difficult to halt. The common logic when investing large sums of money is to diversify. This has led to native corporation investment in the lower 48 as well as what were perceived as sure bets in development projects in Alaska, such as hotels in Anchorage and office buildings in Fairbanks. By investing in the highly specialized economies and financial markets of the lower 48 and urban Alaska, Alaska Native corporations in the rural areas have drained precious capital out of their own regions and sacrificed opportunities for their own infrastructural and community development. But revenue requirements continue to work against community investment: to the degree that native corporations have aggressively pursued investment opportunities in the lower 48, there have been more instances of at least financial non-failure than from local investments (Rude 1996; Bernton 1992).

The incentive structure created by both the Statehood Act and ANCSA channels economic development into resource extraction. This was not coincidental, and will not change any time soon. Understanding the Alaskan political economy requires an awareness of this dynamic. One of the clearest illustrations of this dynamic is the State of Alaska's budget. Oil revenues from the ANS currently constitute approximately 75 percent of the state budget, depending on world oil prices (Kowalski 1998). Further, Alaska residents do not pay state income taxes, but rather receive an annual "dividend" based on a trust fund established with oil revenues and now invested in the stock market and elsewhere by a state-appointed investment board. This dividend will be over \$1,400 for every man, woman, and child who is a state resident for 1997–98 (*Anchorage Daily News* 1998). Hence, the state's economy is perhaps more dependent on selling petroleum than Saudi Arabia's.

Perhaps even more than most indigenous peoples, Alaska Natives are well known for their traditional, subsistence lifestyles in exceptional environments whereby they survive from hunting and gathering natural, renewable resources such as bowhead and beluga whales, moose, caribou, salmon, sheep, walrus, seal, bear, beaver, rabbit, ptarmigan, geese, and many others (Frank and Frank 1995; Langdon 1986; Berger 1985; Herbert 1982; Nelson 1973). Alaska Natives have developed an intimate and ongoing relationship with these natural resources and their environments (Nixon 1996; Kalifornsky 1991). Yet in a mere 27 years since its passage, ANCSA

and other sociopolitical realities such as the Exxon Valdez oil spill have changed much of this ancient interdependence to the point that traditional land uses such as hunting, fishing, and gathering have significantly declined in many regions across Alaska while native land and language loss continues and even accelerates (Holleman 1997; Rude 1996; Mauer 1991; Lemonick 1989).

### 3. PRE-ANCSA AHTNA HISTORY

ANCSA altered the legal and land tenure status of almost all Alaska Native communities. Yet many other forces have been at work simultaneously. Furthermore, ANCSA itself has been amended numerous times since its original passage in 1971 (Morehouse 1989, 1987). As a result, methodologically it is very difficult to isolate ANCSA as an independent variable, hold everything else constant, and then simply measure the direct impacts of the legislation. Broad evaluations over large areas, diverse populations, and wide swaths of time do not easily lend themselves to such a linear analysis. Instead, at best, we can present available information in an organized manner to shed light on some of the more salient features and outcomes, thus simplifying and clarifying the causal relationships we hope to explain. Since most social change occurs gradually, one must have a firm grasp of the past to assess contemporary impacts resulting from the piecemeal implementation of a complicated human abstraction we call a law.

The historical context presented in section 2 described the shifting landscape upon which ANCSA was superimposed, though the specifics varied according to region and community. It should be clear from this brief history that traditional land uses and subsistence practices in Alaska have been changing at least since natives' first contact with non-natives, well before oil was discovered and ANCSA was signed into law. Similarly, non-native population growth and subsequent increasing pressure on subsistence resources was occurring prior to 1971, though the discovery of oil, ANCSA's passage, and the subsequent "petro-boom" certainly accelerated this trend.<sup>4</sup> Hence, to determine the most profound and attributable ANCSA impacts, we have examined the institutional and other structures that were directly brought into being by the Act itself, as well as some of the more salient indirect outcomes associated with the implementation of ANCSA. The most prominent feature of ANCSA, and our primary focus, is the emergence of the oil economy and the corporate form of organization and land tenure that was imposed in Alaska Native villages. However, the history of contact and social change in the villages leading

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<sup>4</sup> Census figures dating back to Alaska's territorial status in 1950 show a general decline in the *rate* of population growth, but a significant increase in the absolute numbers, as shown below.

Year	Population	Number change	Percent change
1950	128,643	--	--
1960	226,167	97,524	75.8%
1970	302,173	76,006	32.8%
1980	401,831	99,658	32.9%
1990	550,043	148,212	36.8%

Note that this does not take into account the massive temporary influx associated with the 1974–1977 construction boom caused by TAPS (US Census Bureau 1950, 1960, 1970, 1980, 1990).



up to ANCSA is also important in order to understand the more recent impacts, and receives some attention here.

This research has attempted to discern the community-scale impacts of ANCSA on land tenure, land use, and community structure in Chickaloon Village and Copper Center.<sup>5</sup> Both villages are Athabascan/Dene Indian communities located in the greater south-central Alaska region (see Figure 3), and they are related by blood and kinship ties as well as historically similar land tenure and use patterns.<sup>6</sup> Derived from the Russian term *atna* that was first applied to the Copper River and its inhabitants (Wrangell 1970, 1980 [1839]), “Ahtna” is now the commonly used tribal name distinguishing these and other related communities from other northern Athabascan/Dene tribes.<sup>7</sup> The aboriginal language for both communities is also called “Ahtna,” part of the broader northern Athabascan linguistic and cultural grouping discussed earlier (de Laguna and McClellan 1981).

### 3.1 TRADITIONAL LAND TENURE AND COMMUNITY STRUCTURE

Though traditionally semi-nomadic, both communities now have permanent village sites that are approximately 120 road miles apart, connected by the Glenn Highway. Sharing subsistence resources (particularly salmon), clan reciprocity through potlatch ceremonies, and other traditional practices continue within and between the communities (Faye Ewan, pers. comm., 7/30/97). The native population of both villages is between 200 and 300, with Kluti Kaah on the higher end of this range and Chickaloon Village on the lower end.<sup>8</sup>

The Ahtna have traditionally occupied an area approximately 23,000 square miles, encompassing primarily the Copper River Valley and its tributaries, except for the large Copper River Delta that flows into Prince William Sound and the Gulf of Alaska, and westward into the plateau and drainage basins of other large rivers, including the Matanuska, Talkeetna, and Susitna, all of which generally flow southwesterly into Cook Inlet (Reckord 1983a, 1983b; de Laguna and McClellan 1981).

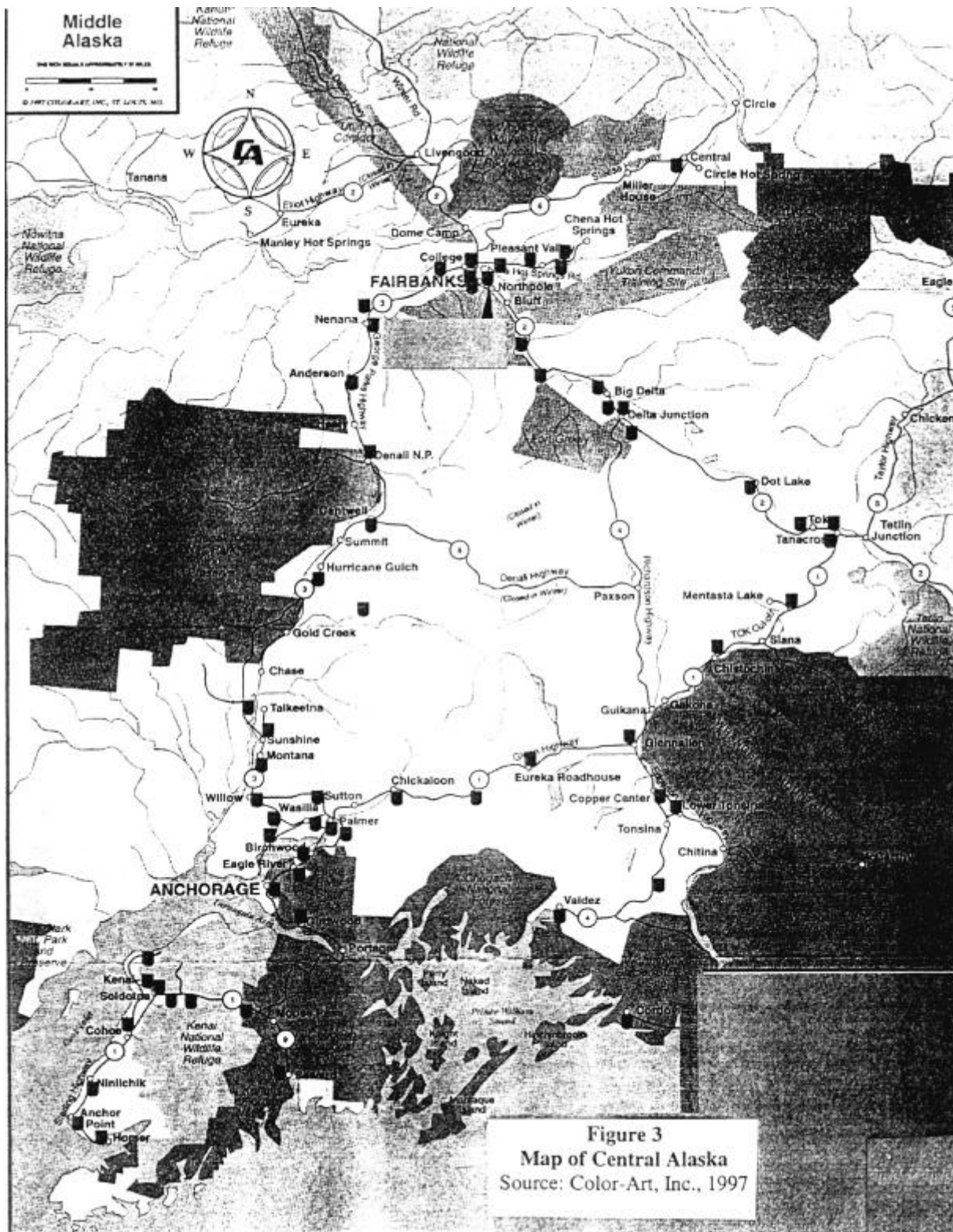
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<sup>5</sup> The traditional name for Copper Center is “Kluti Kaah,” which is the Ahtna name for the meeting place of the Klutina and Copper rivers (Faye Ewan, pers. comm., 7/30/97). We use Copper Center and Kluti Kaah interchangeably in this paper.

<sup>6</sup> “Athabascan” is originally an anthropological term used to describe a wide-ranging group of indigenous peoples. “Dene” is the most common term that these indigenous peoples use to describe themselves (Watkins 1977).

<sup>7</sup> Various aboriginal terms were and are still used by specific sub-groups of the Ahtna to describe themselves and their immediate territories, roughly corresponding to the geographic and linguistic divisions of Lower, Middle, Upper, and Western Ahtna. For example, *Hwtsaay Hwt’aena*, or “Small Timber People,” is an aboriginal term for the Western Ahtna, while *Tatl’ahwt’aenn Nenn’*, or “Headwaters People,” is an aboriginal term for the Upper Ahtna (Kari 1977).

<sup>8</sup> State and federal efforts at census-taking in Alaska Native villages have been notoriously bad and value-laden. Chickaloon Village’s population in the 1990, for example, was recorded as 9 (Katie Wade, pers. comm., 7/29/97). As well, local traditions consider counting tribal members as “en-gii,” or taboo, which is no wonder considering that both Russian and American explorers had instructions from their respective governments to count the Ahtna to determine their military strength (Grinev 1993, p. 57; Cole 1993, pp. 8–9).



Ahtna territory is bounded by some of the tallest mountains in North America, with 20,000-foot Denali and the full Alaska Range punctuating the northern boundary, 16,000-foot Mt. Sanford and the Wrangell Mountains forming the eastern limit, and the Chugach Mountains and glacier fields ringing the south. The western boundary was more fluid, overlapping with generally friendly neighboring tribes such as the Tanaina and the Lower Tanana. Other native peoples inhabited the mouths and surrounding coastlines of all the major rivers flowing through Ahtna country, including the Eyak and the generally unfriendly Chugach Eskimos on the Copper River Delta and Prince William Sound to the south, and the Tanaina in Cook Inlet to the west (de Laguna and McClellan 1981; Townsend 1981; Kari 1986). Hence, the Ahtna were relatively remote and insulated, even by Alaskan standards, with regard to early coastal incursions into the interior by Russian and American explorers (Grinev 1993; Allen 1985 [1887]).

Historically, the Ahtna were organized into numerous groups or bands, each consisting of a few to several extended families. Each of these groups was led by a local male chief (*denae*), with a regional head chief controlling a larger area. The chiefs derived authority from their hunting prowess, knowledge of the land, trading shrewdness, and other skills which they provided for their people (Reckord 1983a, 1983b; Allen 1985 [1887]). “A second type of leader, a *kaskae*, was more of a political leader rather than an economic organizer. A *kaskae* led the clan in matters of political consequence. His main attribute was wisdom” (Reckord 1983a, p. 34). Other community leaders included healers or shamans of both genders, with women often considered the more powerful (de Laguna and McClellan 1981). There also existed male war chiefs who sometimes trained warriors for several months before going into battle (Kari 1986).

Clan affiliations, in which children were born into their mother’s clan and married into their father’s or other clans, and specific, prescribed lifelong obligations for people within and among clans also structured intra- and inter-village life (de Laguna and McClellan 1981). Division of labor along gender lines, along with clan relations and obligations, were fundamental to subsistence activities such as hunting and processing the harvest, as well as potlatch ceremonies, which are elaborate feasts held in honor of a recently deceased person where practically all material possessions of the host and deceased are dispersed among the attendees according to rank (Simeone 1995; Reckord 1983a; de Laguna and McClellan 1981; Townsend 1981; VanStone 1955). Depending on the prestige of the deceased and the host family, such potlatches could draw people from neighboring and distant tribes several hundred miles away, and were the primary social gatherings of all the northern Athabascan peoples (Simeone 1995). While certain intangibles like family and clan use rights to particular hunting grounds and fish camps were inheritable, potlatching ensured that village *denae*-ship, for example, was not automatically handed down to one’s son. Because an entire village would depend on the leadership and resource-harvesting abilities of the *denae*, this honor had to be earned, not inherited (Simeone 1995; Campisi 1993; Reckord 1983a, 1983b; de Laguna and McClellan 1954).

Reckord (1983b, pp. 76–78) provides additional insight into traditional Ahtna land tenure and use:

Ahtna oral history indicates that each Ahtna local band inhabited a bounded territory over which the band claimed special use rights. In general, band territories included fishing sites along the Copper or [other] rivers, a permanent winter village house nearby, and hunting territories extending into the higher elevations and connected to the lowlands by trails following tributary rivers or streams. Usually each band territory was bisected by one of the major tributaries,

which provided the main artery of transportation for the local band. In this way, the territories of most bands drew land from several different environmental zones, each offering a unique combination of subsistence resources....

Ahtna concepts of ownership and territorial boundaries differ from those of non-Ahtna Americans. The central axis of each local band's territory—its river artery, fishcamps, permanent winter camps, and hunting camps—was strongly recognized as associated with one group. But as one traveled away from the central axis, the strongly recognized association with one band became increasingly blurred. Usually a shared “no-man's land” fell between those areas that were clearly associated with one band and the areas clearly associated with a neighboring band. The boundaries defining the entire Ahtna territory were similarly perceived....

Since many kinship obligations required that subsistence resources be shared, rights to use other bands' lands were generally acknowledged. In-laws were virtually obligated to share; therefore, marriages between bands established rights to subsistence resources....

Thus, while local bands were associated with use of resources in an axis of land running between hunting camp, winter camp and fishcamp, many other people also had recognized rights to these resources. Only through continual use by band members were these rights solidified and recognized by others.

The Ahtna traditional subsistence cycle began with the late spring/early summer salmon runs from the Gulf of Alaska up the main rivers. An important ceremony accompanied the first salmon harvested of the year, as salmon were probably the single most important food source where available (de Laguna 1969–70; U.S. Senate 1900).<sup>9</sup> Women were in charge of the fishcamps, from holding the land (and passing it down to their daughters), to directing the entire harvest operation (Reckord 1983a). Dipnetting was the primary harvesting technique. June was also an important month for waterfowl. By late July, the salmon runs were much diminished, though various berries were available.

Autumn comes early to Ahtna country, and by mid-August people were ready for fall hunting of moose, caribou, and sheep in the upland areas. Caribou were often cooperatively hunted with the use of fences, perhaps several miles long, placed along a known migratory route, to corral them into a small area whereby they were speared or shot with bow and arrow at close range. The elderly and children would stay behind, guarding the stored fish from animals and enemies like the Chugach Eskimo. The women would make a base camp near a berry field and fish lake, while the men would travel afar looking for big game. Once successful, the men would usually bring back a fresh kill to the base camp for the women to process, while the men would return to hunting. Other fish and small animals like squirrels and rabbits would supplement the diet.

The whole group would re-assemble and return to the permanent winter camp before snowfall. Sometimes skin boats or rafts were used to transport the upland harvests downriver to the winter camps. Hunting and snaring furbearers, such as lynx, beaver, and rabbit, for clothing and food occurred closer to camp throughout the winter, along with ice fishing. Winter was

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<sup>9</sup> The Upper Ahtna, who lived several hundred miles upriver, did not have much access to salmon, except through relatives who lived closer to the mouths of the large rivers. Because of this lack of salmon, the Upper Ahtna had lower population densities and relied to a much greater extent on land animals like caribou and sheep (Simeone 1982; Strong 1972).

generally spent making crafts, tools, and telling stories, while firewood was continually harvested. Spring was actually the leanest part of the year, with travel difficult and not many animals yet available. If winter food stores were low and/or the salmon were late to return upriver, spring could be the time of starvation or long-distance searches for food (Reckord 1983a).

Along with the typical fish and game resources that were harvested by all Athabascan Tribes, the Ahtna were unique in that they had access to, and effectively shaped, copper for weapons, adornment and trade. Indeed, the Ahtna bartered their copper as part of an extensive trade network spanning most of Alaska, northern Canada, and even part of Siberia (Osgood 1976 [1937]; de Laguna 1934). Through this network, the Ahtna acquired Russian products even prior to direct contact with them (Grinev 1993, p. 62).

### **3.2 THE RUSSIANS AND AMERICANS**

Russian traders were interested in the Ahtna and their lands for both new sources of fur and the fabled copper deposits (Hanable 1982). Despite numerous Russian attempts to ascend the Copper River between approximately 1795 and the end of Russian involvement in Alaska in 1867, most of these expeditions ended in death either at the hands of the Ahtna or from a combination of Russian arrogance, ignorance, and starvation (Grinev 1993; Kari 1986; John and John 1973). Though Russian traders were never very successful in establishing a long-term outpost directly in Ahtna territory except for a few years near the Lower Ahtna village of Taral, Russian goods and diseases, via native traders, frequently traveled up the Copper River through the trading fort (Nuchek) on Hinchinbrook Island in Prince William Sound (Hanable 1982).

Diseases such as tuberculosis, smallpox, and influenza decimated much of the native population, while those who survived used Russian iron and steel axes to construct more permanent log cabin housing for single families, thus replacing the larger, extended family winter settlements (Reckord 1983a; de Laguna and McClellan 1981). It should be noted that the Russians were not the only non-native influence in the late eighteenth and nineteenth centuries in Ahtna country. Specifically, the British and the Hudson's Bay Company were expanding westward from present-day Canada, and by the 1830s the Ahtna were already in possession of English guns, and playing the Russians off the British for higher fur prices (Wrangell 1980 [1839]). Assessing the entire Russian era, Grinev (1993, p. 63) concludes that, for numerous reasons including the difficult terrain, "Russian colonization had a weaker effect on the Ahtna than on their western neighbors, the Tanaina and Chugach."

While most of the Russian expeditions up the Copper River were primarily commercial ventures, the early American efforts were first and foremost military in nature. In 1885, Lieut. Henry T. Allen, Second U.S. Cavalry, set out to explore Alaska with the following instructions from his superior:

In view of the fact that so little is known of the interior of the Territory of Alaska, and that the conflicting interests between the white people and the Indians of that territory may in the near future result in serious disturbances between the two races, the department commander authorizes you to proceed to that Territory for the purpose of obtaining all information which will be valuable and important, especially to the military branch of the Government (Wood 1885).

Where practically all had failed before him, Allen succeeded spectacularly, traveling over 1,500 miles in five months, traveling the Copper, Tanana, Koyukuk and Yukon rivers, respectively, with much assistance from natives throughout his journey. While in Ahtna country, he found or was shown several of the major copper outcroppings in the area, conducted a census of the native inhabitants, and generally collected geographical and geological information that was remarkably accurate considering the time and circumstances (U.S. Senate 1900). Despite Allen's success, there was very little subsequent activity by the U.S. government or commercial interests in the Copper River Valley until the 1898 Klondike Goldrush.

Though both Copper Center and Chickaloon Village are part of the broader Ahtna tribe and share common traditions and even ancestors, there are also important distinctions between the two villages, primarily related to their respective geographies and histories of contact with non-natives. These differences impact contemporary land use and tenure and are essential for understanding community structure and decision-making as mediated through ANCSA.

### 3.3 COPPER CENTER

The village of Copper Center, or Kluti Kaah, is located in the heart of Ahtna country near the confluence of the Klutina and Copper rivers. The Klondike Goldrush of 1898 brought over 3,000 gold prospectors across the Valdez glacierfields and into the Copper River Valley in search of an "All American Route" through Alaska into the Yukon Territory of Canada (Schrader 1900). The glacier trail, following an old native trade route noted (but not traveled) by Lt. Allen in his 1885 expedition and others before him, was treacherous, but was originally thought to be less so than Allen's path directly up the Copper River (Sherwood 1965). However, the glacier route was probably more perilous: "[traversing the glacier was] something awful to witness, being composed of glaring ice, horribly broken up, leaving great yawning chasms and ... strips of ice so narrow that a single misstep would launch one into crevasses hundreds of feet in depth" (Ambercrombie 1900, p. 40).

Most of these prospectors were terribly unprepared and never reached the Yukon, but rather settled at Copper Center for the 1898–99 winter. Approximately half of the 3,000 prospectors died that winter of scurvy (Reckord 1983a, p. 45). Most of the rest required military assistance in the spring of 1899 to exit the Copper River Valley, never to return. However, about 300 white settlers did remain at Copper Center, and they became the major non-native population in the entire Copper River Valley (Schrader 1900). Though Ahtna always occupied the area in and around Kluti Kaah prior to the goldrush—there were traditional fishcamps on practically every bend of the Copper River in this region (Ahtna, Inc. 1973, p. 178)—the actual establishment and official government recognition of Copper Center is traced to this in-migration of non-natives (USBIA 1973, p. 1). And once non-natives settled there, it was as if the Ahtna had never existed—their land rights to the area were summarily dismissed by the local white population and the various non-native government agencies administering to the new community's needs and activities (Cole 1993).

The military's rescue effort of the gold prospectors in the spring of 1899 led to an even more intensive effort to find a passable route from Valdez in Prince William Sound into the interior. By 1905, the U.S. Army Signal Corps had blazed a trail and telegraph route, eventually known as the Richardson Highway, from Valdez deep into the interior at Fairbanks, with Copper Center

a main stopping point along the way (de Laguna and McClellan 1981). In fact, until World War II, this was the only real highway in Alaska, and Copper Center was the largest community along the 364-mile corridor (Reckord 1983b).

Between diseases, alcohol, declining security of land tenure, and competition from non-natives, the Ahtna were continually challenged to provide for themselves via subsistence harvesting. Reliance on imported staples such as flour and domesticated meat increased significantly (Reckord 1983a). Faced with the prospect of providing government commodities and/or confronting a native rebellion, the U.S. government decided that schooling and farming would solve the problem. This was consistent with federal-Indian policy in the continental United States at the time, that is, the Dawes Severalty, or Allotment Act of 1887, which split up communally held Indian Reservation lands into individual parcels for natives to farm and distributed any “surplus” lands to the surrounding land-hungry white population (Washburn 1975). The differences in Alaska were that the federal government had never signed any treaties recognizing native land rights in the first place (except for the 1867 Treaty of Cession), so there were no *de jure* reservation lands to break up, and secondly, there were many fewer whites and much more land in Alaska. As early as 1903, a grand jury in Valdez wrote about the Ahtna in Copper Center:

The simple hospitable and kindly people of the forest have been of great assistance to the prospectors and miners who have invaded their country for the past few years, in many ways dividing their food and shelter with them whenever necessary, succoring them in distress and lending a helping hand to the white men who have gone into their country and in prospecting, mining and developing it, have unintentionally frightened away their game on which they formerly subsisted. We therefore urge upon the Congress of the United States that relief in some measure be granted these people, and further respectfully suggest that the President of the United States be requested through this court to reserve for the use of the Copper river Indians, or natives a suitable tract of farming or grazing land in the vicinity of the village of Copper Center (*Valdez News* 1903, p. 4).

Despite this seemingly earnest gesture, and small federal land grants *to whites* in Copper Center for a farm and a school *for the natives*, the land and climate were simply unsuitable for farming. The Copper Center school, on the other hand, accompanied by a Baptist mission for whites and a Russian Orthodox Church for natives, slowly took hold, despite the continued importance and pursuit of hunting and trapping, which still kept most natives out on the land and away from town, thus preventing their children’s regular attendance at school (Smith 1984).

The establishment in 1911 of the Kennecott copper mine near Chitna—one of the richest deposits of copper in the world—brought the railroad and hundreds of long-term settlers up the Copper River Valley, albeit 40 miles south of Kluti Kaah (Cronon 1992). With the development of other copper and gold mines in the area at roughly the same time, the true era of a mixed wage-subsistence economy for the Ahtna and surrounding natives began. Fur prices were rather high in the 1910s and 1920s, and a skillful native trapper out on the land for the entire winter could provide a fairly good annual income for his family. Other economic opportunities for natives included seasonal low-wage labor in and around the mining towns and on the railroad, which still allowed for some winter trapping and fall hunting for family use, as well as market hunting whereby natives would shoot moose, sheep, or caribou and sell the meat to the trading posts, which then sold it to the white miners and others (Reckord 1983a).

Another important change at this time was the introduction of the fishwheel, which harvested many more fish with significantly less effort. More fish, of course, meant more processing, that is, more work for the native women, who were actually able to sell surplus fish and began to make their own money as well. Men were generally responsible for building the wheel, but the fishcamp itself remained the women's domain (Reckord 1983a). Use of fishwheels and gender division, including ownership by women, continues today (Birdie Ewan, pers. comm., 7/30/97; Tana Mae Pete, pers. comm., 8/19/97).

Several scholars of the Ahtna have noted associated events from this time period that impacted the traditional social structure and land use practices. In particular, in their unpublished early field notes, de Laguna and McClellan (1954, p. 88) state: "Repeating rifles and indiscriminate burning over of large areas reduced the caribou herds, rendering obsolete the old caribou fences, and undermining the structure of band and chief."<sup>10</sup> Reckord (1983b, pp. 60–61) similarly notes the decline of the *denae*'s authority resulting from white fur traders organizing the natives' trapping year based on revenue requirements and world markets, as well as doctors and nurses supplanting the shamanistic healers, and white teachers socializing children instead of elders and family members.

The worldwide economic depression of the 1930s hit Alaska as well, with precipitous drops in fur prices and generally reduced wage labor opportunities. For the natives of Copper Center and surrounding areas, this meant an out-migration of whites as well as increased reliance on subsistence hunting and fishing for survival. This was and is a typical cycle in which economic downturns result in a return to "living off the land" (Peter Ewan, pers. comm., 8/20/97). Hence, despite drastic changes all around them, natives in and around Kluti Kaah maintained an economic and spiritual connection to their land and resources.

World War II brought with it a particularly dark chapter to Copper Center history. Despite the U.S. and Alaska Territorial governments' attempts to consolidate people in central towns for ease of service delivery and administration, many natives were still rather dispersed, living, hunting, and trapping in areas traditionally occupied by their older family and clan members, and coming into town only when necessary to purchase manufactured goods or trade at the outposts. In July 1942, the 176<sup>th</sup> U.S. Engineer Regiment reached Dry Creek, Alaska, approximately 12 miles north of Copper Center. From Dry Creek, the Regiment and other construction crews were to connect the Richardson Highway with the in-progress Alaska Highway, construct several airfields in the area for military use, and then connect the Richardson Highway with Anchorage, nearly 200 miles to the southwest. Three Ahtna family groups were living at Dry Creek, and were told to move. Soon after, their houses were burned down or removed while they were away (Annie Stickwan, pers. comm., 8/20/97; Haycox n.d., 1987). These families not only never received compensation for their immediate losses, but the ensuing airfields and highways were located on prime hunting and trapping grounds (Annie Stickwan, pers. comm. 8/20/97; Haycox n.d., 1987). This issue has yet to be resolved and is currently winding its way through the federal court system.

These developments brought several hundred new military personnel, and later civilian populations, into the area. The new junction at Dry Creek connecting the Richardson Highway

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<sup>10</sup> De Laguna's and McClellan's field notes may be found at the University of Alaska, Fairbanks, Alaska, Native Language Center; also property of author (Hirsch).



with Anchorage eventually became—and is still today—the focal point for white settlement in the region, replacing Kluti Kaah as the population and business hub. Dry Creek was renamed Glennallen, and the new highway connecting the area to Anchorage was dubbed the Glenn Highway.

From the post-war years through the passage of ANCSA in 1971, the Glenn Highway, accompanied by the electrification of the Copper River Valley, again brought many non-natives into the region, while re-orienting the Ahtna's urban focus from Fairbanks to Anchorage (Reckord 1983a). Along with new non-native settlers in the area, the Glenn Highway provided easier access to the Ahtna's traditional hunting grounds for white, urban, recreational hunters from Anchorage. The Glenn Highway also became the primary overland route connecting Copper Center with Chickaloon Village.

### 3.4 CHICKALOON VILLAGE

Chickaloon Village is located on the extreme western border of Ahtna territory, within the Upper Cook Inlet drainage basin. With their Copper River Ahtna relatives to the east, Chickaloon is also adjacent to the Tanaina Athabascans in the west, who are centered around Cook Inlet. Because Cook Inlet was one of the earliest areas to be contacted by Russians, and because Chickaloon's territory was, albeit with great effort, accessible via the Inlet, Chickaloon's history of contact is more associated with the Tanaina than with their more eastern Ahtna relatives (Townsend 1981).<sup>11</sup> Between the fur trade, warfare, epidemic diseases, and the Russian Orthodox Church, Cook Inlet peoples experienced significant social and cultural disruption during the Russian era from Captain Cook's first arrival in the Inlet in 1778 until Russian departure from Alaska in 1867 (Osgood 1976 [1937]).

By the time the United States acquired Russia's interests in Alaska in 1867, the native populations around Cook Inlet had significantly declined, while the area was well established as a trade and contact point with non-natives (Kalifornisky 1991). Commercial salmon canneries were established on the best Cook Inlet salmon streams in the 1880s, thus impeding native access to these areas and generally reducing the subsistence base. Brought ever-deeper into the cash economy, "[t]he canneries also purchased quantities of the Indian catch destined for winter use so that, to compensate for sold fish, Indians had to depend on cash to purchase winter food from traders, whose stock usually ran out before spring" (Townsend 1981, p. 636). This dynamic certainly applied more directly to the coastal Tanaina living on the shores of Cook Inlet, whereas most of Chickaloon's territory, the Matanuska and Chickaloon River valleys, was 60 miles inland from the Inlet coast. Further, both the Chickaloon and Matanuska rivers are very rough and rapid flowing, making them difficult to navigate; this served somewhat as a barrier for direct Russian and American penetration up the Matanuska from Cook Inlet. As a result, Chickaloon and other western Ahtna were more of the middlemen controlling flow and trade between the

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<sup>11</sup> While governments, academics, and others construct neat boundaries for ease of administration and classification, the reality is that these cultural and linguistic divisions were and are fluid. Many Ahtna words, especially in the Western dialect of which Chickaloon is a part, are related to words in Tanaina, and vice-versa (Kari 1983). Inter-marriage and trade were also fairly common (de Laguna and McClellan 1981).

coast, which provided European and (later) American manufactured goods, and the vast interior, which provided furs, native foods, copper, and other natural resources (Townsend 1981).

The Chickaloon people traveled widely and lived over a large area that extended from the Kenai peninsula in the south to the Susitna drainage in the north (Gary Harrison, pers. comm. 8/25/97). Historically, the confluence of the Chickaloon and Matanuska rivers, the center of Chickaloon traditional territory, was an important meeting point for Ahtna traveling westward toward Cook Inlet from the Copper River (Faye Ewan, pers. comm., 6/6/98). This is an obvious geographical landmark because the Chickaloon is a muddy, chocolate-brown, high-silt river, while the Matanuska flows clear blue. Their juncture is unmistakable, and is noted in Ahtna lore as a spiritually and politically significant place (Peter Ewan, pers. comm., 8/20/97).

World War I and the demand for fuel brought coal miners and the railroad up the Matanuska Valley, resulting in large commercial coal mines in the heart of Chickaloon territory (David Harrison, pers. comm., 8/12/97; USDOI 1916). This high-quality coal was used to fuel the U.S. Navy's Pacific fleet, while its mining, processing, and washing in the Chickaloon River killed the entire salmon population in the region by 1918 (Gary Harrison, pers. comm., 6/24/97).<sup>12</sup> To this day, no salmon live in the Chickaloon River, while Anchorage, currently home to half of the entire Alaskan population and the center of commercial activity, is located near the terminus of the Matanuska River in Cook Inlet, an approximately 1.5-hour drive from Chickaloon.

With the salmon population decimated and an influx of coal miners into the region, the Chickaloon people had little choice but to seek wage labor, including work on the railroads, in the coal mines, and even opening up a roadside restaurant once the Glenn Highway connected the Copper River Valley with Anchorage (Jess Lanham, pers. comm., 8/12/97; Katie Wade, pers. comm., 7/30/97). Similar to the situation in Copper Center, non-natives brought with them their diseases, modern conveniences, emphasis on a cash economy, and increasing pressure on subsistence resources. But the indigenous people in Chickaloon, just like those in Copper Center, clung to their traditional hunting and fishing practices even in the face of declining resources and increased governmental intrusion into their activities (Burt Shaginoff, pers. comm., 5/23/98).

As mentioned previously, turn-of-the-century federal farming efforts in Alaska focused on the Copper River Valley, which was poorly suited to agriculture. Upon recognizing its failure, the U.S. government shifted its attention in the 1930s to the Matanuska Valley, that is, Chickaloon's traditional territory. This area has much better soils, a longer growing season, and more rainfall than the Copper Basin. In fact, the Matanuska Valley is the best agricultural area in all of Alaska (USDOI 1940). While many non-natives left Alaska at this time, in 1935, the federal government sponsored two hundred farm families from Minnesota, Michigan, and Wisconsin to colonize the Matanuska Valley and begin a new agricultural life (Woerner 1986). In a 1940 publication entitled "The Problem of Alaskan Development," the U.S. Department of Interior quite clearly offers its view on Chickaloon's and Alaska's past and future: "The establishment of an agricultural colony in the Matanuska Valley was a pioneering experiment involving group resettlement upon virgin lands.... Signs of accomplishment are unmistakable and the experiences of the Matanuska Colony are sources of information to guide future

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<sup>12</sup> By 1916, the U.S. Department of the Interior had published regulations to manage coal-land leases in traditional Chickaloon territory. Maps of the coal deposits were also included. Despite dubbing this the "Chickaloon coal formation," the U.S. government never once mentions the native inhabitants of the area (USDOI 1916).

colonization” (USDOI 1940, p. 44). Most of these families eventually abandoned farming but stayed in Alaska. The Matanuska Valley town of Palmer, with an approximate current population of 4,000 and home to the Alaska State Fair—replete with ferris wheels and blue-ribbon vegetable-growing contests—is the primary legacy of this federally subsidized colonization effort in traditional Chickaloon territory.

In considering both Chickaloon’s and Copper Center’s history within the broader Alaskan context, since at least World War II Chickaloon has been at once more exposed to non-native urban culture in the form of Anchorage and even Palmer, while simultaneously less exposed to the military and, later on, the oil companies. This dynamic is primarily an accident of geography, but with significant impacts considered below.

Finally, it should be noted that unlike Copper Center, Chickaloon did not have a single village location and a long history of contact with the federal government, that is, the Chickaloon people were and are widely dispersed over a large area that does not facilitate easy record-keeping. As a result, the “official” documented history of Chickaloon Village is much more obscure. In the seminal pre-ANCSA study, *Alaska Natives and the Land* (Federal Field Committee for Development Planning in Alaska 1968), for example, demographic, subsistence harvesting, and other socioeconomic statistics on Kluti Kaah are included throughout the 565-page report, while Chickaloon Village is not mentioned a single time in the entire document. The Chickaloon coal deposits, however, do receive some attention in the study. Similarly, ANCSA itself explicitly recognizes Copper Center as an Alaska Native village with claims and rights to the provisions of the Settlement, while Chickaloon Village is never acknowledged in the legislation.

#### **4. THE ALASKA NATIVE CLAIMS SETTLEMENT ACT: IMPLEMENTATION AND COMMUNITY IMPACTS**

*“Considering all the oil, gold, timber, fish, and other resources taken from our lands, ANCSA makes Manhattan Island look like a good deal.”*

Jess Lanham, Chickaloon Village Council Member, 8/12/97

This research paper aims to illuminate and explain community-scale impacts in Copper Center and Chickaloon Village resulting from the ANCSA. From the events just presented, however, it should be apparent that cultural clashes and changes have been occurring for at least a century-and-a-half prior to the enactment of ANCSA in 1971. While Copper Center and Chickaloon Village have responded differently to the forces that have challenged their traditional land tenure, use, and community structure before and after ANCSA, the underlying causes were essentially the same—and are still ongoing—in both communities, that is, non-natives’ quest for mineral and fiber abundance in the face of natives’ attempts to maintain their traditions and lifestyles.

Though ANCSA can be viewed as part of this continuum, in some important ways it was clearly a break from the past, not simply a shift in emphasis or focus. ANCSA was essentially the first comprehensive statement by the U.S. government regarding indigenous land tenure in

Alaska, and Euro-American notions of individual tenure and “proper use” of land significantly shaped the legislation. To receive land, money, and other provisions of ANCSA, all Alaska Native villages were required to form a village corporation chartered under Alaska state law. Copper Center created Kluti Kaah, Inc. (KKI), and Chickaloon Village created the Chickaloon-Moose Creek Native Association (CMCNA). Because of the land/population formula of ANCSA and Chickaloon’s relative obscurity vis-à-vis federal legislators, CMCNA was vested with surface rights to 69,120 acres, while KKI was vested with surface rights to 115,200 acres.<sup>13</sup>

Despite the extremely close historical and contemporary ties between the two villages, by the vagaries of ANCSA-mandated boundary drawing, Copper Center and Chickaloon Village not only acquired different amounts of land, but they also were placed in two different ANCSA-created regional corporations. Copper Center, located in the heart of Ahtna country on the banks of the Copper River, is part of the native regional corporation called Ahtna, Inc., which comprises 8 Ahtna villages with about 1,000 shareholders. Under the terms of ANCSA, Ahtna, Inc. received a total of almost \$18.8 million of contributed capital. Ahtna, Inc. registered a \$1 million net loss for 1994 and is involved in local construction, timber harvesting, mining, oil pipeline maintenance of TAPS, and other regional oil industry activities. Ahtna, Inc. has surface and/or subsurface rights to approximately 1.75 million acres of land, which includes the 115,200 acres of KKI’s surface estate (Rude 1996).

Chickaloon Village, on the other hand, was placed in the Anchorage-based regional corporation known as Cook Inlet Region, Inc. (CIRI). CIRI comprises 13 Alaska Native communities around Cook Inlet and hundreds of individual urban, or “landless,” natives who do not belong to a corresponding village corporation. CIRI has approximately 6,500 shareholders. Chickaloon is the only Ahtna village among the thirteen member villages of CIRI. Under the terms of ANCSA, CIRI received a total of almost \$34.4 million of contributed capital. Of all the regional corporations, CIRI is by far the most urban, racially and culturally diverse (i.e., Athabascan, Inuit, Aleut, Tlingit, etc.), and considered the most economically aggressive, with financial stakes in oil, gas, and mineral development, ecotourism projects, mass media, real estate holdings across the United States, and a net profit of \$29.8 million for 1994 (Rude 1996). CIRI has surface and/or subsurface rights to approximately 2.3 million acres of land, which includes the 69,120 acres of CMCNA’s surface estate (Rude 1996).

Along with involuntarily being part of two very different native regional corporations, since the imposition of ANCSA the two communities have addressed land tenure issues on the village level in rather distinct ways. Kluti Kaah’s village corporation, KKI, dissolved in bankruptcy in 1980 and merged its landholdings with six other villages into Ahtna, Inc. As part of this land merger, KKI reserved for any village successor entity veto authority over any land use decision made by Ahtna, Inc. regarding KKI selected lands. Formed soon after KKI’s dissolution, the

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<sup>13</sup> The ANCSA land/population formula is contained in Section 14 of the original legislation. A native village with a 1970 census population between 25 and 99 received 69,120 acres; a village with a population between 100 and 199 received 92,160 acres; between 200 and 399 received 115,200 acres; between 400 and 599 received 138,240 acres; and 600 or more received 161,280 acres. These land conveyance figures ignored traditional use territories, differences in land quality, and availability of subsistence resources. Chickaloon Village’s relative obscurity and dispersed population in 1970 meant that it did not receive as much land as it could have according to ANCSA’s criteria, though even this population figure is better than the 1990 census, which maintains that Chickaloon Village is comprised of 9 people.

Kluti Kaah Tribal Council (KKTC) has become the successor entity to KKI and is a federally recognized Tribal government, though the deed to its land is held by Ahtna, Inc., a state chartered corporation.

Chickaloon Village, alternatively, through an arduous process in the mid-1980s, deeded all CMCNA corporation lands and authority, except for timber rights, to the Chickaloon Village Traditional Council (CVTC). The CVTC is the modern manifestation of Chickaloon's aboriginal governing structure and is also a federally recognized Tribal government. The result of this subtle but significant shift in land tenure is that Copper Center's land is now part of a much bigger corporate asset and management portfolio, while Chickaloon Village's land is under Tribal jurisdiction and ownership, much like Indian Tribes in the lower 48, though it is not considered "federal trust" land.

The above information is summarized in the table below. Following this table, each community will be further considered individually and then some comparisons and analysis will be offered.

**Table 4.1. Tabular Summary of Copper Center and Chickaloon Village**

<b>Category</b>	<b>Copper Center</b>	<b>Chickaloon Village</b>
Tribal identification	Ahtna	Ahtna
Village population	~250	~200
ANCSA Village Corporation	Kluti Kaah, Inc.	Chickaloon-Moose Creek Native Association
Village Corp. land base	115,200 acres (surface only)	69,120 acres (surface only)
Village Corp. status	Dissolved in 1980; merged with Ahtna, Inc.	Dormant – retains timber rights
Current village government & status	Kluti Kaah Tribal Council; retains veto authority over KKI lands	Chickaloon Village Traditional Council; fee ownership of CMCNA lands with some restrictions
ANCSA Regional Corporation	Ahtna, Inc.	Cook Inlet Region, Inc.
Regional Corp. land base	1.75 million acres	2.3 million acres
Regional Corp. ANCSA distribution	\$18,765,851	\$34,363,403
Regional Corp. annual profits (1994)	(\$1.1 million loss)	\$29.8 million
Regional Corp. shareholders	~1,000	~6,500

## 4.1 ANCSA IMPACTS IN COPPER CENTER

Probably the most obvious physical and direct impact of ANCSA in Copper Center is the land withdrawal of a utility corridor for TAPS. Paralleling the Richardson Highway, part of the 800-mile pipeline path from Prudhoe Bay to Valdez slices right through Kluti Kaah traditional territory. Once ANCSA was passed, ensuing lawsuits were settled, and the land tenure situation was viewed as “secure” enough for the oil companies to begin TAPS construction, Copper Center was flooded with non-natives, high-paying construction jobs, liquor, further loss of subsistence resources, temporary and then permanent construction and maintenance camps for the pipeline, road “improvements” to the Richardson Highway that took away more hunting land, increased traffic, and other attendant impacts of massive population in-migration (Clarence McConkey, pers. comm., 7/30/97).<sup>14</sup> The height of this construction boom for the entire State of Alaska, as well as for Copper Center, was from 1974 to 1977, when TAPS was finally completed and oil began to flow. In many ways, this population and construction boom was not unlike the 1898 Klondike Goldrush, though with cumulative effects.

In more recent times Alyeska, the TAPS management company, has become a primary client of Ahtna, Inc. for pipeline maintenance and servicing over much of the TAPS corridor (Olson 1977). As might be expected, considering that TAPS and Alyeska symbolize the antithesis of traditional land use and tribal culture, the local community and corporate shareholders are split over the role that Ahtna, Inc. plays, and should play, in the oil industry (Clarence McConkey, pers. comm., 7/30/97). Yet Alyeska is by far the largest corporate entity in the region and an obvious source of revenue and jobs for the much smaller Ahtna, Inc. and its shareholders.

The physical presence of TAPS slashing through hunting and trapping territory is only part of the picture. Alyeska’s monitoring of TAPS results in helicopter and airplane surveillance flights daily over the entire pipeline route. While Kluti Kaah and surroundings are relatively far removed from any urban center, the area receives low-flying air traffic from both Alyeska and the nearby military—with the attendant noise pollution and scaring off of animals—equivalent to a town bordering a sizable urban airport. Further, state laws protecting TAPS prohibit hunting or trapping within one-half mile on either side of the pipeline to avoid any possible “stray” or “accidental” gun shots (Peter Ewan, pers. comm., 8/20/97). Since part of the pipeline runs right through traditional hunting and trapping territory of Kluti Kaah shareholders and Tribal members, this law has a land-use impact far beyond the relatively narrow utility corridor officially withdrawn by ANCSA (Faye Ewan, pers. comm., 7/4/97).

Another consequence of, and response to ANCSA in Copper Center has been the fracturing of the traditional land base and an increase in formal bureaucracy regarding land use and management. During ANCSA land selections, much of Copper Center’s traditional use lands,

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<sup>14</sup> The population of Glennallen, for example, the largest non-native community in the Copper River valley and located very close to Kluti Kaah, grew from 363 to 511, i.e., 148 people or 40.1%, from 1970 to 1980. During this same time, the combined native and non-native population of Copper Center grew from 206 to 213, i.e., 7 people or 3.4%. Glennallen is heavily dependent on the oil industry, with a TAPS pump station and maintenance camp within commuting distance of the town. It should also be noted that such population growth is difficult to attribute solely, or even primarily, to the oil industry, since Glennallen’s population grew a whopping 114.8% in the previous decade, the 1960s, before the discovery of Prudhoe Bay.

especially for hunting, were ineligible for selection because of other filed claims, such as those by the state, the National Park Service, the oil companies, and even old homestead and mining claims that received more recognition from the federal government than Kluti Kaah's pre-ANCSA and aboriginal land claims (Annie Stickwan, pers. comm., 8/20/97). What this has meant in a practical sense is that hunting and some fishing lands have often been broken up into discontiguous parcels, often far-removed from the central village.

Further, since KKI's land merger with Ahtna, Inc., in 1980, tribal members must often deal with the Tribal Council (KKTC), the regional for-profit corporation (Ahtna, Inc.), perhaps the regional non-profit corporation (Copper River Native Association), the State of Alaska Department of Environmental Conservation (ADEC), and possibly another federal and/or state agency to simply go hunting or fishing or build a cabin on land that was conveyed to the village under ANCSA. Because Ahtna, Inc. and its corporate board comprise people from several villages, not just Copper Center, decisions about the use of land in Copper Center are not solely made by the residents of that village (or shareholders of the now-dissolved village corporation); rather, such decisions are now made on the regional corporate board by people who may reside in any of the eight villages in Ahtna, Inc., or, in some cases, by board members who no longer even live in the region but perhaps reside in Anchorage or Fairbanks. Of course, one village resident's hunting grounds may be another corporate board member's timber contract. This not only complicates the process, but can easily fuel village and personal conflict.

To confuse the matter further, since the state maintains regulatory jurisdiction over all Ahtna, Inc., and hence Kluti Kaah lands, acquiring a hunting or fishing permit requires registration with, and payment to the state, even if the individual shareholder/tribal member intends to use his/her own corporation's/tribe's lands, from whom they must also receive permission. As well, all state hunting and fishing laws, including bag limits and allowable seasons, are imposed on Kluti Kaah hunters, despite contemporary state fish and game management activities that are at odds with traditional Ahtna seasons and harvest practices. With state regulation, every fishwheel in the Copper River, for example, must be registered and post a state-issued number that is visible from the air, since the state monitors the fishwheels by helicopter and/or airplane. The traditional Ahtna ceremony honoring the first returning salmon of the season has been undermined by a state-imposed June 1<sup>st</sup> opening of the fishing season, often a full two weeks after the first salmon return (Faye Ewan, pers. comm., 6/6/98). Completely ignoring this ancient ceremony, the State of Alaska now regulates and sponsors—with its own fanfare and media publicity—a commercial salmon harvest for primarily non-native fishermen at the mouth of the Copper River precisely at the time of the first salmon return (Clarke 1998).

To better understand what these shifts in tenure and jurisdiction imply, consider Indian tribes in the lower 48 where, for instance, the Lac du Flambeau Ojibwe Nation, located in Wisconsin, issues its own fishing licenses for both tribal members and others. This license is recognized and offered reciprocity by the state of Wisconsin's Department of Natural Resources (WDNR). An individual who has purchased a Lac du Flambeau fishing license may fish on any Wisconsin lake, and his/her license will be honored by the WDNR. The tribe's jurisdictional and regulatory authority stem from historic treaties, contemporary case law, and governance over a land base that is still in effect. Such rights and authorities also entail responsibilities, such as directing license fees into actively monitoring and managing the fish stocks according to agreed-upon guidelines. In the case of the Lac du Flambeau Tribe, from April 1997 through May 1998,

collection of licensing fees amounted to “hundreds of thousands of dollars,” while the revenues have been used for the tribal fish hatchery and fisheries management (Rasmussen 1998, p. 15).

Alternatively, in Kluti Kaah the local community and Village Council have a much reduced role, especially in resource management. This is a result of not having regulatory authority to manage and monitor the fishery, as well as a lack of funds from not issuing fishing licenses. Further, the traditional governing structure based on traditional land use skills and leadership is often superseded by state permitting authorities and land use decisions made by Ahtna, Inc.’s Board of Directors. This is not to say that the traditional structures have been fully displaced by state authorities and corporate boards, but rather that these additional layers have been superimposed, and are often antagonistic toward the still-intact, and always changing, community structure.

The native people of Kluti Kaah have not simply allowed ANCSA to dictate what they can and cannot do. Rather, they have tried to shape ANCSA to better conform to their traditional community structures and ties to the land. Fortunately, during ANCSA land selections, Copper Center was able to select lands along the banks of the Copper and Klutina rivers that were the traditional fishcamp areas of their people. As a result, their primary subsistence activity—the summer salmon harvest—is still a community focal point. Indeed, the traditional tenure structure in which specific bends in the river are associated with specific families or clans still exists, and these areas are actively managed and handed down matrilineally (Birdie Ewan, pers. comm., 7/30/97). In this one aspect at least, ANCSA has clarified Kluti Kaah’s collective rights to these fishing areas. Further, the village has recently established a community fishwheel on a part of the river that was not used by any single family. This fishwheel provides for elders and serves as an education tool for village youth whose families are not presently fishing or have somehow lost access to their traditional fishcamp areas.

In the course of our research, we found that this strong tie to the land and rivers cannot be overemphasized in its importance in maintaining continuity across generations and overcoming impacts of ANCSA or any other law. Indeed, land tenure at the fish camps, and the knowledge required to build and repair fishwheels, is essentially the modern day equivalent of the traditional community leaders who were recognized for their harvesting skills and understanding of the natural world. Still today, those who are able to provide subsistence foods such as salmon and moose for potlatches and other community ceremonies are honored and respected in a way that transcends local politics and other social structures, such as corporate board membership, that have resulted from ANCSA and state jurisdiction.

Kluti Kaah has also attempted to challenge and shape ANCSA from a legal perspective. On 18 December 1986, exactly 15 years to the day after ANCSA was signed, the KKTC imposed a 5 percent Business Activities Tax on Alyeska, claiming “territorial jurisdiction” over Kluti Kaah’s ANCSA lands traversed by TAPS. Alyeska, joined by all of the major Arctic North Slope oil producers and the State of Alaska, filed suit to challenge Kluti Kaah’s jurisdiction and imposed tax. *Alyeska Pipeline Service Company et al. v. Kluti Kaah Native Village of Copper Center et al.* (101 F3d 610 [1996]) was a long and complicated lawsuit beyond the scope of this paper, but the U.S. 9<sup>th</sup> Circuit Court ruled against KKTC, stating that ANCSA effectively withdrew the pipeline corridor from tribal taxing authority and jurisdiction—or any other tribal authority, for that matter. This unequivocal rejection of tribal territorial jurisdiction was issued in spite of the facts that: (1) the land in question had reverted back to tribal ownership after initially



being withdrawn for TAPS construction; and (2) in 1993, during the time that this high profile lawsuit was winding its way through the courts, the BIA sought to clarify tribal status in Alaska by issuing a list of federally recognized tribal governments in the state, which included KKTC, thus implying similar jurisdictions and authorities exercised by federally recognized tribal governments in the lower 48. Indeed, the case is notable for acknowledging that ANCSA was initiated explicitly to facilitate TAPS construction and oil production and that land withdrawn for TAPS supersedes any and all tribal claims.<sup>15</sup> This decision was a bitter disappointment for Kluti Kaah and many other Alaska Natives across the state challenging ANCSA, but it has also created some additional legal opportunities and strategies that are still being played out in the courts and public opinion (Gideon James, pers. comm., 7/12/97).

Interestingly, the regional non-profit arm of Ahtna, Inc., known as the Copper River Native Association (CRNA), has also emerged as an important regional force and supporter of tribal rights and responsibilities as rightful governments and sovereigns. As ANCSA envisioned, CRNA has become an effective quasi-governmental entity with regards to provision of health care, housing, and other social services. As an effective non-profit corporation with access to both federal funding programs for Alaska Natives and some ANCSA money channeled through Ahtna, Inc., CRNA has developed genuine technical and administrative capacity that is brought to bear in serving the social needs of Ahtna shareholders. Despite the built-in tensions created by ANCSA between village and regional entities, CRNA and KKTC appear to have an excellent working relationship, with much sharing of personnel, funding, and collective strategies for program implementation. In this case, a regional entity has found an appropriate forum and appropriate scale in which to provide for the Ahtna people, albeit without the “privileges” such as sovereign immunity or taxing authority exercised by tribal governments in the lower 48.

## **4.2 ANCSA IMPACTS IN CHICKALOON VILLAGE**

By the vagaries of geography, Chickaloon was less directly affected by the oil companies and the TAPS corridor than was Copper Center, simply because their ANCSA lands were not in the way of the pipeline. Indirectly, however, the oil industry has certainly made its mark in the region. Specifically, the explosion of Anchorage as Alaska’s commercial and population center, and the ensuing spill-over into the Matanuska Valley, has been a direct result of oil development in the state. In terms of enticing settlers from the lower 48 to “colonize” Alaska, the promise of “black gold” lying beneath the harsh arctic tundra achieved almost overnight what lush farmlands and decades of U.S. Department of Interior propaganda could never do.<sup>16</sup> Again, such demographic

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<sup>15</sup> The 9th Circuit decision states: “Viewed in light of Congress’s goal of enabling the construction of the Pipeline, unfettered by Native land claims, we conclude the preservation of the Pipeline right-of-way precludes a finding of a federal set-aside [for Native land selections] where Pipeline land is involved” (101 F3d 613).

<sup>16</sup> According to the U.S. Census, the population of Anchorage from 1929 through 1990 is illustrated below.

trends were occurring before ANCSA, but the statistics show a quantum leap at the time of the oil boom. Through the miracles of modern airline travel, most of the new “oil colonists” who have moved to Alaska commute to the north slope oil fields, and make their permanent residence in Anchorage or the Matanuska Valley.<sup>17</sup>

Chickaloon’s traditional hunting and fishing territories have now been permanently impacted by suburban sprawl and industrial development to the point that subsistence activities can no longer realistically support a family in the area. Fish and wildlife populations have been greatly reduced, there is increased pressure on these resources from expanding non-native populations, and the cost of living has escalated as affluent oil-industry employees have moved into the highly desirable Matanuska Valley to escape the urban conditions of Anchorage (Rick Harrison, pers. comm., 8/13/97).<sup>18</sup> Further, since the salmon population in the Chickaloon River had been decimated from coal mining to support the U.S. Pacific Fleet in World War I, Moose Creek had become the most important source of salmon for the Chickaloon people. Yet the confluence of Moose Creek and the Matanuska River—the exact location of Chickaloon’s primary fishcamp—was deemed “out of bounds” by Washington legislators during Chickaloon’s ANCSA land selections. Hence, the people of Chickaloon are now prohibited from fishing at the mouth of Moose Creek, under penalty of trespass, subsistence violations, and jail. This is clearly a direct consequence of ANCSA.

One significant yet unanticipated result of this removal of Moose Creek from Chickaloon’s traditional usage area is an increased inter-village dependence between Chickaloon and Copper Center. For much of June and July, people from Chickaloon receive excited phone calls from their Copper River relatives, asking them to drop everything and “head up the highway” to help

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Year	Population	Number Change	% Change
1929	2,277	--	--
1939	3,495	1,218	53.5
1950	11,254	7,759	222.0
1960	44,237	32,983	293.1
1970	126,385	82,148	185.7
1980	174,431	48,046	38.0
1990	226,338	51,907	29.8

Note that in 1970, the statistical area from which the Census Bureau derived the population figure was changed from the Anchorage central city to the larger Anchorage Borough. Chickaloon is located in the neighboring Matanuska-Susitna Borough (MSB), which has experienced similar growth patterns, but on a much smaller scale compared to Anchorage, the headquarters of the Alaska oil industry. The MSB is a huge, sprawling entity that covers 24,502 square miles and has readily accepted the Anchorage spillover population (US Census Bureau 1950, 1960, 1970, 1980, 1990).

<sup>17</sup> The oil companies have facilitated this lifestyle choice with “two weeks on, two weeks off” scheduling, and shuttle flights from Anchorage and Fairbanks to Prudhoe Bay. Almost unbelievably, many oil workers air commute from places like Texas and Colorado to Prudhoe Bay under the “two on, two off” scheduling (Larry Wade, pers. comm., 8/29/97).

<sup>18</sup> Relative to Anchorage, the MSB escaped some of the early impacts associated with population growth and associated residential development. But this has been changing. In 1991, on Cottonwood Creek, right near a Chickaloon member’s residence, 25,000 salmon returned to spawn. In 1997, there were 86 (Bruce Harrison, pers. comm., 8/13/97).

process fish. Inevitably, a large salmon run up the Copper River overwhelms the fishwheels and the locals, and they need help to quickly cut and dry fish to store for the winter. If Chickaloon still had access to fish in their local area, they would be too busy processing their own salmon to head up the highway to help out, but with Moose Creek and the Chickaloon River unavailable or unproductive, a mutually beneficial relationship has evolved that is reinforced every summer.

One elder from Chickaloon said that when she was a young girl, her parents and grandparents told her a great deal about her Copper River relatives, but that she hardly ever saw them because her family had to walk the approximately 150 miles over rugged terrain to visit them or vice versa. Gatherings occurred very infrequently, and only for very significant reasons, like a potlatch for a deceased chief or an important trading mission (Katie Wade, pers. comm., 7/29/97). Now, with the Glenn Highway connecting the two communities, people and goods travel back and forth regularly, and the two villages are in constant contact. Paradoxically, the Glenn Highway is also a source of non-native in-migration and an unwelcomed extension of Anchorage's urban influence. Along with rap music and cappuccino, Anchorage's influence includes urban hunters who head up the highway and trophy hunt in native traditional areas, often taking just the head of a bull moose and leaving the meat to rot in the woods (Bruce Harrison, pers. comm., 8/13/97).

Other direct, yet unexpected consequences of ANCSA stem from the complexity and oversights in the legislation itself. As stated previously, Chickaloon Village was never mentioned in ANCSA. If it were up to the federal legislators, Chickaloon Village would have become fully assimilated into the non-native Matanuska Valley landscape. Hence, the Chickaloon people had to assert their very existence simply to receive the provisions contained in ANCSA. In some ways, ANCSA has ironically served to bring the people of Chickaloon back together, albeit under less than ideal circumstances. A community leader involved in the early days of ANCSA said:

The actual land claims didn't get rolling for a while, but then we found out that we needed to apply and get certified to qualify [for land and other ANCSA provisions]. We had to write a letter saying that we still used and occupied the territory, and get as many of our people to sign it as possible. We didn't like it, and our people were all over the place, like Anchorage and Kenai and down in the States, but Aunt Angie said, "we've got to do this." So we wrote up a petition, took it around, got it signed, and sent it to Cook Inlet [Region, Inc.]. Since then, lots of people have moved back, but my brother and sister didn't sign up, so they weren't included. Since our corporation received land on a per capita basis, we didn't get the land we should have if they were all included. Land was given to the corporations, not the people, and to this day, it's divided us since not everybody signed up to become part of the corporation (Alan Larsen, Sr., pers. comm., 8/31/97).

Several other community members stated that when they were young, they had no idea or understanding of ANCSA. It was not until the responsibilities of owning corporate stock were thrust upon them that they began to get involved (Bruce Harrison, pers. comm., 8/13/97).

Another person active in the early days of ANCSA implementation in Chickaloon said:

Our first official paperwork for our Tribal Council was filed in 1974. We only did it because of ANCSA. In the old days, we governed ourselves, but it wasn't formal. We were guided by the seasons—that's how we governed ourselves. If there were fish or moose around, you had to act fast. The only good excuse for a government is the good health of the people. My 70 year old

uncle sacrificed himself to go up to Point Hope to clean up radioactive waste left there by the military. He didn't want young kids going up there and killing themselves, but he knew it had to be cleaned up. A few years after he went up there, he died of cancer. That's how we governed ourselves (Jess Lanham, pers. comm., 8/12/97).

ANCSA's complexity resulted in numerous conflicts between Chickaloon's village corporation, CMCNA, and the regional corporation, CIRI. Deciphering ANCSA was essentially a new field of law, and "the lawyers interpreted it for the people who paid them. In the early years, we used to call ANCSA 'the lawyers and accountants retirement fund'" (Alan Larsen, Sr., pers. comm., 8/31/97). And "the people who paid them" were the regional corporations, which, under ANCSA, received all the monetary disbursements from the federal treasury and exercised veto power in redistributing the funds to the village corporations.

By the time a sawmill and timbering operation initiated by CMCNA went bankrupt in 1980, in no small part because of CIRI's opposition, the people of Chickaloon knew that they were "going it alone" (David Harrison, pers. comm., 8/12/97). CIRI's legal and financial roadblocks, compounded by federal and state government support of a coal mining operation that required an easement through Chickaloon land, caused many in the village to feel that they had been swindled by fast-talking lawyers and legislators who had promised them secure title and a say in their future. "The feds and CIRI took us for a ride, and they kept pointing to the laws to explain their actions. So a few of us got some law books and started reading. By 1984, I had read almost the entire *United States Code*" (David Harrison, pers. comm., 8/12/97).

After the failed sawmill affair, the village corporation was nearly defunct. One of the main families in the community essentially withdrew from all village and corporate affairs (Penny Westing, pers. comm., 6/24/97). Yet through all of this conflict and disappointment, people were beginning to understand what had been set in motion by ANCSA. In 1984, two brothers in their mid-20s, Gary and David Harrison, ran for, and won seats on CMCNA's Board of Directors. They were too young at the time of ANCSA's passage to be fully aware of its future impact, but after living with the failed promises of ANCSA for all of their adult lives, they decided to do something about it.

In '84 we ran [for the Board of Directors] on doing a land lottery—distributing some land to individual shareholders because we hadn't received any other benefits from ANCSA. We had read all those early laws, and were trying to get the land back to the Tribe. We figured we'd have to give some [land] up to each shareholder so they would vote to give the rest back to the Tribe (Gary Harrison, pers. comm., 8/25/97).

Just as ANCSA must be placed in the broader context of native and non-native contact and conflict across Alaska's history, Chickaloon's initiative to transfer its village corporation land back to its tribal government must be viewed within the broader context of the native sovereignty movement within post-ANCSA Alaska. In 1983 and 1984, the Alaska Native Review Commission conducted a statewide examination of ANCSA's impacts over its first decade of implementation. Thomas R. Berger, a law professor and former Canadian Supreme Court Justice for the Province of British Columbia, was appointed to direct this review. For two years, he traveled to over a hundred native villages across Alaska and took thousands of hours of testimony. Native peoples' words, and Berger's findings, are presented in his final report, which was published as a book, *Village Journey* (Berger 1985).

This important work is a vital “snapshot” of ANCSA at the time, but his review process also served as a focal point for Alaska Natives, including those in Chickaloon, to individually and collectively voice their frustrations and feelings of betrayal. “Berger’s hearings were very influential on us and others. I prepared a nine-page speech for the hearing—the only speech I’ve ever written” (David Harrison, pers. comm., 8/12/97). In the chapter called “Recommendations,” Berger clearly argues for return of corporation land to its rightful sovereigns, the native tribes and villages in Alaska.

According to our research, the leaders in Chickaloon and in other villages had realized this for some time prior to Berger’s recommendations, but the official nature and weight of Berger’s statements legitimized this approach. Nonetheless, it took the Harrison brothers until 1987 to implement their land lottery and get consensus for tribal control.

Everybody had quit coming to corporation meetings, so we got caribou flown in to get people to the meetings, but they still didn’t show up. So we put together a petition to transfer assets from the corporation to the tribe. Then we went door-to-door to every shareholder, and had them sign the petition. Since all of our land still wasn’t—and isn’t—conveyed, we still have the corporation to receive the land when it gets released because the feds won’t give it to our tribe. But the corporation is now there just to receive the land. Our tribe basically makes all the decisions and takes care of our people (Gary Harrison, pers. comm., 5/22/98).

Chickaloon Village is now widely recognized as one of the most outspoken critics of ANCSA and one of the most active communities supporting tribal sovereignty (Kizzia 1997).<sup>19</sup> “When we first started talking ‘sovereignty,’ people thought we were crazy. They called us the ‘Chickaloonatics.’ In 1986, we went to Kotzebue and spoke with some international groups working with the Eskimos up there. We got kicked out—they said we were too radical. Now, you can’t go anywhere in Native Alaska without people talking ‘sovereignty’” (David Harrison, pers. comm., 7/1/97).

The Harrison brothers have since traveled far and wide to convey their personal experiences with ANCSA, including formal meetings under the auspices of the United Nations Committee on Decolonization, other national and international fora, and statewide summits. One of the brothers is the Traditional Chief of the village (selected by elders, not a BIA-sponsored election), and the other brother has, until very recently, been the long-standing Tribal Attorney General and currently directs the tribe’s environmental programs. Traditional decision-making practices through the Tribal Council and consultation with village elders is the primary policy vehicle, and the tribal structure itself is based on traditional roles and rules rather than a boilerplate tribal constitution under the IRA. An IRA constitution is the standard state of affairs for most tribes in the lower 48 formed pursuant to the Indian Reorganization Act of 1934. Since the sovereignty movement has caught on in Alaska, many tribes there have also re-established a Tribal Council

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<sup>19</sup> Confronted with the reality of tribal sovereignty and challenging ANCSA, the non-native media have gone to great lengths to distinguish between “good” sovereignty and “bad” sovereignty. For example, in a week-long series on “Indian Country” in Alaska, the *Anchorage Daily News*, by far the most widely read daily in the state, wrote, “[t]his radical wing of the sovereignty movement has adherents around the state, from the Chickaloon tribe north of Anchorage which has been locked in a court battle with the state for years over a road right of way through a Native allotment...” (Kizzia 1997). What this article neglected to mention is that the court battle resulted from Chickaloon’s attempt to stop illegal coal mining above the tribe’s aquifer and get the state to enforce its own laws, which it refused to do (Gary Harrison, pers. comm., 5/22/98).

with an IRA constitution, though some have adopted a “Traditional Council” along the lines of Chickaloon, that does not reserve such an oversight and veto role for the BIA. Only a few have been able to effectively convey village corporation assets to a tribal entity, though this is still an ongoing effort across Alaska.

The Chickaloon Village Traditional Council (CVTC) is now the primary entity governing Chickaloon affairs. Since 1992, Chickaloon has been running its own tribal school for its youth, combining traditional drumming, songs, the Ahtna language, values, and handicrafts with contemporary academic subjects, testing, and conformance with broader standards. Currently the school shares building space with the CVTC administration in the old “Aunt Katie’s Drive-In” restaurant. The tribe, independent of the corporation, has built a small fish hatchery on the Chickaloon River in attempts to re-populate the river with salmon. Though opposed by the State of Alaska, the tribe also actively exercises regulatory jurisdiction over its ANCSA-selected lands. The CVTC issues its own land use permits for natives and non-natives alike to recreate or otherwise use Chickaloon land. While this has not resulted in permitting revenues of hundreds of thousands of dollars, there is no question about who exercises jurisdiction over this land, despite its conveyance resulting from ANCSA. The tribe has also employed “peace officers” in lieu of police officers to patrol its land and maintain the peace.

Putting into action the notion that “if you want to be treated like a government, you must act like one” (Gary Harrison, pers. comm., 6/24/97), like tribes in the lower 48, Chickaloon also issues its own license plates and driver’s licenses. Yet unlike the lower 48, when Chickaloon tribal members drive a car with their tribe’s license plate affixed, they get thrown in jail by Alaska State Troopers. As a federally recognized tribal government, the CVTC clearly has the regulatory authority to issue these licenses, and the courts have consistently ruled in favor of tribes—including Chickaloon—on this issue (*Oklahoma Tax Commission v. Sac and Fox*, 508 US 114 [1993]; *Alaska v. Harrison et al.*, Case No. 3PA-91-0678 CR, Superior Court of Alaska [1994]), but the state continues to violate federal law (David Harrison, pers. comm., 7/1/97).

The tribe is also currently drafting a broad integrated resources management plan that aims to protect and carefully develop some of the natural resources that are on Chickaloon’s 69,000 acres, per the terms of ANCSA. But in contrast to the oil companies that were allowed—in fact, required—to select contiguous lands to efficiently build their 800-mile pipeline, Chickaloon’s lands are scattered across a huge area of Alaska because those were the only lands available for selection under ANCSA. Of the tribe’s 69,000 acres, the largest single parcel is 20,000 acres, and located across the Matanuska River with no road or bridge access. Other parcels are as small as 40 acres and are as far as several hundred miles from central Chickaloon, on the other side of Cook Inlet, and also have no road access. “See, our Village is on the road system, with lots of private in-holdings, so we couldn’t choose what we wanted because it wasn’t available” (Alan Larsen, pers. comm., 8/31/97). The result is that land management, and orderly development, become tremendously difficult and costly, while many tribal members have never even seen or set foot on large parcels of tribal land, such as those on the other side of Cook Inlet. Part of the reason these lands are so far away from the heart of Chickaloon is that Chickaloon was included in CIRI’s geographical scope, which ranges from Chickaloon on the eastern extreme, to Lake Clark National Park on the western extreme. Yet traditional lands east of Chickaloon, which are much closer and have relatively easy access, were ineligible because of ANCSA’s arbitrary boundaries that placed those lands into Ahtna, Inc.’s regional selections.

Many tribal members have moved back into the area and now work with and for the tribe, but Chickaloon's primary population is still dispersed along 40 miles of the Glenn Highway, between Anchorage and Copper Center. The people have expressed a desire to create a central village that would include a community center, school, tribal office, community gardens, a health clinic, and housing for tribal members. Yet, in large part because of the constraints imposed by ANCSA land selections, it has been a challenge to select a suitable site that is centrally located, with room for growth, and ease of access. The tribe has attempted to buy some land on the open market, with some success, but the Matanuska Valley is one of Alaska's fastest growing areas and land prices are escalating daily.

While many of these responses to ANCSA, including some limited but arguably positive developments for Chickaloon, emerged out of early conflicts with CIRI, that particular relationship has, if anything, probably worsened over time. As one example, CIRI has created a non-profit regional corporation called the "South-Central Foundation" (SCF) which, like CRNA in the Ahtna region, was chartered to provide some social services, such as health care, to its shareholders. However, SCF is based in Anchorage, so if someone in Chickaloon is ill and needs to see a doctor, s/he needs to drive one-and-a-half hours one way to receive treatment. Some other villages in SCF's service territory are in an even worse situation, in that there are no roads connecting their village to Anchorage, so they have to fly, or it is otherwise a difficult trip. Chickaloon Village has tried to apply for funding to staff a small, local clinic for their tribal members and other natives who live in the Matanuska Valley, but CIRI and SCF have actively opposed Chickaloon's efforts at the federal level (Jennifer Dahle Harrison, pers. comm., 8/13/97). Chickaloon has also encouraged other Cook Inlet villages to do the same, and CIRI/SCF has actively opposed these efforts as well. Despite federal policies that state Indian Health Service (IHS) funds should be targeted directly to individual tribes—not non-profit corporations or any other entities—it appears that CIRI has effectively lobbied the Alaska Congressional delegation to explicitly channel IHS funds to SCF and other ANCSA corporations, not the tribal governments (Delice Alexander, pers. comm., 8/12/97).

This issue is only one of many that highlights the contradictions inherent in ANCSA. Corporations exist to make profits, and native regional corporations are no exception. In this case, CIRI and its subsidiary SCF were brought into existence by ANCSA and supposedly serve shareholders. But Alaska Natives receiving IHS-sponsored health care through SCF are not receiving this health care *because* they are shareholders in CIRI, but rather because they are Alaska Natives and the federal government funds the IHS, which has chosen to fund SCF. Many native communities in CIRI's region, not just Chickaloon, have petitioned to receive a portion of the IHS funding to build village clinics and otherwise serve natives in their local area, but to date, the only federal money they have received is for setting up a transportation system to get their tribal members to Anchorage and SCF's facility (Gary Harrison, pers. comm., 5/22/98). As one frustrated member of Chickaloon Village stated, "Having CIRI take care of our health is like us taking care of their money" (Jess Lanham, pers. comm., 8/12/97).

### 4.3 COMPARISON AND ANALYSIS

We have attempted to illustrate, on a village scale, some of the consequences and responses to ANCSA, keeping in mind that this dynamic is unfolding on an ever-changing social, legal, and

political landscape. Obviously some impacts and changes are easier to trace directly to ANCSA, but others, though indirect, are extremely significant in terms of land tenure, use, and community structure. By taking a step back from the micro-analysis in the individual villages, this section will focus on the more difficult-to-measure, indirect consequences and results of the legislation that may be gleaned from a more macro-analysis. We are not, however, actually comparing two “specimens,” but rather placing individual experiences and pieces of information in context to understand collective actions in light of the constraints and challenges imposed by ANCSA and other sociopolitical realities.

At a very basic level from a land policy standpoint, a strong case can be made that the ANCSA-drawn boundary lines around Chickaloon Village are a very poor fit. This is not to say that ANCSA was well suited to Copper Center and the Ahtna region in general, for its territory was split up, TAPS was built without its consent, and the village was left with some very poor quality or difficult-to-access lands on mountain tops or in river valleys with no roads. But at least it can be said that the Ahtna region is a fairly accurate reflection of some sort of cultural grouping, albeit with extremely challenging institutional constraints imposed by ANCSA. In Chickaloon’s case, however, CIRI’s geographical boundaries do not parallel any single cultural grouping, but rather reflect an economically expedient unit—roughly a circle drawn around an urban nucleus. Culturally, CIRI includes shareholders from several Athabascan Tribes, Aleuts, Tlingits, Eskimos, and urban natives from all across Alaska. So to the degree that land tenure and use is a reflection of cultural practices and attitudes, it should be no surprise that Chickaloon and CIRI have not always agreed on, among other things, the best uses of Chickaloon’s land, and that Chickaloon has rejected any sort of ANCSA-based regional solutions to its problems. In essence, Chickaloon’s “go it alone” attitude is a logical response to an illogical line on a map.

All current members of the Chickaloon Tribe can trace their lineage back to one of three sisters who were alive at the turn of the century (Kari Shaginoff-Johns, pers. comm., 8/29/97). The mother of these three sisters came from the Copper River area, which is the central blood relation between these two indigenous communities. Although the people of Chickaloon Village are dispersed along 40 miles of the Glenn Highway, they truly constitute a self-contained community in that they have traditionally used and occupied this entire region and are the only related group of native people from Palmer to Glennallen—a distance of over 150 miles. Copper Center, on the other hand, is one of a string of four Ahtna villages—Gakona, Gulkana, Tazlina, and Kluti Kaah—that are all within a 30-mile stretch of highway. Historically this entire region, the Copper River Valley and its tributaries, was simply one big village. Even today, tribal members of KKTC, or alternatively, shareholders in the now-defunct KKI, may have as many relatives, and traditional ties to land in Gakona or Tazlina or Gulkana as they do in Copper Center, yet at the village level they only have access to one decision-making body, that of their “official” village of residence at the time of ANCSA’s passage.

When ANCSA is filtered through this geographical perspective on the two villages, it begins to make sense that in some ways, a village-scale entity was arguably appropriate for Chickaloon Village (ignoring the issue of a corporation versus a tribe for a moment), but in Copper Center this was nothing more than a divisive tool that has predictably split people along artificial and imposed boundaries. In the course of our research, probably the most common response by Alaska Natives to our basic question, “What have been the results of ANCSA?” has been that it was an extremely effective “divide and conquer” strategy.



To provide a living example of these ANCSA divisions and contradictions, one person we interviewed is a KKTC member, but lives on her parents' native allotment that is approximately six miles from Gulkana, ten miles from Gakona, and in the other direction, about three miles from Tazlina and *fifteen* miles from Kluti Kaah. The native allotment that she lives on is the land that her parents were evacuated from in the 1942 incident described earlier in which her mother's home was burned down by the U.S. military to make way for World War II preparations, and her family's remaining belongings were dumped at the entry to Copper Center because it was the most established town at the time. With no place to go, no vehicle to carry them, and their few charred belongings at the entry to town, her parents established residence in Copper Center. Within a few years, her family returned to the original land, built another cabin, and have been filing land claims and motions for reparations ever since. Though this land is closer to Tazlina, Gakona, and Gulkana than it is to Kluti Kaah, by some twist of fate promulgated by the U.S. military 30 years prior to ANCSA, her family's residence was recorded as Copper Center, and now she is a shareholder/member of one corporation/tribe and not another (Faye Ewan, pers. comm., 7/30/97).

This example is more the rule than the exception. During Kluti Kaah's lawsuit with Alyeska over tribal territorial jurisdiction and taxing authority, one of Alyeska's arguments as to why Kluti Kaah did not possess territorial jurisdiction was because Kluti Kaah did not fit the BIA's definition of a tribe. Alyeska based this argument on the claim that since the native people from Kluti Kaah came from several different areas of the Copper River Valley, they were not singly connected to a specific piece of land (Campisi 1993; Cole 1993). By ignoring the Copper River Ahtna's common history, traditions, and even language—the very essence of culture—this argument was a disingenuous attempt to manipulate ANCSA boundary-drawing around specific villages. The courts rejected Alyeska's argument and recognized Kluti Kaah for the tribal entity that it is, though as mentioned previously, in the end, the courts interpreted ANCSA so as to deny Kluti Kaah such rights over its territory that tribal governments in the lower 48 exercise.

Viewing indigenous responses to ANCSA through the lens of community structure, it also begins to make sense why CRNA has become an effective vehicle for the Ahtna people to organize themselves and re-assert their sovereignty. Interestingly, the Director of CRNA is from Gulkana, but like the interviewee from Copper Center, she has as many ties to Kluti Kaah and Gakona and Tazlina as she does to her own village. Along with health care, housing, and other social services, and in concert with the tribal governments of the various villages, CRNA has become peripherally involved in education by promoting the use of the Ahtna language and funding youth programming where possible. In many ways, CRNA is serving in a tribal governmental capacity and answering to both Ahtna, Inc. and its constituent tribal villages, while it is also constrained and limited by ANCSA in that important governmental powers are withheld by virtue of its corporate status, which is then made subject to state authority.

Yet by combining the resources of the various Ahtna villages into a regional entity, CRNA has accumulated sufficient "critical mass" to challenge other large political and economic forces such as the state or the oil companies and potentially develop long-term programming, create in-house technical capacity, and build a diverse funding base. This is essentially an issue of scale overlapping with culture and traditional community structure, and it appears that CRNA has roughly achieved the proper mix. Of course, in a situation like this where everyone is related, the official corporate relationships and decision-making roles in the boardroom that have been

created by implementing ANCSA are always conditioned and shaped by blood and kinship ties that have their own dynamic.

CRNA's successful integration of scale, culture, and traditional community structure probably would not be achieved if the ANCSA regional boundary was not fairly contiguous with a single cultural grouping, as is demonstrated by Chickaloon's situation with CIRI/SCF. In this case, while tremendously successful in many ways and an example of what can be done by sheer force of will and hard work, Chickaloon has been ostracized by CIRI and is essentially limited in its ability to challenge the regional goliath within the parameters of ANCSA. Chickaloon and CIRI ignore each other whenever possible, but CIRI has subsurface rights to Chickaloon's lands, while Chickaloon is not represented on CIRI's Board of Directors.<sup>20</sup> This is not to say that CIRI is only at odds with Chickaloon Village, for it appears that CIRI has many discontented shareholders, but the corporate by-laws, proxy rules, and protections in ANCSA serve to shield CIRI from a takeover by its unsatisfied constituents (Pat Wade, pers. comm., 8/30/97). This is not to imply that different groups of Alaska Natives within CIRI cannot get along or will always take advantage of a different cultural group, but rather that ANCSA, and its progeny CIRI, has created a Board of Directors that is far removed from the realities of Alaska Native village life. Ensnared in a glass-and-steel high-rise office building in Anchorage, CIRI is big enough that not everybody is related to each other, and the pursuit of profits is not as constrained or conditioned by the balancing force of blood relations and kinship ties.

Another important difference between the two villages, as manifested by ANCSA, relates to their respective histories discussed earlier. Specifically, Copper Center is a long-standing and well-recognized native and non-native village. Hence, Copper Center is explicitly acknowledged in ANCSA as a village entity that will be a full party to whatever emerges from the legislation. In other words, it was not necessary for Copper Center to organize its community to participate in and receive whatever was conveyed by ANCSA. Chickaloon Village, alternatively, was not well recognized, and for a time, it was not even clear that they would receive any consideration under ANCSA (Alan Larsen, Sr., pers. comm., 8/31/97). In effect, for Chickaloon to be included at all, they had to organize themselves and understand about the federal recognition process. (The people of Chickaloon Village, of course, knew all along that they were a tribe, but the federal legislators needed to be convinced.) Chickaloon's tribal members were thus conscious early on of the power, and possible oppression, of ANCSA.

Chickaloon Village's broad political consciousness, combined with its relative isolation within CIRI, has resulted in significant outreach efforts well beyond the geographical boundaries imposed by ANCSA. Not just the Harrison brothers, but several other Chickaloon tribal members are professionally involved in national groups such as the Native American Journalists Association and the National Military Toxics Board, as well as other organizations promoting environmental and social justice. Along with several other communities, Chickaloon is currently attempting to organize all the Athabascan/Dene villages across the interior of Alaska and

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<sup>20</sup> To avoid shareholder scrutiny and uncomfortable questions, the Anchorage-based CIRI has gone so far as to schedule its most recent public annual meeting in Washington state, at great expense to the corporation and nearly prohibitive cost to most shareholders. Chickaloon Village still managed to send two Tribal members to the meeting (Bruce Harrison, pers. comm., 5/20/98).

extending into Canada to re-constitute the aboriginal Athabascan Nation and assert their inherent jurisdiction, thus challenging ANCSA at its core.

## 5. CONCLUSION

Put simply, ANCSA is a case of social engineering on a grand scale gone awry. The legislation has attempted to replace tribal governments, Indian reservations, and the trust relationship in the lower 48 with native corporations, taxable and alienable ANCSA lands, and individual free-market competition in Alaska (Mitchell 1997; Sacks 1995). The predicament in the lower 48 is far from ideal, but the northern substitute for indigenous peoples in America's largest state is perhaps the ultimate in "corporate government" and government by fiat. Yet because of the seemingly large compensation and the institutional conformity with modern economic structures, that is, corporations pursuing profits instead of tribal organizations maintaining culture, traditions, and environmental quality, ANCSA has frequently been cited, and actively promoted in some circles, as *the* contemporary model for settling still-existing land claims disputes between indigenous peoples and settler states (Mitchell 1997; Berger 1991, 1985; Prucha 1985; Barsh 1984). And the stakes in these disputes are by no means small: such land claims negotiations are now occurring in large parts of Russia, Africa, Indonesia, Canada, Brazil, Venezuela, Peru, Nicaragua, Mexico, New Zealand, Australia, and elsewhere (IUCN 1997; Perry 1996; Assies and Hoekema 1994; Wilmer 1993; Fleras and Elliott 1992; Burger 1990, 1987; Dyck 1985). This research has aimed to contribute to this ongoing evaluation and dialogue over ANCSA and, by extension, still-pending indigenous land claims across the globe.

While ANCSA's original justification was to establish stability and enforceable rules so the oil companies could build TAPS, about the only thing in ANCSA that has *not* been modified since its original passage in 1971 is the "extinguishment of aboriginal rights" clause. The land selection process, who is eligible, how and when land gets conveyed, what the native corporations are allowed to do, how profits are to be accounted for and distributed, division of resources between regional and village corporations, board of directors elections, what assets are taxable—all of these issues have required further legislation and/or litigation in the intervening quarter-century. The original ANCSA legislation was 27 pages. Now, with all the amendments and additions, the entire legislation is almost 1,000 pages of details, exceptions, and rules. And this does not begin to consider the bookshelves of litigation that have ensued since its implementation.

Our research shows that while ANCSA has altered the physical and social landscape across Alaska, it has essentially been an overlay, not an erasure of the past. For example, every person who was interviewed in the two communities still knew to which clan they belonged. The ancient potlatch ceremony has experienced tremendous revival in the recent past (Simeone 1995). In other words, the clan structure, tribal governments, *denae*-ship, and traditional subsistence practices are still alive in village Alaska. Despite its framers' intent, ANCSA did not replace these cultural foundations. However, ANCSA has indeed made such customs significantly more difficult to practice because the resource base and power structure have become diffused, fractured, and in some cases corrupted.

At the risk of simplifying the cause-and-effect process, it does appear that ANCSA has catalyzed many natives in the face of potentially losing their heritage and legacy. In May 1998, Anchorage experienced the largest demonstration march of Alaska Natives calling for justice, sovereignty, and respect of tribal governments in the history of the state (Wade 1998). With the rise of native activism and some recent high profile, it seems safe to say that those who thought ANCSA was to be the final legislative and institutional effort toward assimilation have miscalculated.<sup>21</sup>

While ANCSA and the corporations may provide easy targets or explanations for the decline in traditional practices, it is nonetheless extremely difficult to determine the relative impact of changing tenure on subsistence versus, say, urban sprawl or non-native population increases or contamination of the resource base. Land *tenure* is certainly an important issue, but so is land quality, quantity, and location. The primary land uses that ANCSA sanctions are income-producing activities that can be redistributed via shareholders and dividends. Subsistence was merely an afterthought, so it is no wonder that shareholders dependent on their corporate landholdings have a difficult time subsisting. Yet it should also be pointed out that Alaska Natives, whether shareholders of a corporation or not, can go hunting just like other Alaska state citizens on designated public lands. But then the issues of access and money emerge, that is, it is much easier and cheaper to frequently and casually hunt in one's familiar "backyard" than it is to equip a pick-up truck to drag an all-terrain vehicle and drive several hours to escape the urban competition on an uncertain proposition. Considering that Alaska Natives are by far the poorest demographic group in the state, any additional expenses may exclude a large proportion of potential hunters. This is in part why the corporate lands are so important to continued native subsistence. At the same time, this is not to say that natives do not hunt on public lands, do not have the necessary equipment, and/or do not spend their money to get there, because they do (Walter Kakaruk, pers. comm., 8/17/97).

Our point here is that land tenure is part of a bigger institutional picture. Traditionally, land tenure essentially dictated native community structure because the control and use of land determined survival. There was some separation of powers between the economic, political, spiritual, and military leaders, but one could not ignore subsistence for very long, and those who were successful hunters accrued tremendous respect and authority (Reckord 1983a, 1983b). Currently, land tenure in and of itself does not merit the same primacy because survival is no longer solely a function of subsistence skills. While hunting abilities are still respected and "the bush" is still viewed as an economic safety net during difficult times, individuals' and communities' welfare are now also dependent on world interest rates, oil prices, state fish and game managers, and corporate decision makers who may or may not be one's relatives.

Though it may be appealing, or at least convenient, to simply state that corporations are an inappropriate institution for indigenous communities in Alaska, the reality is that the regional corporations have been endowed with a great deal of land and money, and many legislators and others have a stake in keeping them afloat. In other words, the native corporations appear to be part of Alaska's future, at least for the short- to mid-term, and it could be argued that over time

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<sup>21</sup> Such issues include a U.S. Supreme Court lawsuit over "Indian Country" in Alaska and a proposed state constitutional amendment possibly further limiting native subsistence rights (*Alaska v. Native Village of Venetie Tribal Government*, 140 L Ed 2d 30).

they have developed some useful areas of expertise and profit-making capacity. So perhaps more relevant questions are, “What is to be done?” and “Is there a role for Alaska native corporations, and if so, what is it?”

These questions were not the focus of our research, but as it became clear that these issues were the logical extension of our work, we did pose them to several Alaska Natives. The most common, and seemingly logical, response was that the corporations have a role in providing benefits to the tribal communities by being made subject to tribal jurisdiction (David Harrison, pers. comm., 8/12/97). This would require appropriate state and federal recognition of tribal authority in Alaska—in essence, acknowledging that ANCSA is not a jurisdictional act, but rather a land policy, and that the tribal entities in Alaska never gave their consent to have corporations own their land.

By creating additional and competing institutions, ANCSA has muddied the intra- and inter-village political waters while simultaneously altering how people are related, and relate, to each other. The guiding principle of survival and social governance via subsistence is flexibility—one can never be too sure where the next meal is coming from or on whom you will need to rely in the future. While ANCSA continues to change, the underlying motivations and daily assaults on Alaska’s resources and indigenous peoples are unwavering. Alaska Natives clearly know what they are up against.

White men who dream of vanquishing the wilderness in the name of industry and progress have led a sustained assault against the Native subsistence economy. Great rivers have been dammed, mines developed, and pipelines built across ancient hunting grounds that once belonged to Eskimos and Indians alone. Industrial man has condemned Native subsistence hunting societies. The only surprising thing about this long history is that we have not succeeded. Remarkably, many of these societies, in defiance of history, still survive; some of them thrive (Berger 1985, p. 184).

## APPENDIX – INTERVIEWS

Date	Who	Where	Affiliation
6/24/97	Gary Harrison	Chickaloon Village	Tribal Chairperson
6/24/97	Penny Westing	Chickaloon Village	Tribal Administrator
7/1/97	David Harrison	Chickaloon Village	Attorney General
7/2/97	Richard Martin	Chickaloon Village	Tribal Judge
7/4/97	Faye Ewan	Kluti Kaah Village	Tribal Member
7/5/97	Susan Larsen	Kluti Kaah Village	Tribal Chairperson
7/8/97	Andrea Carmen	Palmer	Executive Director-International Indian Treaty Council
7/9/97	Charles Utermohle	Anchorage	Alaska Dept of Fish & Game Subsistence Research Analyst
7/12/97	Gideon James	Venetie	Tribal Operations Director
7/15/97	Sarah James	Arctic Village	Tribal Council Member
7/23/97	Richard Fineberg	Fairbanks	Private Consultant
7/24/97	Michael Krauss	Univ Alaska-Fairbanks	Director-Alaska Native Language Center
7/25/97	Dave Lacey	Fairbanks	Stevens Village employee
7/25/97	Terry Haynes	Fairbanks	Statewide Coordinator, Alaska Subsistence Division
7/29/97	Katie Wade	Chickaloon Village	Tribal Council Member
7/30/97	Faye Ewan	Kluti Kaah Village	Tribal Member
7/30/97	Birdie Ewan	Gulkana Village	Director, CRNA
7/30/97	Clarence McConkey	Kluti Kaah Village	Tribal Member
8/12/97	David Harrison	Chickaloon Village	Attorney General
8/12/97	Jess Lanham	Chickaloon Village	Tribal Council Member
8/12/97	Delice Alexander	Chickaloon Village	Spouse to Tribal Member
8/13/97	Rick Harrison	Chickaloon Village	Tribal Member
8/13/97	Bruce Harrison	Chickaloon Village	Tribal Member

<b>Date</b>	<b>Who</b>	<b>Where</b>	<b>Affiliation</b>
8/13/97	Jenni Dahle Harrison	Chickaloon Village	Spouse to Tribal Member
8/17/97	Walter Kakaruk	Kluti Kaah Village	Spouse to Tribal Member
8/19/97	Tana Mae Pete	Tazlina Village	Tribal Administrator
8/20/97	Peter Ewan	Kluti Kaah Village	Tribal Member
8/20/97	Annie Stickwan	Kluti Kaah Village	Tribal Member
8/25/97	Gary Harrison	Chickaloon Village	Tribal Chairperson
8/26/97	Harry Lord	Anch. Subsistence Summit	Alaska Native
8/26/97	Pat Saylor	Anchorage Sub. Summit	Tribal Chair-Healy Lake
8/26/97	Charles Edwardsen	Anchorage Sub. Summit	Tribal Member, Barrow
8/29/97	Kari Shaginoff-Johns	Chickaloon Village	Tribal Member, School Director
8/29/97	Larry Wade	Chickaloon Village	Tribal Peace Officer and Tribal Member
8/30/97	Pat Wade	Chickaloon Village	Tribal Treasurer
8/31/97	Alan Larsen, Sr.	Chickaloon Village	Tribal Member
5/20/98	Bruce Harrison	Chickaloon Village	Tribal Member
5/22/98	Gary Harrison	Chickaloon Village	Tribal Chairperson
5/23/98	Burt Shaginoff	Chickaloon Village	Tribal Council Member
6/5/98	Sarah James	Arctic Village	Tribal Council Member
6/6/98	Faye Ewan	Kluti Kaah Village	Tribal Member

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