

ALASKA FEDERATION OF NATIVES 2016 PRIORITIES

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The Alaska Federation of Natives (AFN) is the largest statewide Native organization in Alaska. Our membership includes 185 federally recognized tribes, 153 village corporations, 12 regional corporations, and 12 regional nonprofit and tribal consortium's that contract and compact to run federal and state programs. AFN is governed by a 38-member board, which is elected by its membership at the annual convention held each October. Formed nearly 50 years ago, AFN continues to be the principal forum for Alaska Native peoples in dealing with critical issues of public policy and government.

OUR MISSION

Alaska Native people began as members of full sovereign nations and continue to enjoy a unique political relationship with the federal government. We will survive and prosper as distinct ethnic and cultural groups and will participate fully as members of the overall society. The mission of AFN is to enhance and promote the cultural, economic and political voice of the entire Alaska Native community. AFN's major goals are to:

- Advocate for Alaska Native people, their governments and organizations, with respect to federal, state and local laws;
- Foster and encourage preservation of Alaska Native cultures;
- Promote understanding of the economic needs of Alaska Natives and encourage development consistent with those needs;
- Protect, retain and enhance all lands owned by Alaska Natives and their organizations; and
- Promote and advocate for programs and systems which instill pride and confidence in individual Alaska Natives.

OUR PRIORITIES IN
2016 FOCUS ON
ENHANCING AND
PROMOTING THE:

1. CULTURAL
 2. ECONOMIC
 3. MANAGEMENT/LEADERSHIP ISSUES
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IN THIS DOCUMENT YOU WILL FIND THE FOLLOWING AFN POSITIONS IN THE THREE FOCUS AREAS:

1.) CULTURAL

- Alaska Native Education Equity Act
- Indian Employment Training and Related Services Demonstration Act of 2015
- Regional Substance Abuse Facilities and Drug Interdiction in Rural Alaska
- Suicide Prevention
- Toxic Algae Testing
- Climate Change
- Full utilization of ANILCA 809 and Title IV
- Yukon-Kuskokwum Inter-tribal Fish Commission
- Increasing the Safety of Alaska Native Women

2.) ECONOMIC

- New Markets Tax Credits Program
- Low-Income Housing Tax Credit Program
- Internal Revenue Service Code for Sacred Objects
- Energy in rural Alaska
- Native American Housing Assistance and Self-Determination Act (NAHSDA)
- Alaska Fiscal Crisis
- Amend Section 811 of the 2010 National Defense Authorization Act
- Water and Sewer in Rural Alaska
- ANCSA Contaminated Lands
- Broadband

3.) MANAGEMENT/LEADERSHIP

- Expand contracting and compacting opportunities to tribes and tribal organizations to those programs and services not presently contracted or compacted for.
- Increase the Bureau of Indian Affairs allocation for 'Small and Needy Tribes'
- Magnuson Stevens Fisheries Conservation and Management Act
- Marine Transportation and Emergency Response Planning
- Subsistence disaster relief declarations
- Self Governance Amendments
- Co-Management of Alaska's fish and wildlife resources
- Increase of Tribal Courts
- Alaska Native Veterans Land Allotment Equity Act
- Village Built Clinics (VBC) lease program
- Equitable Voting Rights for Alaska Native
- Native Allotment Applications Affected by the Aguilar Decision
- Community based resiliency through maximum self-determination
- Revitalization of the rural Alaska National Guard



ALASKA NATIVE EDUCATIONAL EQUITY ACT

The Alaska Federation of Natives encourages our congressional delegation to:

- Continue pressure on the Department of Education to fund Alaska Native Organizations through the competitive process by providing priority points in compliance with the current law; and
 - Support the President's proposed budget, which increases the Alaska Native Educational Equity Act Program funding by one million dollars; and
 - Do everything it can to pass this legislation with the provisions for ANEP as drafted. We also support other changes in the bills that recognize the importance of social support and school climate factors to close the achievement gap for lower performing students.
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BACKGROUND:

The Alaska Native Educational Equity Act, at the initiative of Sen. Stevens, was first passed in 2002 as part of the Elementary and Secondary Education Act (ESEA)/No Child Left Behind (NCLB), PL 107-110, and authorized the Department of Education to enter into grants and contracts with:

- Alaska Native organizations
- Educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages
- Cultural and community-based programs with experience in developing or operating programs to benefit Alaska Natives
- Consortia of organizations and entities described above to carry out authorized programs

For the purposes of:

- Recognizing the unique educational needs of Alaska Natives
- The development of supplemental educational programs to benefit Alaska Natives
- Supplementing the existing programs and authorities in the area of education
- To provide direction and guidance to appropriate Federal, State and local agencies to focus resources



The statute further prioritized funding to Alaska Native regional nonprofits or consortia that include at least one Alaska Native regional nonprofit and earmarked funding for particular purposes and organizations. The Alaska Native Educational Equity Act is implemented by the U.S. Department of Education.

ANEP fills a significant and important need that is unique to Alaska

First, Alaska receives no funding from the BIE; the State of Alaska is responsible for educating all Alaskans, including Alaska Native students.

Second, as evidenced by multiple lawsuits and high dropout rates, the State's and districts' track records on successfully educating Alaska Native students are poor. ANEP is designed to address Alaska Native students' needs in a threefold way:

- 1) by focusing attention on the educational needs of Alaska Native students,
- 2) by investing substantial funding in the creation and operation of supplemental educational programs for Alaska Native students, and
- 3) by maximizing participation of Alaska Native people in the planning and management of Alaska Native education programs.

Historically, the Department's record on implementing the Alaska Native priority in the statute has been questionable. The information available regarding previous ANEP awards clearly indicates that the majority of the funding (75%) over the last decade was awarded to non-Alaska Native organizations and entities (including school districts and universities), even though the law requires the Department of Education to prioritize funding to Alaska Native organizations.

Since its authorization, the program has received between \$24 million and \$34 million dollars from Congress annually. The members of the Alaska Congressional delegation have strongly supported ANEP. In 2011, however, ANEP was impacted by the anti-earmark fervor in Congress, and appropriators overrode the statute and directed the Department of Education to implement all ANEP funding as competitive grants. This change put all discretion regarding how ANEP money will be used in Alaska in the hands of the U.S. Department of Education. Over the next two years, the Department used priorities that were outside the legislation and did not adequately enforce the priority for Alaska Native involvement. Appropriations language in 2013 and 2014 resulted in a change to the competitive grants process last year so that only Alaska Native Organizations (ANOs) received a program priority in program, and almost half of the grants were made to ANOs last year. There was a commitment on the part of the Department to do the same during this competitive cycle, as well as to increase the number of Alaskan and Alaska Native reviewers. In spite of this commitment, the net result for the 2015 grant cycle was that, only 28% (8 out of 28) grants went to Alaska Native organizations.

REQUESTED ACTION:

Continue pressure on the Department of Education to fund Alaska Native Organizations through the competitive process by providing priority points in compliance with the current law. Support the President's Proposed Budget, which increases ANEP funding by one million dollars.

BACKGROUND: Elementary and Secondary Education Act (ESEA) Reauthorization

Over the last several years, many drafts of ESEA Reauthorization have been floated. AFN has submitted preferred language and responded to drafts sent from Senator Murkowski's and Congressman Young's offices on at least three different occasions. At long last, the Senate version, strongly supported by AFN members and reflecting the AFN Resolutions passed for the last four years, changes the eligibility requirements so that only Alaska Native Organizations are eligible to apply, either alone or in partnership with local or state educational agencies. We greatly appreciate the leadership of our Alaska delegation in making this important change. A conference committee is now finalizing the provisions and passage is expected soon. (The House version does not yet have all of the changes to ANEP included, but will be finalized during conference).

REQUESTED ACTIONS:

We urge the delegation to do everything it can to pass this legislation with the provisions for ANEP as drafted. We also support other changes in the bills that recognize the importance of social support and school climate factors to close the achievement gap for lower performing students.





PL 102-477 LEGISLATIVE BACKGROUND AND FEDERAL AGENCY ISSUES

The Alaska Federation of Natives encourages our congressional delegation, other members of Congress and the Administration to:

- Amend the 477 Act as recommended by the 477 Tribal Work Group to make the 477 Program permanent, clarify Congressional intent on reporting, expand the types of funds and federal departments from which funding can be consolidated and resolve some administrative details that have plagued the program in recent years so that the spirit, the letter and the opportunities of the PL 102-477 law will not be subject to changes in implementation from administration to administration, and so that through the initiative, tribes and tribal organizations can maximize their ability to leverage scarce federal funds.

BACKGROUND:

House/Senate Appropriations conferees on several past appropriations bills requested that federal agencies and the 477 Tribes and Tribal organizations engage in government-to-government consultations to reach consensus on the transfer and reporting of funds administered by Tribes through program plans adopted by Tribes and approved by the Department of the Interior under the Indian Employment Training and Related Services Demonstration Act, Pub. L. 102-477, as amended, 25 U.S.C. §§ 3401-3417 (“477 Act”).

These congressional requests came in response to the 477 Tribes’ concerns about two proposed changes in the administration of the program put forward by the agencies:

1. The notice, first issued in October 2008, that the agencies intended to end the practice of transferring 477 program funds to participating Tribes and Tribal organizations through PL 93-638 contracts or Self-Governance agreements, as authorized by the Indian Self-Determination and Education Assistance Act (ISDEAA); and
2. The 2009 OMB Circular A-133, which requires 477 Tribes and Tribal organizations to report their 477 expenditures separately by funding source number for audit purposes.

The federal agencies and 477 Tribes agreed to try to resolve their differences over these issues, which led to the formation of the P.L. 102-477 Administrative Flexibility Work Group. The 477 Administrative Flexibility Work Group was part of the current administration’s broader effort to increase flexibility and lower costs for a number of programs that serve Tribes and Tribal organizations, as well as states and local governments. Over the next 18 months, the Work Group met frequently by telephone and several times in person, further refining the issues and arriving at some consensus on a new reporting system. The 477 program negotiation process included policy and program representatives from the Department of the Interior (DOI), which administers the 477 program, the Department of Health and Human Services (HHS), the Department of Labor (DOL) and the Office of Management and Budget (OMB), as well as Tribal representatives from affected 477 Tribes and Tribal organizations. The agencies and Tribes engaged in a comprehensive review of the 477 program, including the language and purpose of the 477 Act and the history of the 477 Act’s implementation since it was enacted into law in 1992. In the meantime, the agencies agreed to allow funds to continue to be transferred through ISDEAA and have suspended the reporting requirements instituted in the March 2009 OMB Circular. The reporting system agreed to in the Work Group has since gone through the federal register process, and received mixed reviews.

STATUS OF TWO MAJOR ISSUES:

Based on this thorough review of the statutory basis for the program and the history of 477 program administration, the agencies and Tribes moved toward consensus on the mechanisms to be used for the transfer and reporting of funds, as requested by Congress.

First, the 477 program is one provided for Tribes by virtue of their status as Indians. Its targeted purpose is to facilitate employment opportunities for Indian youth and adults, as well as to encourage Tribal self-sufficiency consistent with self-determination principles. The 477 program is structured so that Tribal program plans, as authorized under the 477 Act, are approved and administered by DOI Indian Affairs, and thus can be funded through ISDEAA, while each component program remains subject to appropriate requirements agreed to by the Tribe and the agencies in the development of the 477 program plan. Thus, program funds, once transferred by each agency to DOI Indian Affairs, can be transferred to Tribes through ISDEAA. However, while the Tribal representatives have requested written confirmation that this funding mechanism will continue without restriction and be available for new programs coming into the 477 program, that has not been forthcoming from the agencies.

Second, the 477 Act authorizes Tribes to develop 477 program plans to integrate services and expenditures from various agency programs in a single, coordinated, comprehensive Tribal program plan with a single budget and a single annual report delivered to the Department of the Interior. The current reporting system includes OMB-approved statistical, narrative, and financial reporting forms. The federal agencies have identified limited additional reporting information required by law but not currently reported in the consolidated reports provided annually to the Department of the Interior. These forms have now gone through the Federal Register process, and will be applied as each tribe renews its plan. Finally, HHS announced in September, 2015, that the Community Services Block Grant (CSBG) would now be one of the programs included in 477 plans. Tribal representatives are still waiting for legal justification as to why LIHEAP and Head Start would not also be included.

UNDER REVIEW:

While the consistent communication has provided opportunity to discuss the issues, there remained several unresolved issues:

- The underlying alleged problem of insufficient Tribal report information has yet to be fully defined, in writing, by HHS.
- The legal interpretation and reconciliation of PL 102-477, sections 14 a (1) and (2). Basically the various departments and programs which flow money into the 477 program interpret these sections to require that Tribes and Tribal Organizations must provide source specific reports on the use of the department's funds which flow into 477. The Tribal Organizations which operate 477 programs interpret the reporting requirements to require program reports on the use of funds within the 477 program, not by source. Basically, if the Departments' positions on these sections prevail, it would remove one of the primary benefits of the 477 program, which is to reduce reporting requirements.
- The applicability of individual program regulations and whether they can supersede the reporting provisions of the Act.
- There has been discussion that the Secretary's waiver authority could be utilized to solve some of the concerns; however the use of waiver authority has been inconsistently applied since the inception of 477, and could be problematic in the future. Basically, federal representatives are proposing to use a discretionary process to provide a solution to a problem (agency specific reporting requirements) which the tribes do not agree exists.

ACTION REQUESTED: Proposed Legislation

As a result of the unresolved issues listed above, the 477 Tribal Work Group worked simultaneously over the last year with the Senate Committee on Indian Affairs and the House Natural Resources Subcommittee on Indian, Insular and Alaska Native Affairs to develop a bill to amend the 477 Act to make it permanent, clarify Congressional intent on reporting, expand the types of funds and federal departments from which funding can be consolidated and resolve some administrative details that have plagued the program in recent years. Senate Bill 1574 went through committee mark-up in the last session but failed to get a Congressional Budget Office score in time to be passed. S. 1443, an identical bill, passed through the Special Committee on Indian Affairs on October 21, 2015. A corresponding House Bill, HR 329, has gone through legislative hearing in the subcommittee and is awaiting mark-up and passage. Both of these bills will resolve, once and for all, the issues that have limited the 477 initiative from achieving its maximum potential.

CONCLUSION:

The 477 program provides an example of increased accountability through the cooperative actions of federal agencies. The 477 Initiative has been proven to be a brilliant and forward-looking piece of legislation that permits Tribes to consolidate employment and training programs that have been authorized by different federal statutes at different times and through different federal agencies.

477 has enabled Tribes and Tribal organizations to increase efficiency, decrease administrative burden, increase self-determination and achieve superior outcomes, all while maintaining program guidelines. The 477 program is a model program in Tribal communities across the nation, especially in the current climate of needing to do more with less. It provides increased accountability and integration of services, with the maximum employment and training assistance reaching Tribal participants.

AFN advocates the passage of this specific legislative authorization so that the spirit, the letter and the opportunities of PL 102-477 will not be subject to changes in implementation from administration to administration, and so that through the initiative, tribes and tribal organizations can maximize their ability to leverage scarce federal funds.



REGIONAL ALCOHOL AND DRUG TREATMENT CENTERS IN RURAL ALASKA

The Alaska Federation of Natives (AFN):

- Urges our Congressional delegation and other members of Congress to seek amendments to the Indian Health Care Improvement Act which would allow for the creation and funding of regional drug and alcohol abuse treatment and detox centers in Alaska; and
- Respectfully requests that a work group be formed consisting of representatives from the US Postal Service, the Alaska State Troopers, airline operators, the US Attorney's Office and others who could help identify what additional steps could and should be taken to reduce the flood of illegal drugs and other intoxicating substances to rural Alaska.

BACKGROUND:

Alcohol and drug abuse are the biggest health and social concerns in the Native American population nationwide. Substance abuse in rural Alaska has increased to epidemic levels, leading to and compounding the many problems already facing rural Alaska Native people. Rural villages have the highest rates of suicide, domestic violence, and sexual abuse in the nation, and high rates of sexually transmitted diseases, fetal alcohol syndrome, unemployment, and poverty. In 2014, Alaska Natives comprised 36.9% of the population incarcerated in Alaska. Most Alaska Native individuals were incarcerated for acts committed while under the influence of alcohol and drugs. 60% of the children in State's Custody were Alaska Native. Alaska Natives as a whole constitute only 19% of the State's population.

Problems are exacerbated by a number of rural challenges including:

- Inpatient alcohol treatment and drug detox services are not available in rural Alaska – even at the regional level
- Patients who seek or require treatment for substance abuse generally get placed on a long term waiting list and must travel long distances to access services. By the time their name comes up for services, many have relapsed and are no longer interested in receiving treatment.
- Rural first responders or the rural clinic staff may have limited experience in providing care to a patient with a drug overdose.

Heroin in particular is a relatively new problem in rural Alaska. Its abuse in recent years appears to trace back to prescription and over-prescription of legal pain medications for medical conditions. Anecdotal information suggests that the abuse of heroin and other dangerous drugs particularly spike, in Alaska have become worse in recent years as evidenced by high numbers of arrests, deaths, and word of mouth in our communities. Heroin abuse is so recent there is little or no documentation of actual rates of abuse and related information. The easy accessibility to heroin in rural villages is due to its relative ease of transport. With very few exceptions, all of the illegal drugs flooding rural Alaska are coming in either through the mail system or are being hand carried by passengers on airplanes. Anecdotally, folks have stated that even when illegal drugs are identified when being shipped through the postal system, if the amount is small, the recipient will basically receive a letter from the US Postal Service saying "don't do this." The individuals are not being prosecuted.

There are only a small handful of alcohol and drug treatment centers in Alaska. All are located in Anchorage. Because alcohol and drug addiction is so widespread in Alaska and the number of inpatient alcohol/drug treatment centers is so small, those requiring or requesting treatment face a waiting list spanning many months. Some of the regional health corporations provide outpatient alcohol counseling, but these require village residents to travel into the regional centers and find a place to stay while undergoing outpatient treatment. Many of the regional centers are “wet”, in terms of alcohol, and this compounds the problems of those seeking treatment. It’s not uncommon for example, for people to travel into Nome for “treatment” and spend every penny they have on alcohol. They then find themselves stuck in Nome, living on the streets, until some family member is able to fund their way home.

There are some outpatient regional substance abuse treatment centers in rural Alaska operated by IHS compactors, but their primary focus is on alcohol abuse treatment. None are focused on heroin and other drug treatment. They basically operate on a shoestring of small state and federal grants (most of which are competitive and lapse after the grant period) and some private insurance payments not normally paid by tribal IHS beneficiaries.

Individuals who are so intoxicated or under the influence of drugs that they are unable to care for themselves are routinely picked up and placed in correctional facilities on title 47 holds. Correctional facility staff do not have the medical training to care for these individuals. These individuals need to be under medical supervision when they are cut off from their substance of choice. Just within the last year, 6 individuals have died while in state custody on title 47 holds.

The band aid approach that is in place currently simply is not working. We should be seeking to rehabilitate addicts as opposed to criminalizing addiction.

The Indian Health Care Improvement Act (IHCIA) is the key legal authority for the provision of health care to American Indians and Alaska Natives (AI/ANs). The IHCIA was originally enacted in 1976 to address the deplorable health conditions in Indian Country. It is recommended that the IHCIA be amended such that comprehensive regional alcohol and drug treatment centers would be a core fundable activity of Tribal contractors. The initiative could be structured in such a way that the contractors would have wide discretionary authority to design their program, with a solid evaluation component, such that the program design and methodology could be fully evaluated for effectiveness and replicated elsewhere.



SUICIDE PREVENTION THROUGH SUBSTANCE ABUSE & MENTAL HEALTH SERVICES ADMINISTRATION

The Alaska Federation of Natives requests our Congressional Delegation support for continued funding of suicide prevention activities through the Department of Health and Social Services, Substance Abuse & Mental Health Services Administration (SAMHSA) and other Wellness programs.

BACKGROUND:

In 2012 a twenty-year study by Wexler found that the Alaska suicide rate of 19.8 per 100,000 is nearly twice the national rate of 10.7. According to data gathered by the Alaska Bureau of Vital Statistics (2002-2011), the rate of suicide death for Alaska Natives was more than 2 times the Alaska State rate, and nearly 4 times the national rate (40.3 per 100,000). Out of Alaska's 12 Regions the highest rate is nearly 8 times the national average (81.6 per 100,000). We are requesting that Congress help us to reduce these staggering rates.

For example: through SAMHSA funding, Kawerak, Inc. of the Norton Sound Region and Maniilaq Association of the Northwest Arctic Region have partnered to develop and implement a multi-disciplinary, holistic, community-driven strategy that is culturally relevant, builds on current efforts, and targets the highest at risk group – Alaska Native youth. The partnership, called Northwest Arctic Wellness Initiative (NAWI), will expand its suicide prevention programming strategies statewide. There are several ways that statewide collaborative efforts such as NAWI can be supported.

Suicide Death Rate ⁺⁺ by Region, Alaska Native People, 2002-2011

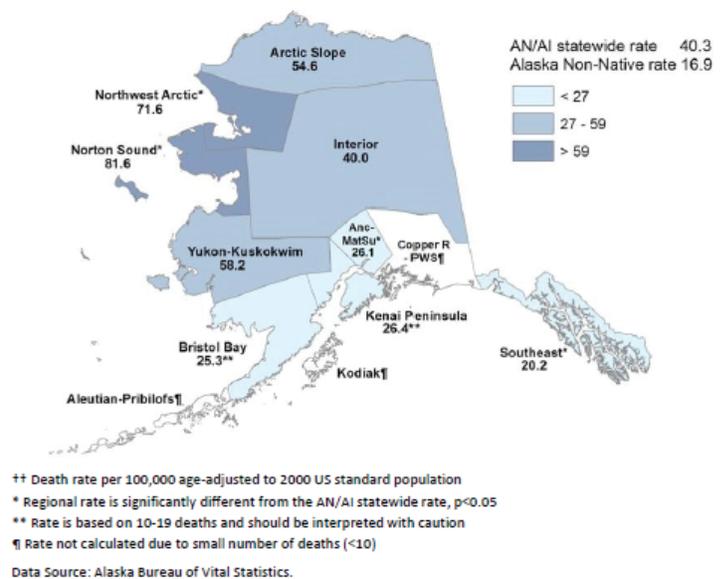


Image source: ANTHC

AFN requests our Alaska Congressional Delegation support the following:

- Continued and increased funding of Suicide Prevention Activities for tribes in Alaska through the Department of Health and Social Services, Substance Abuse & Mental Health Services Administration (SAMHSA).
- Encourage suicide prevention and intervention block grants to Indian and Alaska Native tribes (e.g. DHHS-SAMHSA, DOJ, HIS, HUD).
- Provide at least five extra points in grant proposals to Alaska Native and American Indian tribes who have the highest suicide rates.
- Authorize co-mingling of various federal funding for suicide prevention and intervention programs.
- Support reauthorization of SAMHSA funding.



PROTECTING PEOPLE FROM HARMFUL ALGAL BLOOMS' TOXINS

The Alaska Federation of Natives encourages our Congressional delegation, other members of Congress and the Administration to increase the Environmental Protection Agency budget to provide food security by implementing an Alaska coast wide – harmful algal bloom sentinel program from Metlakatla to Kaktovik.

BACKGROUND:

Alaska is home to 229 of the 566 federally recognized Tribes in the United States, with a combined population of about 130,000 Alaska Natives – most of which depend upon the ocean's productivity for subsistence foods and economic success. Alaska Natives have depended on the bountiful resources of the land and sea for many thousands of years. The Alaska Native subsistence way of life depends on healthy ocean ecosystems.

Increased marine water temperatures promote harmful algal blooms in Alaska, and temperatures in the Gulf of Alaska and Bering Sea increased by an average of 3.4°F in 2014-2015 – with winter warming even greater (rising by an average of 6.3°F). The rate of warming was more than twice the national average over that same period, and average annual temperatures in Alaska are projected to increase an additional 3.5 to 7°F by the middle of this century. The waters in the North Pacific Ocean, the Gulf of Alaska, and Bering Sea are experiencing the greatest temperature increase ever recorded and Alexandrium, the organism that produces paralytic shellfish poisoning (PSP) is increasing its distribution and toxicity levels as a result of this warming. PSP toxins can kill people; two deaths from PSP occurred in Alaska coastal communities in 2010 and many more are sickened every year. For people, marine birds, mammals, and fish, PSP and other harmful algal (domoic acid) is a worsening environmental problem and public health threat.



The 2015 harmful algal bloom event created a bloom spreading from northern Mexico to the Bering Sea causing tremendous economic loss due to closure of commercial shellfish and salmon fisheries in many areas. The expansive PSP event swept through the Gulf of Alaska bringing very high PSP levels to many Gulf of Alaska sampling stations. Most of the monitoring sites exceeding the U.S. Food and Drug Administration limit for PSP of 80 micrograms/100 grams. The 2015 PSP results for Sand Point (butter clams collected June 8, 2015) had toxin levels of 6,580 micrograms/100 grams, King Cove (mussels collected April 24, 2015) had toxin levels of 333 micrograms/100 grams, Kasitsna Bay (little neck clams collected May 18, 2015) had toxin levels 85.7 micrograms/100grams, and Pauloff Harbor (butter clams collected May 16, 2015) had toxin levels of 336 micrograms/100 grams.

The problem intensified during the most recent warming which began in 2014. The 2014 event created a bloom

covering much of the Gulf of Alaska with the highest paralytic shellfish poisoning readings ever recorded in Alaska at 21,600 micrograms/100 grams in Haines, Alaska. Paralytic shellfish poisoning pathways also include zooplankton, forage fish and their predators such as Yukon River king salmon, Aleutian Islands' sea lions (listed as endangered) and many other important species. All of these important species are at risk too.

A pilot sentinel program has been supported in the Aleutian Islands by the Environmental Protection Agency and has been credited with saving lives and preparing people for the more dramatic environmental changes to come. The pilot program, though no longer funded, was a resounding success and a model for an Alaska coastal program to protect all Alaska coastal peoples. A statewide program encompassing all coastal communities will help people make safe choices on where and when to collect their subsistence foods. In addition, the information collected from this effort will provide insight into the observed declines in many large marine species such as some salmon, sea lions, seals and sea otters.

We urge the EPA to implement an Alaska coast wide – harmful algal bloom sentinel program from Metlakatla to Kaktovik. The program should be contracted out to the regional or village level – similar to the EPA IGAP program, since that is where the testing needs to be done.

In addition to a small amount of funding for EPA oversight, we recommend that each of Alaska's 11 regional, coastal non-profit tribal consortiums should receive \$165,000 annually, to manage the projects, prepare their region's harmful algal bloom study designs, arrange for volunteers to collect, prepare and ship samples for testing and disseminate the data in a manner that informs and protects coastal peoples of their risk from poisoning. This program is designed to save lives, keep people from being sickened and to save on emergency medical expenses while building baseline information and providing healthy locally available subsistence foods. The program should be evaluated for success after a five year trial.



CLIMATE CHANGE

The Alaska Federation of Natives (AFN) requests the federal government:

- to allocate funding to address the threats to life and safety, with prioritization for communities identified as being in “imminent danger” and waive the federal match requirements for projects which are necessitated by climate change, subsistence shortages, flooding, erosion and other disasters.
 - to invest in infrastructure designed to protect Alaska from oil spills, contaminants, and biohazards associated with industrial activities and climate change.
 - to coordinate and streamline disaster preparedness, response, and recovery planning and implementation with local and regional entities.
 - to invest in renewable energy infrastructures to mitigate climate change.
 - to ensure that any climate change related regulations and legislation not hinder Alaska Natives ability to access subsistence resources or economic development opportunities,
 - to invest in baseline research that includes Traditional Ecological Knowledge.
 - to ensure that tribes and tribal organizations are included in decisions and are able to contract to do work to help protect their communities.
 - to assign the Department of Commerce to work with Alaska Natives and their representative entities to develop a strategy that will allow Alaska Natives to participate in the global economic benefits of increased shipping in the Arctic and climate change adaptation and resilience.
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BACKGROUND:

Alaska Native people have lived in the arctic for thousands of years. We were the first environmentalists, resource managers, and participants in Arctic commerce.

We are finding ourselves on the front line of climate change. Most Alaskan villages are located on the coastline or situated on rivers. Traditionally, these village sites were chosen because of their proximity to animal, fish and plant resources upon which we depend. However, due to climate change and because of where our villages and communities are located, we are experiencing thawing of permafrost, greater erosion and flooding, decreased access to subsistence resources, later formation, early breakup and decreased thickness of sea ice, and decreased access to and decreased levels of subsistence resources, among other impacts.

Large scale changes to the environment, fish and animals that we rely upon are happening at unprecedented levels. Several climate change related disasters have already been declared over the years, such as flooding in Galena and Stebbins; food shortage disasters in Gambell, Savoonga, and Diomedea; and wildfires throughout the Interior. Decreased sea ice in particular is having a profound impact on our coastal communities. We are seeing higher levels of erosion due to the later freeze up and earlier breakup of the oceans, with the net result that coastal areas are suffering the brunt of ocean storms and high water. Shishmaref, Kaktovik, Shaktoolik and Golovin are profoundly affected by fall storms and decreased sea ice protection. Funding for protective measures such as evacuation roads, seawalls, and in the more extreme cases, relocation - is needed especially for those communities that have been identified as being in “imminent danger.” Coordination and streamlining of federal, state, and local resources needs

to take place to prevent, respond to, and mitigate disasters. Federal agencies should waive the match requirement and cost benefit analysis for those communities seeking funds to protect their communities from or mitigate the damages caused by climate change. Our communities are small and do not have the financial resources to match federal awards, nor do we have the population base which would result in a favorable cost-benefit analysis.

Shipping through the Bering Strait and Arctic Oceans has increased, and is expected to continue to increase as climate change results in longer periods of ice-free conditions; this poses a threat to natural resources. At its narrowest point, the Bering Strait is only 44 miles wide. St. Lawrence Island is 26 miles from the Russian mainland. Russia is running large oil tankers on the Russian side of the Bering Straits. We are very concerned that an oil spill or a spill of other toxic substances could profoundly affect the health of the marine animals and marine environment on which we depend. There is absolutely no oil or toxic response equipment or capability presently in place in arctic Alaska. The United States must coordinate disaster preparedness and response, and recovery planning with local and regional entities, and funding should be allocated to address the impacts and threats to Alaskan communities.

An Arctic United States Coast Guard base in the Arctic is necessary to protect arctic waters and improve emergency response. The closest US Coast Guard base to the Arctic is located in Kodiak, which is 800 miles by air from the Arctic Circle and further if one takes a marine route. Infrastructure and equipment is needed to adequately respond to oil spills and other risks posed by increased shipping and industrial activity in the arctic.

We are concerned with what we've experienced and seen thus far.

We are even more concerned with what we are facing in the future. Food security issues are increasingly at the forefront of the impacts of climate change significantly impacting tribal residents.

Ocean acidification and warming ocean temperature are likely to have far reaching impacts to the marine life that all Alaskan communities are dependent on. A good example is the walrus hauling out on land near Point Hope due to the lack of sea ice. If this continues, (which appears likely), we believe the lack of sea ice will profoundly affect the health of walrus and other marine mammals that depend on sea ice for resting, bearing their young, transportation north and south, and as a base to hunt and live on (polar bears). The marine mammals depend on the sea ice for their life cycles, we depend on the marine mammals for food.

Because of the higher ocean temperature, we are seeing increased algae blooms in the north, some of which are toxic to arctic and marine animals. For example, this summer a minke whale washed up near Nome. (We hunt and eat minke whales.) A necropsy found that the whale had toxic levels of domoic acid, a neuro-toxin produced by harmful algal blooms, which are becoming increasingly prevalent in the north, because of warming ocean temperatures.

Another problem which has been observed over the last five years or so, has been the high numbers of seals, bearded seals, walrus and other marine mammals found lethargic, had lost their instinct to flee from danger, and with sores and severe hair loss. The cause has not been identified.

The United States is investing in arctic research but more must be done. The International Arctic Research Center of the University of Alaska Fairbanks is a leading cooperative research institute that is partly funded by the United States through the National Science Foundation and National Oceanic and Atmospheric Administration.



Traditional ecological knowledge must be firmly incorporated in emerging climate change research and funding appropriations. Baseline data is needed to monitor changes to ecosystems.

With warmer oceans, increased shipping has the potential to impact numerous coastal communities, and vast ocean areas. The United States, across all agencies involved with climate change, must establish tribal relations that incorporate traditional knowledge systems and should appropriate the necessary funding to include tribes in a meaningful way. Selections for the Joint-Federal Alaska Native Working Group on Arctic Consultation and Engagement need to be finalized so that the group can begin its work. Alaska Natives must be included from the outset when decisions for Alaska are considered. The federal government has a trust responsibility to tribes and must act to protect Alaska Native communities.

We strongly encourage the administration to support Outer Continental Shelf (OCS) revenue sharing with tribes. Economic development is occurring off our shores without tribes and Alaska's first people benefiting.

We respectfully request the Department of Commerce be assigned to develop a strategy that will:

- Allow Alaska Natives to participate in the global economic benefits of increased shipping in the Arctic and climate change adaptation and resilience. The 8(a) government contracting preference has provided an avenue for indigenous people to participate in economic activities. The Community Development Quota program has allowed local fisheries to participate in the commercial fishing industry, and has established a mechanism for investment in local infrastructure and community needs. We bear the greatest risk with the increased activity in the Arctic and we should also be able to partake in the economic activity. Further, our people have a vested interest in safeguarding our natural resources and will be the most responsible developers of natural resources.
- Create a mechanism to provide Alaska Native organizations with access to capital to invest in Alaska's Arctic. Promote business development in the Arctic by people who live in the Arctic. Incentivize larger existing corporations to joint venture or mentor local arctic businesses, for example, tourism, ecotourism, maritime industry support businesses, barging, etc.
- Create public-private partnerships with organizations that have the balance sheets, like Alaska Native Corporations, to invest in the Arctic.



FULL UTILIZATION OF ANILCA 809 AND TITLE IV NON-BIA SELF GOVERNANCE AGREEMENTS TO MEET THE MANDATES LAID OUT IN TITLE 8, SECTION 801 OF ANILCA

The Alaska Federation of Natives encourages:

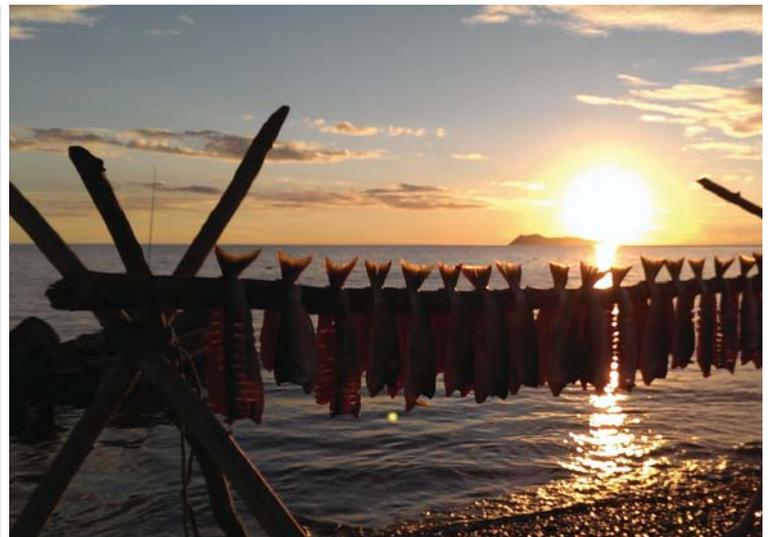
- The Obama Administration to fully implement the Federal Subsistence Program review recommendations made in 2009.
- The USFWS and the Federal Subsistence Board (FSB) to utilize self-governance contracts and ANILCA 809 agreements with local tribes and other entities to fulfill subsistence program elements.
- The target set in the federal register for increased Non-BIA funding agreements with all USFWS and NPS programs in Alaska be implemented as they all relate to our traditional (subsistence) way of life.

BACKGROUND:

Alaska Natives have resided in our homelands for thousands of years. We continue to depend on fish, wildlife and other natural resources from the land to sustain ourselves and our families. Our cultures and our ability to feed ourselves are dependent on our continued ability to garner resources from Alaska's lands and waters.

When the Alaska Native Claims Settlement Act was passed in 1971, Alaska Native aboriginal hunting and fishing rights were terminated with the verbal assurance of our Congressional Delegation that our ability to hunt, gather and fish would be protected under the State of Alaska fish and game managements systems and quotas. This did not happen and Alaska Natives sought protection from Congress to protect our ability to live off the land.

Congress responded to this outcry and in 1980, the Alaska National Interest Lands Conservation Act (ANILCA) was signed into law. Title 8 Section 801 of ANILCA reads:



“(1) the continuation of the opportunity for subsistence ... is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence;”

“(3) continuation of the opportunity for subsistence uses ... in Alaska is threatened..;”

“(4) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and its constitutional authority under the property clause and the commerce clause to protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents; and

“(5) the national interest in the proper regulation, protection and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by residents of rural Alaska require that **an administrative structure be established for the purpose of enabling rural residents who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.**

In 2009, Secretary of Interior Ken Salazar initiated a review of the Federal Subsistence Program, recognizing the mandate of ANILCA TITLE 8 was not being met. Following the review, the Secretary requested the Federal Subsistence Board to:

1. Increase FSB membership to include two subsistence users;
2. Expand deference to Regional Advisory Councils in regulatory decisions;
3. Review the MOU with the State;
- 4. Review subsistence program procedures and structure;**
5. Review customary and traditional use determination;
6. Review rural determination process;
7. Minimize Executive Sessions;
- 8. Review OSM budget;**
9. Inform Secretaries when outside regulations developed affect subsistence use;
- 10. Utilize contracting to fulfill subsistence program elements;**
11. Prepare a status report within one year.

The Secretary also requested the Director of USFWS to:

1. Create a line item budget for the Alaska Subsistence Program;
- 2. Seek FSB and other stakeholders input on the priorities for the OSM budget;**
- 3. Conduct an evaluation of OSM budgets, organization, & diversity;**
4. Encourage the use of contract to fulfill subsistence program elements; and
5. Consult with FSB on hiring the OSM Director.

While there have been some small changes, we have yet to see progress on critical items called for by the former Secretary, including meaningful stakeholder involvement in program and budget decision-making and program implementation through contracting.

It is within the clear authority of the Secretary of Interior and Department of Interior Agency National/Regional Directors to negotiate and implement agreements with Tribal Governments and Alaska Natives to effectively and efficiently perform Department programs, functions, services, and activities. However, with a few exceptions, they have failed to do so.

Using existing legal mechanisms, such as ANILCA 809 agreements and Title IV Non-BIA Self-governance Agreements, would allow for Tribal Governments to improve federal functions in areas in which they are proven experts. These agreements would allow for the expansion of Tribal Government capacity to further develop comprehensive natural resources management programs that would provide long-term job creation in areas from sustainable forestry, to wood energy, to hunting and fishing guiding, to eco-tourism, to sustainable agriculture.

The impact of increased agreements with Tribal Governments can far exceed the economic impact of these agreements themselves, it sets the foundation for sustainable, culturally appropriate economic development and job creation for Alaska Native Tribal Governments in an area which they have proven traditional expertise. In the annual list of programs eligible for inclusion in funding agreements (to be negotiated with self-governance tribes by Interior Bureaus other than the BIA) federal register notice the Secretary sets the following programmatic target, "upon request of a self-governance tribe, each non-BIA bureau will negotiate funding agreements for its eligible programs beyond those already negotiated." We have NOT seen these type of non-BIA self-government agreements increase. Previous negotiations for ISDEAA Non-BIA Self-governance agreements with the USFWS for OSM program, functions, and services have been denied, with no explanation.

We are confident that we can implement those programs eligible for self-governance contracting as mandated in

the Federal Register “1. Subsistence Programs within the State of Alaska. Evaluate and analyze data for annual subsistence regulatory cycles and other data trends related to subsistence harvest needs, and facilitate Tribal Consultation to ensure ANILCA Title VII terms are being met as well as activities fulfilling the terms of Title VIII of ANILCA. “

We are uniquely situated to improve performance of the OSM/FSB to meet the mandate of Title VIII of ANILCA, namely that subsistence users “*have a meaningful role in the management of fish and wildlife and of subsistence uses.*” We have strong working relationships with our Tribal Governments and Tribal Members, allowing us to provide culturally relevant and effective education, outreach, and coordination of participation in the management process. We seek to implement the mandated inclusion of an “indigenous analysis” of all regulatory proposals, which is currently lacking. Current biological and anthropological analysis of regulatory proposals are limited and do not adequately cover potential impact of such proposals.

We ask that the Secretary of Interior MANDATE the target set in the federal register for increased Non-BIA funding agreements with all USFWS and NPS programs in Alaska as they all relate to our traditional (subsistence) way of life. We have been stewards of our traditional territories (now public lands) for thousands of years and hold the knowledge and expertise to continue to serve as stewards for the benefit of all Americans.



We continue to urge that stakeholders be involved in developing OSM budgets and priorities.

Tribal Natural Resources Management has always presented itself as a viable opportunity for economic development and job creation amongst Tribal Governments. Most specifically in Alaska, where Tribal economies continue to be founded upon the traditional way of life, the management of fish and wildlife populations provides a uniquely ideal fit for a cultural and economically appropriate method to develop jobs and local economies. Alaska Natives successfully managed fish and wildlife populations for thousands of years.



KUSKOKWIM AND YUKON INTER-TRIBAL FISH COMMISSIONS

The Alaska Federation of Natives requests the support of the Alaska Congressional Delegation and the Department of Interior for a stable source of funding for the Kuskokwim and Yukon Inter-Tribal Fish Commissions, and support for regulatory, administrative, and legislative actions that will further advance a meaningful role in fishery management for the Commissions.

BACKGROUND:

President Obama's statement after meeting in Anchorage with Alaska Native Leaders that his administration is taking action to make sure that Alaska Natives have direct input into the management of their traditional fisheries significantly advanced the Commissions' standing and potential. The President's announcement of \$375,000 in 2015 funding for the Commissions provided essential seed money for 2015. The support of Alaska's Congressional delegation remains key to the long-term success of the Yukon and Kuskokwim Inter-Tribal Fish Commissions.

The support of President Obama, DOI and the Delegation has helped launch the Commissions. The challenge is to provide the financial support and evolving management role that will help the Commissions succeed and thrive in the future. The Commissions' goal is a long-term, real and substantial role in the management of Kuskokwim and Yukon fisheries. There is a significant risk that the Commissions' management role and capacity will devolve into another short-lived, underfunded disappointment and frustration. Many years of hard, determined effort have gone into the establishment of the Commissions and the breakthrough represented by the DOI inter-tribal fishery management demonstration project for the Kuskokwim. Failure at this point is not an option for successful fishery management and healthy, engaged tribal communities. Success will be measured by Yukon and Kuskokwim Commissions that have the capacity and authority to come to the fishery management table as true partners, representing those whose way of life depends on wise, unified management decisions supported by the users of the resource.



The stability and sustainability of the Commissions depends on a secure source of funding. We ask our Congressional Delegation and DOI to include sufficient funding for the Commissions as a re-occurring item in the DOI budget. A secure stream of federal funding is the best possible investment for the rebuilding and conservation of the fisheries and for advancing self-determination for the Kuskokwim and Yukon tribes. The Commissions' goal is to develop a fishery management program that will surpass all past programs through combining the best of research, biology, traditional knowledge and local projects; by bringing together scientists, elders, fishermen and

youth. Subsistence fishing is the lifeblood of the Native Villages on the Yukon and Kuskokwim, and building the management role and capacity of the Commissions will help sustain food security, fisheries and communities.

In addition to a re-occurring line in the DOI budget, the Commissions could secure funding and a role in fishery management through annual funding agreements, contracts and compacts with the USF&WS for fishery research and management programs on the Kuskokwim and Yukon. Alaska tribal organizations have succeeded in managing vital federal programs for health, housing, natural resources programs and other areas. The Commissions will succeed in managing federal subsistence fishery programs because they represent those who depend upon healthy fish stocks for their nutritional, economic and cultural way of life. A good first step in this direction would be a clear directive from the Secretary and the Delegation to the USF&WS to engage in good faith negotiations with the Commissions for annual funding agreements for federal fishery management programs.

It is essential that the DOI demonstration project for the Kuskokwim be pushed forward and strengthened, and a demonstration project for the Yukon must be established and implemented as soon as possible. The Federal Subsistence Board should be strongly encouraged to adopt and implement administrative and regulatory actions that will increase the management role of the Commissions to the greatest degree possible. The Secretary and Board should ensure that the Commissions are delegated all subsistence fishery management authority except for those inherent federal functions that are non-delegable. The subsistence fishery management role of the federal agencies should be turned over the Commissions to the greatest extent allowed under the law through an efficient and effective process.

Administrative and legislative options need to be explored that will unify fishery management throughout the Yukon and Kuskokwim drainages and do away with the state/federal checkerboard jurisdiction and management. AFN asks the Secretary and the Delegation to support the concept of replacing the current dual fishery management regime with a State/Federal/Inter-Tribal Fish Commission co-management structure. The timing is right to explore option that will improve subsistence fishery management for all users, and the Yukon and Kuskokwim are the place to demonstrate solutions.



INCREASING THE SAFETY OF ALASKA NATIVE WOMEN

The Alaska Federation of Natives respectfully requests the Obama Administration to recognize and respond to the human crisis confronting Alaska Native women due to the laws and policies that have left Alaska Native women vulnerable to perpetrators of rape, domestic violence, murder, sex trafficking, and hate crimes by providing Alaska Native women the same protections under the VAWA as other women in the United States specifically:

- monitor state compliance with the VAWA Full Faith and Credit, 18 U.S.C. §2265, and assist with entering Alaska Native village protection orders into the National Protection Order Registry;
- provide technical assistance to the State of Alaska to comply with VAWA 2013 to meaningfully consult with Alaska Native Villages in the development of the state implementation plan required for the state to annually receive formula grant funds from OVW and coordinate with tribes in the implementation of the state plan;
- open an Alaska Office on Violence Against Women to provide the same access for the 229 Alaska Native villages as Indian tribes within the lower forty-eight states to ensure equitable access of critical resources to Alaska tribes, and ensure meaningful access to Alaska Natives who are Limited English Proficient (LEP) and challenged by consistent Internet access;
- provide separate annual, non-competitive formula funding specifically to Alaska Native tribes for life-saving services for advocacy, shelter and victim services calculated using population numbers of the Tribe's choice either current numbers used by the FVPSA Office or individual village tribal enrollment; and
- provide formula grant program support to a regional domestic violence resource center, the Alaska Native Women's Resource Center to Increase the Safety of Native Women, as provided under the Family Violence Prevention and Services Act of 2010 to serve as a dedicated nonprofit organization to work with tribal governments, allied nonprofit organizations, and government agencies.

BACKGROUND:

Historically, rates of domestic violence and sexual assault in Alaska, among Alaska Native/American Indian (AN/AI) women, have been alarmingly high and disproportionate levels that international observers have labeled it a human rights problem (Maze of Injustice, Amnesty International 2007). Although accounting for only 8.1% of Anchorage's population, Alaska Native/American Indian women accounted for 44.9% of sexual assault victims reporting to the Anchorage Police Department. There are victims who choose not to report to law enforcement, but receive the medical exam. Some believe that there will be no follow-up, nor perpetrators arrested. As documented by Andre Rosay, Ph.D., the Director of the University of Alaska Justice Center, Alaska Native women report being raped at a rate 7.2 times higher than Caucasian women in Anchorage. The Alaska Victimization Survey found that 47.6% of women in Anchorage had been a victim of intimate partner violence and 37.1 had been a victim of sexual violence (Council on Domestic Violence and Sexual Assault). Compounding this critical problem of victimization of AN/AI women is the lack of access to culturally appropriate wrap around services designed to address these victims' needs in Anchorage.

Half of the state's population (291,826 residents) resides in the Municipality of Anchorage and 23,637 are Alaska Native. Anchorage has been long known as "Alaska's largest Native village." Nearly 23% of the state's entire Native population resides in Anchorage. This includes Alaska Native members of Cook Inlet Region Inc. with members representing each of Alaska's 229 federally recognized tribes. There is a critical need to provide AN /AI victims of sexual assault, domestic violence, stalking and partner violence with free comprehensive and culturally appropriate legal and advocacy services. Compared to the total Anchorage population, the Anchorage Native population's

household income is 37% less, and the percentage of individuals with income below the poverty line is 2.77 times greater, according to the latest US Census Bureau's American Community Survey.

For victims living in rural Alaska the barriers are insurmountable. Two-thirds of the state has no local law enforcement. Alaska State Troopers must respond from the nearest hub community and are often delayed by harsh weather, the necessity to triage and prioritize reports from multiple villages, or a shortage of Alaska State Troopers available to respond. Even with a law enforcement response to a report of domestic violence or sexual assault, access to a Sexual Assault Response Team (SART) Center or medical care is hours or even days away and requires the victim to leave her home community and be separated from her support system. Additionally, when Troopers come into a village, everyone knows. There is usually no confidentiality for the victim, which can lead to feelings of shame, embarrassment and more dangerously, threats or retaliation for reporting the crime. For rural victims in particular, accessing victim advocacy, legal or public safety services locally might be too risky or unavailable at all. Consequently, some victims choose to not report or seek services at all, while others will choose to leave their community for safety, and rely on the resources available in the Anchorage service area. For many victims the only chance to successfully transition to an independent life free of abuse is in Anchorage because is the state's hub community for most health, social, educational, and legal services. There is a critical need to provide AN/AI victims of sexual assault, domestic violence, stalking and partner violence with free comprehensive and culturally appropriate legal and advocacy services. A National Study conducted by the US Department of Justice concluded the American Indian/Alaska Native women have the highest rate of lifetime rape and physical assault of any ethnic group. (Tjaden & Thoennes, 2000, and Wahab and Olson, 2004, Rutman et al.012). These statistics clearly demonstrate the increased risk for Alaska Native women and need for culturally sensitive domestic violence and sexual assault prevention throughout the state.

In 2008 Hamby identified that law enforcement in Native American communities experience additional barriers that are not experienced elsewhere and these barriers can lead to underreporting and poor service utilization. Studies established links between sexual abuse and other serious mental health concerns such as substance abuse and suicidal ideation. Bohn (2002) found that 87% of the native women who participated in their study had been abused at some point in their lifetime, and that abuse was correlated with an increase in substance abuse, smoking, and multiple sexually transmitted infections. He also found that women who reported experiencing sexual abuse also reported a history of alcohol abuse, depression, and suicide attempts (Bohn 2003). Ravello, Abeita and Brown (2008) found high level of all adverse childhood experiences (ACES) within the American Indian/ Alaska Natives included in their samples.

Sexual abuse prevention through culturally appropriate material, culturally training and retaining domestic violence/sexual assault advocates. Literature addressing domestic violence and sexual assault has been developed from the "lower 48" funding sources and programs, and rural Alaska victims have a difficult time understanding some materials that are provided. Provide training and material that is specific to villages.

Some Alaska Natives felt marginalized and that there was a lack of the Native voice, and that providers ignore factors such as historical trauma (Bubar & Bundy-Fazioli (2011). Trainings for Behavioral Health, Village Police Safety Officers, Community Health Aides, and tribal leaders would benefit the rural communities. This would include municipal, and state representation to address violence against women is necessary for these communities to go forward. First of all, an acknowledgement of the abuse is needed by these entities, and the victims will feel heard, and be able trust the system.

Segal (2001) and Gutierrez et al. (1994) both argue that when responding to the needs of Alaska Native women who have experience sexual abuse, it is particularly important to adopt interventions that address their unique cultural needs and help develop a positive sense of both cultural and personal identity. Community connectedness and sharing have always been a part of traditional cultures in Alaska, and given the current level of isolation from outside resources, connection to the hub areas in Alaska is essential.

For many victims, the need to have someone “hear” their story is just the beginning of the healing process. Many Alaskan natives unintentionally carry the effects of historical trauma, physical abuse, and sexual abuse. Again, it is vital to the communities to develop a connection to those who can provide the services to address the generational traumas.

Rural communities have people within that can address what is specific for that community. Before providing training, there is a need for conversations with leaders within an individual community on what would benefit them. This would include their agenda, their providers and professionals, church and lay members, and law enforcement. Elders would be utilized to open and close the meetings through traditional means.

Funding has been available, but there is a need for continued funding to provide resources and training. The cost of transportation, accommodations, and isolation factors contribute to a much higher cost of trainings. It took many generations and multiples traumas to lead to high rates of suicide, alcoholism, physical and sexual abuse, along with behavioral and mental diagnoses. It will take time, people, and resources to continue to assist in the healing process of Alaska rural communities. Village members would be the first say that they want a community safe for their children and future generations.



NEW MARKETS TAX CREDITS “NMTC”

The Alaska Federation of Natives encourages our congressional delegation, other members of Congress and the Administration to:

- Support amendments to the New Markets Tax Credit Program which would greatly increase the benefit in Alaska; and
 - Designate the Denali Commission to serve as a conduit for the New Markets Tax Credits Program in Alaska.
-

BACKGROUND:

The New Markets Tax Credit Program (NMTC) was authorized in the Community Renewal Tax Relief Act of 2000 (PL 106-554) as part of a bipartisan effort to stimulate investment and economic growth in low income urban neighborhoods and rural communities that lack access to the patient capital needed to support and grow businesses, create jobs, and sustain healthy local economies.

PROGRAM OVERVIEW:

The NMTC program attracts capital to low income communities by providing private investors with a federal tax credit for investments made in businesses or economic development projects located in low-income communities defined as census tracts where the individual poverty rate is at least 20 percent or where median family income does not exceed 80 percent of the area median.

An NMTC investor receives a tax credit equal to 39 percent of the total Qualified Equity Investment (QEI) made in a Community Development Entity (CDE) and the Credit is realized over a seven-year period, 5 percent annually for the first three years and 6 percent in years four through seven. If an investor redeems an NMTC investment before the seven-year term has run its course, all credits taken to date will be recaptured with interest.

Typical projects involve the acquisition, rehabilitation or construction of real estate or the expansion of operating businesses in low-income communities.

Project Type

- Commercial offices and retail services/products
- Mixed-use (commercial/residential) properties
- Factories and industrial facilities
- Community centers
- Educational facilities
- Entertainment/cultural facilities
- Health-related facilities
- Hotels and hospitality properties

Project focuses in low-income communities

- Creating jobs
- Assisting businesses
- Providing goods/services and housing options
- Improving access to healthy and affordable food options
- Increasing environmental sustainability
- Pioneering developments that will catalyze additional private investments in the community

NMTC PROCESS:

In order to finance underlying businesses and developments, Community Development Entities (CDEs) apply to the Community Development Financial Institutions Fund (CDFI Fund), a division of the U.S. Department of the Treasury, in a competitive application process for NMTC Allocation Authority. This Authority allows successful CDEs to raise investment capital from investors and other private investors in exchange for the rights to claim tax credits over the seven year compliance period. Capital raised by the CDEs is then used to provide below-market financing to qualified businesses in low-income communities.

PROGRAM SUCCESS:

Between 2003 and 2013, \$35 billion in direct NMTC investments were made in businesses and these NMTC investments leveraged nearly \$70 billion in total capital investment to businesses and revitalization projects in communities with high rates of poverty and unemployment. NMTC generated about 750,000 jobs, at a cost to the federal government of less than \$20,000 per job.

THE ECONOMIC IMPACT IN ALASKA:

- \$246 million in NMTC investment leveraged an additional \$22 million from other sources for a total of \$268 million in total project investments.
- A total of 27 businesses in Alaska have received NMTC financing.
- 1,124 construction jobs and 1,401 full-time jobs were created.
- Several years ago AIDEA regulations were adopted that allow AIDEA to make loan guarantees, and loans in certain cases, to projects with NMTC allocations.
- The last Alaskan CDE to receive an NMTC allocation directly was Alaska Growth Capital in 2009. It was used to fund the Maniilaq Elder Care facility in Kotzebue.
- The last Alaska project to receive an NMTC allocation was GCI's Terra project. (The allocation came from a CDE outside of the state.)

The dearth in recent years of NMTC credits steered to Alaskan projects does not seem to be due to a lack of qualified Alaskan CDE's or even non-Alaskan CDE's willing to place allocations here in the state. We believe there are plenty of current entities that would place their allocations with Alaskan projects if Treasury would allocate credits to them.

The competitive nature that currently exists amongst CDFI/CDE's for NMTC allocations is healthy and promotes efficiency in the system and in theory, helps to assure that the best projects get funded.

Modifications that would be beneficial to Alaska:

- Assign a minimum of \$50 million in allocation to AK on an annual basis, which is an estimated \$10 million in direct benefit.
- List Alaska as an Underserved state, per the definition of CDFI.
- Designate all rural hub communities with population not exceeding xxxxx, or that support XXXXX number of low-income qualified communities, to be eligible areas under the qualified census tract qualification.
- Exempt Alaska from the 24-month look back period based on the seasonality and timing of a typical construction project.
- Qualify eligibility criteria to exclude the skewed effect on census data that arises from the inclusion of transient resident wage income with incomes of long term resident's data (i.e. doctors, nurses, teachers, etc.).



LOW -INCOME HOUSING TAX CREDIT PROGRAM

The Alaska Federation of Natives requests the Administration and our Congressional Delegation support current bipartisan legislation that would improve the Low-Income Housing Tax Credit (LIHTC) Program.

BACKGROUND:

The Low Income Housing Tax Credit Program (LIHTC) has been the most broadly successful housing program in our nation's history. By bringing private sector efficiency into the development of housing for low-income families, the LIHTC has revolutionized how developers leverage resources and put capital to work in smart and innovative ways.

Since its creation in 1986, the LIHTC has leveraged nearly \$100 billion in private capital to finance 2.7 million quality affordable homes.

Each year, LIHTC produces or preserves approximately 90,000 housing units and supports 96,000 jobs.

The LIHTC is particularly critical in Alaska. In Anchorage, for example, the shortage of available units has caused the price of housing to reach levels that are not affordable for many families. The Fair Market Rent for a two bedroom apartment in Anchorage is now about \$1,200/month. The hourly wage necessary to reasonably afford that two-bedroom apartment is just over \$23/hour. In contrast, the average Anchorage renter earns about \$16.70 per hour. It takes 2.6 full-time minimum wage jobs to pay for the average two-bedroom apartment in Anchorage.

There are two kinds of Housing Credits – one for 70% of the present-value cost of constructing or substantially rehabilitating properties, and one for 30% of the present-value cost of acquiring existing properties. Policymakers determine how to allocate the credits for each of 10 years so that they are worth 70% or 30% in present value terms.

Congress originally set the credit rates at 9% for new construction and substantial rehabilitation (“70% credits”) and 4% for acquisition (“30% credits”). In subsequent years, the IRS calculated the rate based on a complicated formula related to federal borrowing costs. However, historically low federal borrowing rates have translated into much lower Housing Credit rates than Congress originally envisioned. As of May 2015, the 70% credit rate has dropped from 9% to 7.4%, while the 30% credit rate dropped from 4% to 3.2%. The result has been a 15-20% percent drop in LIHTC equity available for each development.

The financing for each development now increasingly relies on other funding sources, which are also being strained. Some affordable housing developments have simply become infeasible.

The Housing and Economic Recovery Act of 2008 (HERA) responded to this concern by enacting a temporary minimum credit rate for new construction and substantial rehabilitation (70% credits) at a minimum of 9%. This provision simplified state administration of the program and removed the financial uncertainty and risk associated with underwriting LIHTC-financed properties using the “floating rate” system. It was also cost-neutral, since it did not change the amount of Housing Credit allocation that each state receives.

The minimum 9% rate was extended through the end of 2013 in the American Taxpayer Relief Act of 2012, and again in the Tax Increase Prevention Act of 2014. However, the minimum 9% credit rate is now expired, and the Housing Credit is operating in a “floating rate” environment. It must be extended on a permanent basis in order to maintain financial feasibility and administrative predictability for Housing Credit projects in 2015 and beyond. In addition, congressional action is needed to enact a minimum rate of 4% for acquisition.

In May 2015, Senators Maria Cantwell (D-WA) and Pat Roberts (R-KS) introduced the “Improving the Low-Income Housing Tax Credit Act” (S. 1193) to enact permanent minimum LIHTC rates of 9% for new construction and substantial rehabilitation and 4% for acquisition. Companion legislation (H.R. 1142) was introduced in the House by Representative Pat Tiberi (R-OH-12th). This bill has strong bipartisan support. [We respectfully urge the Administration and our Congressional Delegation to support the critical LIHTC reforms that would be enacted by S. 1193 and H.R. 1142.](#)



AMENDING THE IRS CODE TO SUPPORT THE RETURN OF SACRED OBJECTS TO TRIBES

The Alaska Federation of Natives encourages our Congressional Delegation, other members of Congress and the Administration to support and pass amendments to the Internal Revenue Code that would:

- Make income from the sale of a Native American Sacred Object ordinary income rather than capital gains income, thereby discouraging investors from buying Sacred Objects as investments;
- Provide a charitable deduction for the fair market value of the Sacred Object transferred to a tribe without reducing the tax deduction by any payments made from the tribe (or any non-profit fund created to assist tribes with the repatriation of Sacred Objects) to the owner under the terms of the proposed amendment;
- Require the owner of the Sacred Object to recognize any payment received from the tribe (or a non-profit fund, on behalf of the tribe) as ordinary income to the extent the payment exceeds the owner's basis in the property; and
- Allow these rules to apply so long as the payment from the tribe (or non-profit fund) to the owner of the Sacred Object does not exceed the after-tax fair market value of the property minus the tax benefit of the charitable contribution.

BACKGROUND:

Native Americans universally believe that our ceremonial objects are imbued with spiritual dimensions and are sacred. We believe that we must seek the return of our Sacred Objects to ensure and restore social and spiritual balance and harmony within our tribes.

Many Sacred Objects were alienated from tribes during a period when the public policy of the Federal Government held that Native American traditions and beliefs should be suppressed. A common assumption was that Native American cultures would cease to exist. Past Federal policies also encouraged settlers to displace tribes by settling on tribal lands, and Federal land management policies failed to prevent the looting of Native Sacred Sites and the subsequent sale of Sacred Objects by unscrupulous collectors.

Native Americans successfully sought the enactment of the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA). Under this law, certain cultural objects including Sacred Objects that are held by museums or Federal agencies must be returned to their original Native owners. However, NAGPRA does not reach private collections, and private collections are a significant remaining source of Native American Sacred Objects.

Indian tribes and other Native American organizations, with the support of private foundations, have sought to obtain Sacred Objects when they are sold on the private market, often at great expense. We have found that the owners of Sacred Objects generally expect to receive from any prospective buyer the fair market value of the Sacred Object. In many cases, we simply do not have the financial resources to purchase the Objects at their fair market value, and the Objects are resold on the private market.

In 1983, Congress passed a law, the Indian Tribal Governmental Tax Status Act, which exempts charitable contributions of money or property to Indian tribes from income, estate, and gift taxes. 26 U.S.C. 7871(a)(1)(A)-(C). Thus, an individual who donates a Sacred Object to a tribe generally may deduct the value of the donation from the individual's taxable income. We have found, however, that few owners of Sacred Objects are willing to simply "abandon their investment" by donating Sacred Objects to tribes in exchange for a simple tax deduction. Although many individuals have expressed to us that they would prefer to see the Object returned to the tribe rather than resold on the private market, the owners of Sacred Objects nevertheless expect to receive the fair market value for the Objects.

Unfortunately, an individual owner of a Sacred Object who wishes to see the Object returned to its rightful tribal owner has only two options available today: Either donate the Object to the tribe, in which case the current owner must shoulder a significant financial burden, or sell the Object to the Indian tribe for fair market value, in which case the tribe must shoulder the entire financial burden. Alaska Native and American Indian entities have been working tirelessly to seek the return of Sacred Objects to our tribes and we know, from considerable experience, that collectors generally are not willing to donate their collections to tribes.

Congress is in a position to provide another, more workable option to the owners of Sacred Objects and to the hundreds of Indian tribes that wish to reclaim these Objects.

We encourage our Congressional Delegation and the administration to support Federal legislation that amends the Internal Revenue Code to:

1. Make income from the sale of a Native American Sacred Object ordinary income rather than capital gains income, thereby discouraging investors from buying Sacred Objects as investments;
2. Provide a charitable deduction for the fair market value of the Sacred Object transferred to a tribe without reducing the tax deduction by any payments made from the tribe (or any non-profit fund created to assist tribes with the repatriation of Sacred Objects) to the owner under the terms of the proposed amendment;
3. Require the owner of the Sacred Object to recognize any payment received from the tribe (or a non-profit fund, on behalf of the tribe) as ordinary income to the extent the payment exceeds the owner's basis in the property; and
4. Allow these rules to apply so long as the payment from the tribe (or non-profit fund) to the owner of the Sacred Object does not exceed the after-tax fair market value of the property minus the tax benefit of the charitable contribution.

By making income from the sale of a Sacred Object ordinary income rather than capital gains income under current law, the Federal tax rate on the sale of Sacred Objects would increase from about 24 percent to as high as 43 percent. Thus, the owner would only get to keep around 57 percent of the sale proceeds compared to 76 percent today after Federal income tax. This would discourage investors from buying Sacred Objects as investments and encourage investors to transfer Sacred Object to tribes.

Our legislation also would authorize the investor to receive a charitable deduction for the fair market value of the Sacred Object transferred to the tribe, without reducing it by any payments made from the tribe (or a nonprofit fund, on behalf of the tribe) to the owner. This would provide the owner of the property a tax benefit that could be as high as 40 percent of the value of the property.

Finally, under our proposal, these rules would apply so long as the payment from the tribe (or non-profit fund) to the owner of the property did not exceed the difference between the after-tax proceeds the owner would receive in a normal sale less the estimated 40 percent tax benefit of the charitable contribution.

Under our proposal, the term “Sacred Object” would be defined in a manner consistent with the definition of that term under NAGPRA, and would include:

1. A funerary object that, as a part of the death rite or ceremony of a culture, is reasonably believed to have been placed with individual human remains either at the time of death or later; or
2. A specific ceremonial object which is needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents.

An Indian tribe receiving a Sacred Object under this proposal would be required to certify, by a resolution of the governing body of the tribe, that the tribe reasonably believes, given the totality of circumstances surrounding the acquisition of the Sacred Object, that (1) the Object is a Sacred Object, as defined above; and (2) that the Object is culturally affiliated with the Indian tribe.

This proposal is congruent with the existing Federal tax deduction for contributions of property to Indian tribes, allows current owners of Sacred Objects to receive the full after-tax fair market value of a Sacred Object furnished to a tribe, and significantly reduces the cost to Indian tribes of obtaining the Sacred Object.

More importantly, our proposal creates a powerful incentive for investors to return Sacred Objects to tribes rather than selling the Objects on the private market.





RENEWABLE ENERGY AND ENERGY EFFICIENCY

Village electricity is mainly generated by stand-alone, outdated diesel-burning power stations, many of them more than 40 years old. Oil is barged from Seattle to regional distribution sites in the summer and then distributed to more remote coastal and river communities by smaller barge companies. The high cost of energy is one of the biggest challenges in rural Alaska. It impacts every aspect of life and is one of the main obstacles to keeping villages sustainable into the future.

BACKGROUND:

Rural Alaska's villages are among the most economically depressed communities in the nation, and they also have the highest per capita fuel costs in the United States. While all Americans have suffered from the rising cost of fossil fuels, the impact on rural Alaska's communities is alarming. Most communities are not on power grids and are dependent on petroleum for three major uses: area heat, transportation, and electricity. In the winter, a village home can use up to five 55-gallon drums of heating oil each month, spending up to \$2,000 every 30 days.

Because most villages are not accessible by road, life in rural Alaska is entirely dependent upon petroleum products. Rural Alaskans frequently travel by air and rely heavily on all-terrain vehicles, snow machines and outboard motors for subsistence food gathering, commercial fishing and other activities. The increasing cost of fuel has crippled rural economies and the delivery of government services. If left unaddressed, unsustainable energy costs threaten the very survival of rural Alaska's small, rural communities.

Energy costs make up on average 40% of the total cost of providing public sanitation in rural Alaska. Water and sewer bills in rural Alaska range from \$80 to \$250 per month, and average 3-8% of median household income; this confluence of factors is a direct threat to the sustainability of public sanitation across rural Alaska. Integration of renewable and alternative energy sources as part of the solution to high operating costs serves to reduce system dependence on high cost fossil fuels for heating, and leads to more affordable and sustainable residential water and sewer services.

In addressing this disparity projects have been undertaken in many rural communities have identified, designed and constructed renewable energy solutions to reduce the high cost of operating sanitation systems, promoting sustainability of vital community sanitation services damaged by the impacts of the harsh arctic environment and the effects of a changing climate, improves safety of equipment, and extends the life of aging infrastructure. Providing the vital health benefits of clean water and sanitary sewer systems for remote communities with no road access in extremely cold climates makes for unique challenges, including extremely high energy usage and high energy costs.



Many villages in rural Alaska could benefit from renewable energy and energy efficiency projects. Renewable energy projects such as biomass, wind to heat, heat recovery, hydroelectric, and solar can offer high impact energy solutions for rural Alaska.

RECOMMENDATIONS:

1. Federal funding needs to be increased for renewable and alternative energy programs to enable rural communities to design and implement energy efficient solutions to protect public health and the long-term sustainability of villages across Alaska.
 - Utilize federal lands for the development of interties and renewable energy resources for rural Native villages.
 - Explore renewable energy sources inside special status areas, such as national parks and wilderness areas for small-scale renewable energy projects.
 - Allow federally recognized Indian tribes and Alaska Native corporations to harvest biomass from adjacent federal lands.
 - Support transmission projects on federal lands to connect rural villages for greater economies of scale.
 - Support the development of a statewide grid to maximize renewables production and allow for the export of clean-sourced power across the Arctic.
2. Increase energy grants and weatherization programs within the president's budget.
3. Direct national laboratories to work in conjunction with Alaska Native stakeholders on realistic energy solutions.
4. Include hydropower as a renewable resource.
5. Establish an alternative energy clearinghouse in the State of Alaska (perhaps at the Denali Commission) to share information on systems, costs to design, install and maintain, effectiveness and other factors associated with setting in place alternative energy solutions in village Alaska.



NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT (NAHASDA) FUNDING AND REAUTHORIZATION

The Alaska Federation of Natives (AFN) urges our Alaska Congressional delegation and other members of Congress to:

- Reauthorize NAHASDA this session; and
- Fully fund NAHASDA at \$700 million.

BACKGROUND:

NAHASDA has been an absolute success when we consider that with the \$98 million that Alaska receives each year, Tribes and Regional Housing Authorities are able to leverage another \$131 million in housing funds. The combined average annual expenditure of \$229 million is used to build 190 new homes, rehabilitate 740 existing homes, weatherize 1,220 homes, and employ 1,145 full-time residents. Alaskan businesses and construction contractors are paid \$84 million for their services spreading the financial impact to the private sector.

Leveraging NAHASDA funds is a “family affair” when we look at who the partners are that are bringing additional funds to the housing projects. The State of Alaska recognizes that Regional Housing Authorities are most often the largest developers of affordable housing and the majority developers for rural and Alaska Native housing. Recognizing the importance of federal Indian housing funds to our state, the State of Alaska has for years provided a 20% match for NAHASDA funds used for new construction. Private sector investors and banks are partners in NAHASDA development projects with the use of Low Income Housing Tax Credits, HUD Title VI Loan Guarantees, and a multitude of complex financing instruments. The family of housing partners is rounded out with contributions and partnerships with local governments, tribal non-profit entities, and local community service providers who all recognize that housing is essential for economic growth and community vitality.

The use of the word “Self-Determination” in the title of the NAHASDA legislation was intentional and appropriate. The old HUD grant programs for Indian housing had very little if any opportunity for local input during the planning and design phases and communities got the houses that came with the HUD grant. The “one size fits all” government units can still be seen today in villages all over Alaska.

NAHASDA empowered local decision making in all aspects of planning and design. The modern units being built today are incorporated into local government based community development plans. Construction techniques and design take into account local climate, energy resources and geotechnical engineering. NAHASDA units built in Alaska have a reputation for energy efficiency, air and moisture management and intelligent construction techniques and materials. The high cost of energy in rural Alaska has forced Tribes and Regional Housing Authorities to experiment with and understand alternative energy and heating systems. The science of housing and Alaska-specific construction systems are bolstered by NAHASDA programs.

Members of Congress should make note that as improvements are made to housing structures and the construction process, Alaska tribes and Regional Housing Authorities are simultaneously working to evolve the expectations of families served by federal housing funds. Outdated HUD policies enabled dependency and provided little incentive to improve on personal or familial circumstances. Regional Housing Authorities and their tribal partners have combined NAHASDA programs with educational resources and social service oriented programs to promote financial independence and financial literacy within housing tenants. Families are afforded opportunities and

incentives to grow beyond acceptance or dependence on low-income services. Ultimately, homeownership and personal responsibility will move families away from poverty and reduce the administrative burden of subsidized housing programs. This is the value that encompasses Alaskan NAHASDA programs.

Despite what sounds like a lot of good news and success for NAHASDA programs in Alaska, the situation in rural Alaska remains dire and the demand for more housing funds remains unmet. The high cost of energy and transportation, combined with the lack of running water and modern communications technology confines the majority of rural Alaskans to live in third world conditions. Alaska Native families remain plagued by overcrowding and inadequate plumbing at a rate that is five times the national average.

The challenge of improving housing conditions in Alaska villages is compounded by the flat funding of NAHASDA. Adjusting a \$650 million appropriation for the cumulative impact of inflation since 1998 leaves NAHASDA recipients with the purchasing power approximately 50% of that amount, or \$335 million! A proper adjustment for inflation would require an appropriation of \$960 million.

Full funding at \$700 million for 2016 followed by subsequent increases will allow NAHASDA to catch up with inflationary losses and keep pace with other comparable federal programs that have enjoyed increases - such as HUD public housing, Indian Health Service and the Bureau of Indian Affairs.



ALASKA FISCAL CRISIS

BACKGROUND:

Together with federal spending, Alaska's economy is almost entirely driven by the oil industry. From 2005 to 2014, oil revenues accounted for more than 90% of Alaska's unrestricted general fund revenues. In total, two-thirds of Alaska's jobs depend, directly or indirectly, on the federal government or the oil industry.

The dramatic drop in oil prices – with barrel prices falling from \$100 a barrel to below \$45 within the last three years has been exceptionally difficult for the State of Alaska, which is the most structurally imbalanced government in the nation in terms of the diversification of revenue sources. Consequently, the state's budget deficit is projected at \$3.9 million in 2016. Although oil prices and revenue are expected to recover significantly after next year, Alaska will continue to run large deficits. In fact, the FY16 spending level deficits is projected to drain state saving reserves by FY22.

Compounding the state fiscal crisis is a fundamental problem: oil production has been steadily declining since 1988 while Alaska's population has been steadily growing. Production from new, smaller fields that are under development or are under evaluation for potential development is not expected to be enough to offset the continuing rapid decline in currently producing fields.

Alaskans face a number of painful decisions about how to fill the funding gap, when to do it, and whether to choose one or a combination of difficult and unpopular options, including spending cuts, new revenues, and using the Alaska Permanent Fund earnings. Alaska's Permanent Fund is worth more than \$50 billion, but only the realized earnings can be spent – currently about \$7 billion. Moreover, spending cuts in state agency operations would require cutting the largest agencies – Education & Early Development and Health and Social Services – which would disproportionately impact Alaska Natives, rural Alaskans, and other underserved people who depend on these services the most.

These groups have historically operated within a “mixed economy,” meaning there are both subsistence and cash components. Households use currency to purchase fuel, electricity, and family goods – such as clothing and shelter. They also use cash to pay for equipment used for subsistence activities: guns and ammunition, fishing nets, boats, all-terrain vehicles and snow machines. Subsistence – hunting, fishing and gathering for personal use – has also historically been a major element of Alaska's economy. However, subsistence is difficult to quantify in that it does not show up in measures of Alaska's cash economy, such as employment or Gross State Product data. Today, subsistence faces challenges, including a limited resource base, the rising costs of fuel, growing demands from sport and commercial users, and the impacts of climate change. A longstanding and important political debate is continuing over the relative roles of the federal and state governments in Alaska subsistence policy.

RECOMMENDATION:

Alaska Natives request focused attention from the Obama Administration to ensure the state's fiscal crisis is not unjustly born by Native peoples through the targeted degeneration of programs with historical ties to rural Alaska or Natives. Additionally, we request the Administration convene an economic roundtable to discuss the state's fiscal situation.



SECTION 811, RESPONSE TO THE 2011 ARMY POLICY LETTER RE 8(A) SOLE SOURCE CONTRACTS & NEGATIVE IMPACT OF SECTION 811 J & A FOR 8(A) SOLE SOURCE AWARDS OVER \$22M

The Alaska Federation of Natives requests and encourages the following as it relates to the 8(a) Program, that:

- President Obama issue an executive order to clarify that Section 811 should not be viewed as deterrent against government contracting with ANCs, Tribes, and NHOs.
- The Army should issue new guidance to replace the 2011 Memo on Sole Source Contracts. This guidance should stress that Section 811 should not be interpreted as a deterrent to avoiding sole source contracts above the competitive threshold to eligible entities such as ANCs.

BACKGROUND:

Section 811. Section 811 of the 2010 National Defense Authorization Act requires a justification and approval (J&A) process for all direct awards greater than \$22 million¹ awarded through the SBA's 8(a) Business Development Program. Native community-owned contractors and Community Development Corporations are the only entities that can receive these awards, and thus, they are the only entities subject to the J&A requirements.

2011 Army Memo. In 2011, Lee Thompson, Acting Deputy Assistant Secretary of the Army (Procurement) issued a Memorandum entitled: "Extensive Use of High Dollar, Sole-Source 8(a) Contracts. In the guidance, the Army directs its Contracting Officers to avoid using larger sole source awards to Alaska Native Corporations (ANCs):

"While I understand there are times when such action is necessary, the practice should be the exception rather than the rule."

"...I expect you to scrutinize all proposed awards of sole-source 8(a) contracts in excess of the 8(a) competitive threshold to ensure the justification is appropriate, applicable subcontracting limitations are met and overall the award is in the best interests of the Government."

Chilling Effect on Contract Awards to Native Entity-Owned 8(a) Companies. The combination of the Section 811 requirements coupled with orders to avoid using large sole source awards have had an immense chilling effect that has rippled through the business of ANCs, causing stalled growth and, even in some places, aversion by government contracting officers to work with ANCs and tribes on contracts of any value.

GAO & Congress Concerned about Agencies' Misinterpretations & Improper Implementation of Section 811. While ANCs and tribes have been concerned about the negative impacts of Section 811 and its implementation for some time, they are not alone. Members of the U.S. Senate and Congress raised concerns regarding this chilling effect. Congress ordered the Department of Defense to complete a study to analyze the negative impacts that Section 811 has cast upon Native community-owned contractors. In March 2015, eight Senators and eight Congressmen wrote to Secretary of Defense Ash Carter requesting that DOD complete a mandatory study, which was due by March 16, 2015. According to the Senate and Congressional Letters regarding Section 811:

¹ Original requirement was for J&A for 8(a) sole source awards over \$20 million, but that threshold has been raised to \$22 million per FAR 6.303-2.

“The measure was intended as a ‘good governance’ provision and does not prohibit or discourage the awarding of such contracts, so long as the award is justified and approved by the appropriate personnel.”²

The Senators and Congressmen voiced their concerns that agencies have been improperly interpreting and implementing Section 811.

“...[T]here have been reports, including from the Government Accountability Office, that indicate Section 811 has been improperly interpreted and, or improperly implemented.

...It is our concern that the implementation of Section 811 has unnecessarily and negatively impacted Native community-owned contractors.”³

The Senators and Congressmen note several examples of agencies improperly implementing Section 811 to the detriment of ANC contractors:

- Arbitrary contract value caps: “arbitrary ‘caps’ on the value of contracts that an agency will award;”
- Unnecessarily High Approvals Required: “the requirement of a significantly higher approval than is otherwise required by the FAR;”
- Excuse to avoid ANCs entirely: “Furthermore, some companies report that the provision has been used to avoid working with these companies altogether, out of fear of political scrutiny, even when a contract award may be justified.”

The law makers’ letters raise important issues regarding misinterpretation, misinformation, and improper implementation of Section 811.

Significant Drop in Affected Contracts. 8(a) sole source contracts have been all but eliminated due to the combination of confusion over J&A requirements and undeserved stigma of awarding contracts to ANCs. GAO reported a precipitous drop in those contracts following Section 811’s implementation.

- In FY 2008, 50 of these contracts worth a total of ~\$3 billion were disbursed to Tribes, ANCs and NHOs.
- Comparatively, during the entire three-year period after Section 811’s enactment, the U.S. Department of Defense awarded only 51 8(a) sole-source contracts over \$20 million for a total of just over \$2.3 billion, resulting in an average of 17 such contracts per year compared to 50 in FY 2008.
- The period from March 16, 2011 to March 31, 2012 accounted for only eight of these contracts, and only two of those were actually subjected to the J&A review process.
- The Department of Defense acknowledged in their Report to Congress of the impact of Section 811 that no sole source contracts above the \$20 million threshold were awarded in FY 2014, and only five (5) in FY 13 and eight (8) in FY 12.

Poisonous Atmosphere for 8(a) Contracting & Contracting with Native Companies. Section 811 and its implementation problems have created a poisonous atmosphere for the 8(a) Business Development Program generally. Section 811 and other regulation imply that 8(a) contracts must be limited rather than encouraged, resulting in a poisonous atmosphere surrounding the 8(a) program despite the well-established government interests behind the 8(a) program generally and the government’s special interest in supporting economic development benefiting Alaska Natives, Tribes, and Native Hawaiians.

Prejudice Against Native-owned Companies. What is perhaps most disturbing are the reports that contracting officers of the Federal government are using Section 811 and implementing policies to justify their refusals to award contracts to ANCs generally. This cultural and commercial prejudice is entirely inappropriate, at best it is a gross misinterpretation of federal policies and at worst a truly political and prejudicial abuse of power that has no place in

² Letter from U.S. Senators to Secretary Ash Carter, Department of Defense, dated March 13, 2015.

³ Letter from U.S. Senators.

the federal procurement system.

RECOMMENDATIONS

To address this chilling effect, we recommend issuance of new policy guidance to clarify and correct previous misinformation. Specifically, we recommend:

- President Obama issue an executive order to clarify that Section 811 should not be viewed as deterrent against government contracting with ANCs, Tribes, and NHOs.
- The Army should issue new guidance to replace the 2011 Memo on Sole Source Contracts. This guidance should stress that Section 811 should not be interpreted as a deterrent to avoiding sole source contracts above the competitive threshold to eligible entities such as ANCs.

To aid the federal response and efforts to address this problem, we recommend that guidance include the following points regarding the purpose, requirements, and impact of Section 811. Given the prevalent misinterpretations of Section 811's requirements, it is just as important to clarify what the policy is not (it is not a deterrent to Native or 8(a) contracting) as it is to clarifying what the purpose and requirements of the policy are. Thus, the following proposed language attempts to clarify the purposes and requirements of Section 811 and spur corrective action on the part of agencies and contracting officers.

Recommended Guidance: Proposed Language Regarding Purpose, Requirements, and Impact of Section 811. The purpose of this new guidance to clarify and explain the requirements and implications of NDAA Section 811, which requires Justification & Approval for direct awards (sole source contracts) to eligible 8(a) companies above the competitive threshold of \$22 million⁴. This new guidance is needed to correct existing misinterpretations of the policy and ensure that implementation efforts do not counter the laws and policies of the Federal government.

What is Section 811?

Section 811 of the 2010 National Defense Authorization Act requires a justification and approval (J&A) process for all direct awards greater than \$22 million awarded through the SBA's 8(a) Business Development Program. Section 811 is applicable only to 8(a) firms owned by Indian Tribes, ANCs, and Native Hawaiian Organizations, because those entities are not restricted by the dollar limits on sole source government contracts to 8(a) companies due to their special status as government-created corporations created for the benefit of Native peoples.

Direct awards are often referred to as sole source contracts.

What are the requirements to comply with Section 811?

The required J&A is limited to the five elements listed in Section 811(b). The five elements are:

1. A description of the needs of the agency concerned for the matters covered by the contract;
2. A specification of the statutory provision providing the exception from the requirements to use competitive procedures in entering into the contract;
3. A determination that the use of a sole-source contract is in the best interest of the agency concerned;
4. A determination that the anticipated cost of the contract will be fair and reasonable; and
5. Such other matters as the head of the agency concerned shall specify.⁵

⁴ See FAR 6.303-2.

⁵ FAR 6.303-2(d).

6. It is important to note that J&A under Section 811 is simpler than traditional J&As, which require twelve elements that are listed in FAR 6.303-2(b).

Sole Source Contracts, Including those to ANCs, Are an Important and Beneficial Tool for Federal Agencies

Direct awards to eligible 8(a) businesses are a fast and effective means of achieving an agency's procurement objectives. In addition to benefits to the agency directly, Congress has made it clear that the government has a special interest in using small businesses to meet its procurement objectives; this is evidenced by the Federal small business contracting goals and numerous small business programs.

The 8(a) business development program is designed to help foster small businesses owned by socially and economically disadvantaged people. ANCs, Tribes, and NHOs must all apply for and adhere to strict requirements to participate in the program. The Federal government has a clear interest in the success of these Native companies, as they are created for the benefit of their Native peoples. Economic success of these entities is in keeping with the goals of the Federal government. Federal procurement awards to Native companies result in jobs for Native peoples, economic opportunities, economic growth in disadvantaged areas, and direct financial and social benefits to Native peoples. Indirectly, they enable Native peoples and governments to be more self-sufficient, provide education and career advancement opportunities for Native people, and lessen the Federal government's financial support as Native individuals and communities become generally more self-sufficient.

Conclusion

In short, Contracting Officers should consider sole source procurements to 8(a) entities to be a vital tool in their procurement toolbox. A long history of legislation and executive action have shown that it is in the interest of the Federal government to contract with 8(a) companies owned by ANCs, Tribes, NHOs, and other disadvantaged people. Section 811 should not be interpreted as any kind of deterrent for contracts of any value with these entities. Instead, Section 811 should be viewed as a good governance measure, requiring that Contracting Officers and agencies document their reasoning for using 8(a) sole source contracts above \$22 million. While the J&A requirement does require more time and effort by contracting officers than pre-811, the J&A requirements are less onerous and time-consuming than traditional J&As for other types of non-competitive awards. Thus, sole source awards to eligible 8(a) companies remain a viable, efficient, and quick option for contracting officers to meet the diverse and complex procurement needs of their agencies.



WATER AND SEWER

While virtually all households in the U.S. have basic water and sewer services, approximately 20 percent of Alaska Native homes in rural Alaska are not served, which is more than twice that of American Indian communities in the Lower 48 states.

When it comes to access to safe water and sanitation, Indian Country is twenty years behind the rest of America, and Alaska villages are twenty years behind Indian Country.

Currently, more than 49,000 people in 140 communities in rural Alaska would benefit from critical water and sewer projects, including individuals who have never had water or sewer service, or those being served by sanitation systems in desperate need of repair and renovation.

BACKGROUND:

Over the last 30 years, the federal government and State of Alaska have made significant progress in bringing rural communities essential water and sewer services. While the investment that the federal and State government has made in sanitation facilities construction programs in Alaska has helped to address the needs in many rural communities, there are still over 30 communities that lack services.

For those communities with access to these essential services, some of the systems are now 30 years old and resources are needed for operations and maintenance to protect the significant State and federal investment in these communities.

Sanitation facilities play a critical role in the health in communities in rural Alaska, where respiratory illness and skin infection outbreaks among Alaska Native people occur at far higher rates in communities that lack flush toilets and running water.

While the rate of infectious disease hospitalizations has dropped significantly for American Indians and Alaska Natives over the last couple decades, for those living in villages it has not improved. In rural villages respiratory tract infections, skin infections, and infections of the kidney, urinary tract, and bladder are still all too common.

- Babies in communities without adequate sanitation are eleven (11) times more likely to be hospitalized for respiratory infections and five (5) times more likely to be hospitalized for skin infections.
- In villages with very limited water service, one in three infants requires hospitalization each year for lower respiratory tract infections.

Funding Sources:

Funding Sources: The Sanitation Deficiency System (SDS) is used by the Indian Health Service (IHS) to allocate annual Congressional appropriations known as IHS Regular funding. Other federal agencies, including the Environmental Protection Agency (EPA) and the United States Department of Agriculture (USDA) Rural Development (RD) program, also use the SDS to prioritize their annual capital funding. In addition, the State of Alaska utilizes the SDS to determine its priorities under the Community Improvement Program (CIP).

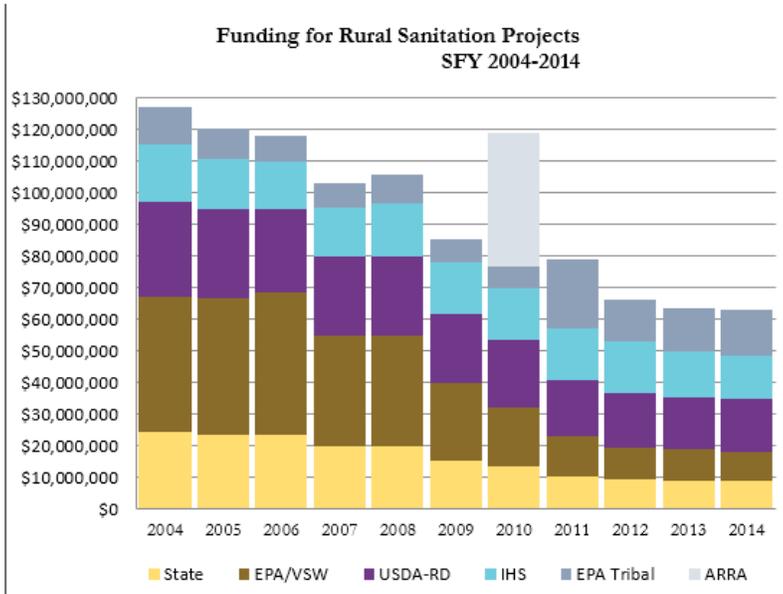
IHS Regular funding can be used for community and individual sanitation facilities, including interior plumbing. EPA funding from the Clean Drinking Water Act (Indian Set-Aside) can be used for community wastewater projects and Safe Drinking Water Act (Tribal Set-Aside) funds can be used for community water projects, but cannot be used to fund service lines, in-house plumbing, or solid waste improvement projects

EPA Alaska Native Village Grant funding will also pay for community and individual water and sewer facilities, including interior plumbing, and will pay for project planning.

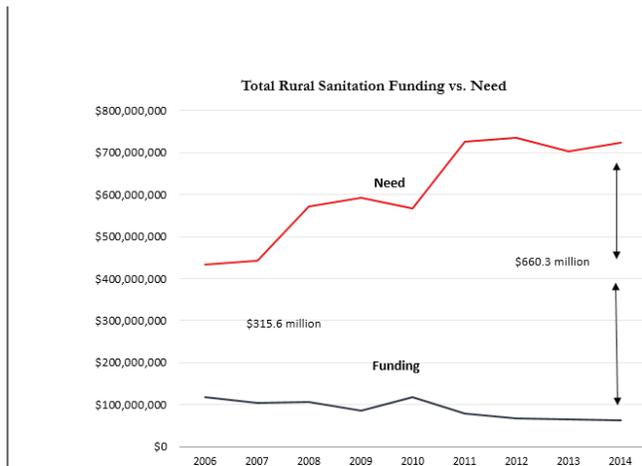
The USDA-RD Rural Alaska Village Grant program funds community and individual water, sewer, and solid waste facilities and includes service lines, interior plumbing, conceptual planning, and design studies.

Funding Status:

Funding from all sources for rural Alaska sanitation projects has declined by over 50 percent between State Fiscal Years 2004-2014. While funding has decreased significantly, the cost of addressing critical rural Alaska sanitation needs, including homes without running water and flush toilets or inadequately treated drinking water, has increased.



The progress made is in jeopardy due to decreasing appropriations for water and wastewater projects over the last several years. Public water systems must meet extensive regulations and require ongoing maintenance and management. In addition, factors including inflation, population changes, and the increasing age of existing systems all contribute to the overall funding need.



The disparity between available funding from all sources (\$63.66 million) and the cost of addressing critical health related sanitation needs (\$724 million) is approximately \$660 million –over a 100% increase since SFY 2006. If current funding trends do not change, this gap will continue to widen.

RECOMMENDATIONS:

Increase federal funding for Sanitation Facilities funding--particularly for the EPA Alaska Native Village Grant (ANVG) program and USDA Rural Alaska Village Grant (RAVG) program as both are critical to protecting existing rural infrastructure and supporting projects to bring safe drinking water and sanitation services to rural communities in Alaska that lack access to needed services. The programs address the entire continuum of infrastructure needs, from construction and training, to operations, maintenance and repair. It is also essential that the State of Alaska continues to provide the 25% state match that is required in order to receive the federal funds under the EPA ANVG and USDA RAVG programs.



CLEANUP OF CONTAMINATED DEFENSE SITES IN ALASKA

The Alaska Federation of Natives calls upon the U.S. Department of Defense, the U.S. Environmental Protection Agency, the state of Alaska Department of Environmental Conservation, our Congressional Delegation, other members of Congress, and the Administration to ensure swift and complete cleanup and adequate funding of formerly and currently used defense sites in Alaska that would:

- Restore these sites as closely as possible to original conditions in order to protect the lands, waters, subsistence resources, and health of Alaska Native peoples and all Alaskans, including future generations.
- Urge Congress to enact legislation that requires the government to prioritize the cleanup of contamination on or near Native lands*.
- Confirm that the federal government has legal liability for contamination on or near Native lands* caused by the federal government or its representatives, agents, or contractors.
- Ensure proper funding for adequate complete site characterization and responsible cleanup of formerly used defense sites protective of human health, including provisions for use of innovative clean-up technologies relevant to the Arctic, regulatory oversight and enforcement, government-to-government consultation with Tribes, and citizen participation and oversight. Tribes, as sovereign governments, must have the right to determine clean-up standards and be official parties to the Records of Decision.
- Achieve complete restoration and removal of the contamination rather than premature closures, partial excavations, natural attenuation, and/or land use controls.
- Take actions to address and prevent further health and environmental effects of military contamination on Native lands and the Alaska Native people who rely on traditional foods from the land and sea.

BACKGROUND:

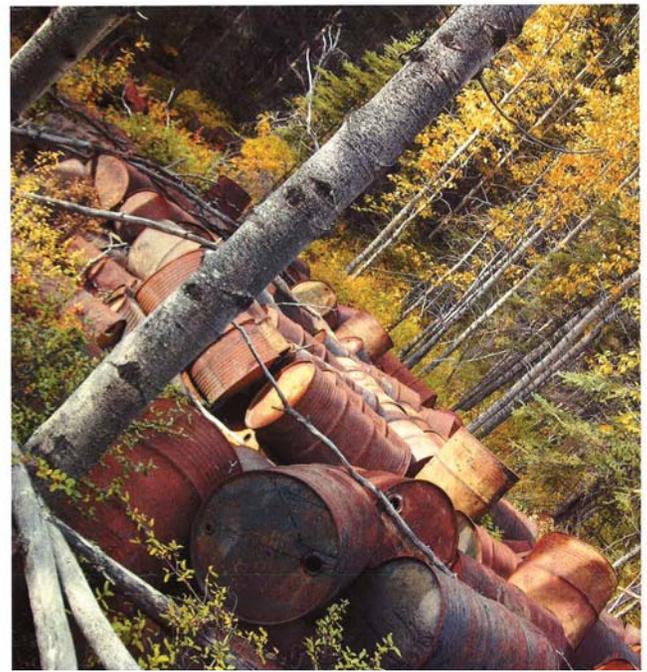
Alaska has been a site of great strategic importance to the Department of Defense, from World War II through the Cold War and into present time. There are approximately 700 abandoned and currently used military sites in Alaska that are contaminated with hazardous wastes. Five military bases are Superfund sites on the National Priorities List of the most polluted sites in the nation. Other sites in Alaska have ranked high enough for placement on the National Priorities List. Many of these formerly used defense sites are in close proximity to Alaska Native communities and continue to harm our lands, waters, subsistence resources, and the health of our communities. These military sites are often heavily contaminated with PCBs and other persistent chemicals such as pesticides, fuel spills, solvents, heavy metals, chemical warfare materials, and radioactive waste. Information about the sites is often not available to affected communities. Most of these sites have not been properly characterized as to the full nature and extent of contamination and effects on the health of fish, wildlife, and people. Prescribed methods such as “monitored natural attenuation” are not acceptable or protective of our health and environment, as they allow contamination to remain in place for decades to come.

Elders and other community leaders have expressed profound concerns and witnessed unusual cancers, thyroid problems, miscarriages, and other health disparities that they attribute to military contamination.

Studies have demonstrated harmful levels of contaminants from military sites in the surrounding environment and in the bodies of Alaska Native people that are known to be associated with cancer and other diseases.

Harm caused by the military contamination violate our human rights as set forth in the United Nations Declaration on the Rights of Indigenous People, including the right of free, prior and informed consent; the right to participate in decision-making; the right to our means of subsistence; the right to the conservation and protection of the environment and productive capacity of our lands; and the rights to life, physical and mental integrity, liberty and security of person.

We call upon the U.S. Department of Defense, the U.S. Environmental Protection Agency, the state of Alaska Department of Environmental Conservation, our Congressional Delegation, other members of Congress and the Administration to ensure swift and complete cleanup and adequate funding of formerly and currently used defense sites in Alaska to:



Contaminated lands near Gulkana Airport, Alaska

1. Restore these sites as closely as possible to original conditions in order to protect the lands, waters, subsistence resources, and health of Alaska Native peoples and all Alaskans, including future generations;
2. Urge Congress to enact legislation that requires the government to prioritize the cleanup of contamination on or near Native lands.*
3. Confirm that the federal government has legal liability for contamination on or near Native lands* caused by the federal government, its representatives, agents, or contractors.
4. Ensure proper funding for adequate complete site characterization and responsible cleanup of formerly used defense sites protective of human health, including provisions for use of innovative clean-up technologies relevant to the Arctic, regulatory oversight and enforcement, government-to-government consultation with Tribes, and citizen participation and oversight. Tribes, as sovereign governments, must have the right to determine clean-up standards and be official parties to the Records of Decision.
5. Achieve complete restoration and removal of the contamination rather than premature closures, partial excavations, natural attenuation, and/or land use controls.
6. Take actions to address and prevent further health and environmental effects of military contamination on Native lands and the Alaska Native people who rely on traditional foods from the land and sea.

* For purposes of this document, "Native lands" is meant to be broadly construed to include, for example, ANCSA corporate lands, non-ANCSA Native land holdings, Native townsites, Native allotments, and federally-owned land that Alaska Natives use for subsistence practices . This list is intended to be illustrative, not exclusive.



BROADBAND

The Alaska Federation of Natives recommends:

- That the Department of Commerce National telecommunications and Information Administration be directed to convene a workgroup, the purpose of which is to focus on improved utilization of telecommunication infrastructure and bandwidth in rural high cost communities; and
- That per the recommendations of this workgroup, changes be made to the Universal Service Fund (USF) policies which limit rural Alaska's ability to take advantage of the existing bandwidth, FCC programs and systems.

BACKGROUND:

As cloud technologies and greater interaction over the Internet are being heralded as revolutionary in the developed world, rural Alaska can only watch from the sidelines. In the Lower 48, Internet technologies allow individuals and organizations to bypass high communication costs, rural Alaskans have no such option. Basically, we're stuck with what we can get.

Broadband, even when it is available to rural residents is very expensive. Rural residents have the highest cost of living in the state, the fewest job opportunities, and the highest poverty rates. Residents who want Internet pay for an initial set-up fee and some wireless equipment. However, monthly costs range from \$50 to \$175 depending on the speed and bandwidth limit selected. These costs far exceed those of less impoverished regions. Rural communities that have been added recently to terrestrial based internet systems have not gotten a cost reduction for the faster services, but have benefitted from the additional bandwidth. When the users' bandwidth limit is reached there are overage charges, something users in the Lower 48 rarely have to worry about. On top of the high costs, service quality in this region is vastly inferior to the majority of the United States.

Some communities, like Diomedede, still do not have Internet access. Other rural broadband customers suffer from severe lag which makes the transfer of attachments in email difficult and time consuming. At times the speeds are barely better than dial up (56K), although they are advertised and priced as higher. Additionally, all communication equipment is harder to maintain in the arctic due to the harsh weather conditions. There are no local technicians to repair things, and so community-wide outages can last for days, weeks, even months in some cases.

The FCC needs to be more holistic and consider the broad range of needs in small rural communities when it develops and implements policies which guide what activities may utilize the bandwidth which is presently subsidized through the USF.

There is a large amount of money dedicated to silo activities (rural healthcare, schools and libraries, Lifeline, and high cost programs funded through USF) but there is nothing that looks at the village as a whole in extremely isolated, high cost areas. We need these programs and their implementing policies (i.e. the FCC's Lifeline, Rural healthcare, Schools & Libraries, Agriculture's Community Connect Grants FirstNet) to work in concert with each other to the benefit (and not to the exclusion) of meeting basic community needs.

Regional Native non-profit corporations and Tribes in the State of Alaska contract to provide Bureau of Indian Affairs, Indian Health Services and other government services to their constituencies. These entities are contracting to provide services that the Federal Government would otherwise be responsible to provide. At

the time these contracts and compacts were negotiated, internet access and telecommunication costs were not a cost of doing business and so these costs are not part of the base which tribal contractors receive to provide services to tribal members. There is no doubt in our minds that the federal government provides internet and other telecommunication access to their employees, but this same service is not extended to Tribal Contractors (even though we are contracting to provide government services.) Rather we are placed in the position of seeking funding to subsidize the systems, which is provided for only specific purposes.

For example, the Alaska Native regional health corporations across the State of Alaska operate 170 rural health clinics via their Indian Health Service contracts. Most of the clinics are equipped with broadband, for which the Universal Service Fund reimburses the majority of the cost.



While this program is absolutely critical in the delivery of direct health care, the program has barriers to providing for the needs of the whole community and ensuring that the people living in these villages can take advantage of the opportunities that the 21st century presents. Specifically, because this infrastructure was provided under the auspices of healthcare, we cannot use the infrastructure and systems to meet non-health care needs. While clinics, schools and libraries get a subsidy, vital service providers such as tribal offices and service providers, law enforcement and public safety personnel do not.

Thus, Tribal governments, which now must comply with the various federal reporting mandates through the internet - are in danger of noncompliance because the internet which they are able to procure commercially is unreliable and slow. Because the health clinic internet connectivity is supported through the USF, excess or afterhours bandwidth cannot be used for other beneficial purposes (like submitting federal grant reports). The clinic's 25 MB/s (Megabit per second) dedicated circuit sits unutilized for 2/3rds of each day. It is like we have a pipe of fresh water that is always running wide open into the ocean, and only health care workers can tap into that line. All other thirsty users cannot.

Another example is the USF Subsidy to Schools. All of our village schools have high speed internet access subsidized through the USF. The Head Start Programs run by the regional Native non-profits do not. This is due to the fact that, at the time the USF subsidy for schools program was established, the State of Alaska defined Elementary Education as K – 12 and did not include preschools. Those states which defined Elementary Education to include preschools at the time the law was passed, received and continue to receive USF subsidies for connectivity to their Head Start Programs. Even after the State of Alaska amended its definition of Elementary Education to include preschools as eligible for E rate funding, the USF refuses to consider the Head Start sites for subsidies. Even in those situations where our Head Start classrooms are physically located within the school facility, they cannot be provided access to the schools internet, since to do so would place the entire school's USF subsidy at risk. So basically, rural Head Start Programs in the highest need and highest cost areas of the nation are locked out of being considered for USF subsidies, while many Head Start programs in the lower 48, which are in high speed, low cost areas, receive the benefit of the subsidy.

A combination of submarine, land based, and microwave links have recently been developed up the Alaska coast to Nome. Quintillian Networks is currently planning to lay trans-Pacific fiber cable which will greatly improve access to hub communities like Nome. We would like to see all communities in close proximity to the infrastructure,

connected, but this is unlikely to happen, unless direction is provided to the carriers to do so.

We recommend that the FCC be directed to convene a workgroup, the purpose of which is to focus on improved utilization of telecommunication infrastructure and bandwidth in rural high cost communities, and that per the recommendations of this workgroup, changes be made to the USF policies which limit rural Alaska's ability to take advantage of the existing programs and systems. At a minimum, the work group should make recommendations as to how the following can be accomplished:

- Low cost basic internet access for low-income households. Internet access should be available to all regardless of income. Rural Alaska is remote and depends on the outside world for access to vital information.
- Internet access subsidies for tribal service providers, city and tribal police or public safety officers, rural fire departments, and search and rescue. Schools and libraries get a subsidy and not vital service providers, law enforcement and public safety personnel. These entities and service providers currently pay full commercial rates for communication.
- Make it easier for rural providers to access funding to update and improve internet communication infrastructure in underserved areas. Do not base the funding formulas on population or our rural communities will never have access to improved technology.
- At a minimum, when high speed infrastructure is set in place, there should be a mandate that rural communities in close proximity to the infrastructure are able to tie in to the service at a reasonable cost.
- Fund innovative projects that will bring backbone internet support to rural Alaska. This will assist in implementing the three lines of effort described in the National Strategy for the Arctic Region.
- We think that expanding access to existing telecommunications infrastructure that is already present in these villages will improve health, educational, economic and social outcomes, all of which contribute to overall health and wellbeing of our people.

CONCLUSION:

Funding for communications improvements always seems to be given where it will be the most cost effective and serve the most people. This means our tribal members in rural villages are left in worse than Third World living conditions lacking even the most basic of needs with little hope of improvement. Implementing communication improvements have great potential to improve the delivery of vital services, improve public safety and healthcare, help tribes become more self-sufficient, and allow rural residents to become part of the flow and access to information worldwide. The Arctic region is critically situated as more development takes place. Traffic is increasing in Arctic waters and leaves small communities vulnerable. Improving communications systems will help rural Alaska be team players in the implementation of the National Strategy for the Arctic Region. This will allow the United States to be a strong Arctic nation, improve the quality of life for all Alaska residents, protect our nation from threats, help protect our environment, and increase economic opportunities for Arctic residents in the future.



EXPANSION OF CONTRACTING AND COMPACTING OF SERVICES TO ALASKA NATIVE ORGANIZATIONS

The Alaska Federation of Natives respectfully requests the Administration:

- Establish a point person in the White House to work with Tribal Self Governance Advisory Committees to undertake a timely process to review all federal programs to determine if it is appropriate to open the door for tribes and tribal organizations to contract and compact additional federal programs and services; and
- Set in place an expedited process to expand contracting and compacting opportunities to tribes and tribal organizations to those programs and services not presently compacted for.

BACKGROUND:

Since 1988, when the federal government initiated a demonstration project providing tribes and tribal governments the opportunity to contract and operate certain federal service programs, the tribes and tribal governments who have entered into agreements with the federal government have proven that this system reduces costs, eliminates bureaucracy, and improves service delivery. Examples of organizations that have a long and successful history of compacting for the delivery of federal services in Alaska include Central Council Tlingit and Haida Indian Tribes of Alaska (CCTHIA) and Kawerak, Incorporated.

Tribes and tribal organizations have a proven track record of successful administration of both federal and state-funded programs. For nearly 30 years, self-governance tribes have restructured and redesigned programs to meet local needs, and in many instances, have developed world-renowned services via the contracting and compacting vehicle. Tribes and tribal organizations are resourceful, able to leverage funding, and innovative in overcoming obstacles to deliver services. Tribes and tribal organizations are sophisticated, qualified, and eager to accept more responsibility and authority for providing services to their membership.

The federal government and tribes and tribal members would benefit tremendously if the range of programs and services that tribes and tribal organizations can currently contract for under PL-638 contracting and compacting agreements were expanded.

REQUESTED ACTIONS:

- Establish a point position in the White House to audit all federal programs to determine if it is appropriate to open the door for tribes and tribal organizations to contract / compact the services; unless there are inherently federal functions – the default determination should be affirmative.
- Require the point position to work with the Tribal Self Governance Advisory committee to determine what services tribes and tribal organizations prioritize contracting and compacting for.
- Expand contracting and compacting opportunities to tribes and tribal organizations to those beyond the federal services that are currently available.



SMALL AND NEEDY TRIBE ALLOCATION

The Alaska Federation of Natives encourages our Congressional Delegation, other members of the Congress and the Administration to increase the Bureau of Indian Affairs' allocation for Small and Needy Tribes (SNT) in Alaska to \$300,000 and to annually adjust the allocation to keep it current with inflation.

BACKGROUND:

There are 229 Federally Recognized Tribes and 12 Tribal Consortiums in Alaska. Since the 1970's, Alaska Tribes and Tribal Consortiums have operated BIA programs and services via the Indian Self-Determination and Education Assistance Act, PL 93-638. Funding for programs and services are contained in the Bureau of Indian Affairs' budget as "Tribal Priority Allocations (TPA)." Programs and services include higher education scholarships, adult vocational training, services to children and families, welfare assistance, realty services related to Native allotments, youth employment, and tribal government operations.

Direct program TPA funds have always been extremely low. While some individual line items have increased sporadically and on a temporary basis for political reasons or to meet BIA or agency needs, the majority of base program funds have never increased even temporarily to meet tribal needs. BIA TPA funding has not kept up with inflation for the past two decades – nor has the funding been increased to account for population growth. In fact, our dollars have declined.

In the 1990's Congress established the Small and Needy Tribe (SNT) line item in the BIA budget to bring small tribes up to a minimum base funding level of \$160,000 in TPA funds to pay for tribal services. This was in response to the 1994 BIA Budget Task Force report which recommended a \$160,000 base of TPA for small tribes in the lower 48 and \$200,000 base TPA funding for small and needy tribes in Alaska. The higher base for Alaska was recommended in light of the much higher cost of living and providing services in the State of Alaska. The \$160,000 TPA base for small tribes was implemented nationally, but the recommendation to bring small and needy tribes in Alaska to a minimum TPA base of \$200,000 was never implemented.



There are very few federal or state positions in Rural Alaska. Native non-profits and tribes are the backbone of the service delivery system in rural Alaska. When Alaska Native regional non-profits and tribes contracted and later compacted BIA programs under PL 93-638, we assumed program functions of the federal government and received roughly the same amount of money the BIA had to operate the same programs. But we have simply not kept up. Federal employees in rural Alaska, for example, have long received a 25% cost of living adjustment to compensate for the higher cost of living in Alaska. Many federal employees are also housed in federally funded housing developments. Non-profit and tribal employees, who live in more remote and higher cost areas than do most federal employees, receive no such benefits even though they perform work that would be otherwise performed by federal employees.

During the past 20 years, the cost of living, and costs for personnel, insurance, education, health care, transportation, fuel, electricity, and telecommunications have steadily and dramatically increased in rural Alaska. There has been no corresponding increase in the TPA and SNT budget allocations. Thus, Alaska tribal operations have suffered administratively, operate at substantially reduced levels, and have suffered the resulting decrease in effectiveness. Tribes are forced to either eliminate programs and services to tribal members, or consolidate funds for a limited number of programs and services to make them viable or worthwhile. It is not unusual for Alaska tribes to have a single staff member administering the entire scope of tribal services with a salary barely above the minimum wage in rural villages where the cost of living is more than double the National average.

Economies, public services, and business opportunities in small Tribal villages in rural Alaska are either non-existent or extremely limited, while costs for every aspect of life are very high.

Alaska Tribes rarely have any recurring and/or unrestricted funding or revenue sources outside of the BIA. The amount of SNT is barely enough to cover costs to administer very limited tribal services. SNT funding has not increased since the \$160,000 per tribe base was established by Congress in the 1990's. In the decades since then, inflation and increases in the cost of living and the cost of doing business effectively reduced the actual funding amount. The SNT allocation was further decreased by the across the board cuts mandated in the Budget Control Act of 2013.

BIA TPA dollars are continuing funds that can be directed to areas of high need, unlike competitive grant dollars, that come and go. BIA TPA funds constitute core funding around which other services revolve and we encourage Congress to fund this line item in the BIA budget adequately, such that it keeps current with inflation, population growth and the cost of providing services.



REAUTHORIZATION OF THE MAGNUSON/STEVENS ACT

The Alaska Federation of Natives encourages our congressional delegation, other members of the Congress and the Administration to support amendments to the MSA which would:

1. Include subsistence as a purpose and priority within the Magnuson Stevens Fisheries Conservation and Management Act (MSA) and implementing regulations;
2. Amend disaster relief provisions to include subsistence fishery failure and allow Tribes to request and receive disaster funding directly, under 16 USC § 1861 (a);
3. Require regional fishery management Councils to consult with tribal governments directly;
4. Include subsistence in the list of user groups amongst whom the Secretary must maintain a balanced apportionment, under 16 USC § 1852 (b)(2)(B);
5. Provide for tribal representation on the North Pacific Fisheries Management Council (NPFMC) by adding a voting member under 16 USC ss 1852(b), such individual would be nominated by Alaska's tribes and appointed by the Secretary of Commerce;
6. Maintain the status quo for application of NEPA to fisheries decision-making;
7. Develop catch limit requirements using Tribal traditional and science based knowledge; and
8. Mandate reductions in bycatch by strengthening National Standard 9, which currently only requires by catch reduction "to the extent practicable."

BACKGROUND:

The Magnuson-Stevens Fishery Conservation Act (MSA) governs management of fisheries in the United States oceans. In Alaska, the North Pacific Fishery Management Council (the Council) does not directly manage salmon fisheries, but manages ground fish fisheries, including the Pollock fishery which catches salmon bound for Western Alaska as bycatch. The Council—and the MSA—therefore has direct management impacts on species of importance to Rural Alaskan subsistence users. Don Young Young's bill, HR 1335, was passed by the House but did not include the above subsistence language. Through inclusions of the above language, AFN seeks to ensure that the tribes and communities of Alaska are able to provide for their ongoing subsistence, nutritional and cultural needs.



INCLUDE ALASKA NATIVE VILLAGES IN ARCTIC MARINE TRANSPORTATION PLANNING

The Alaska Federation of Natives (AFN):

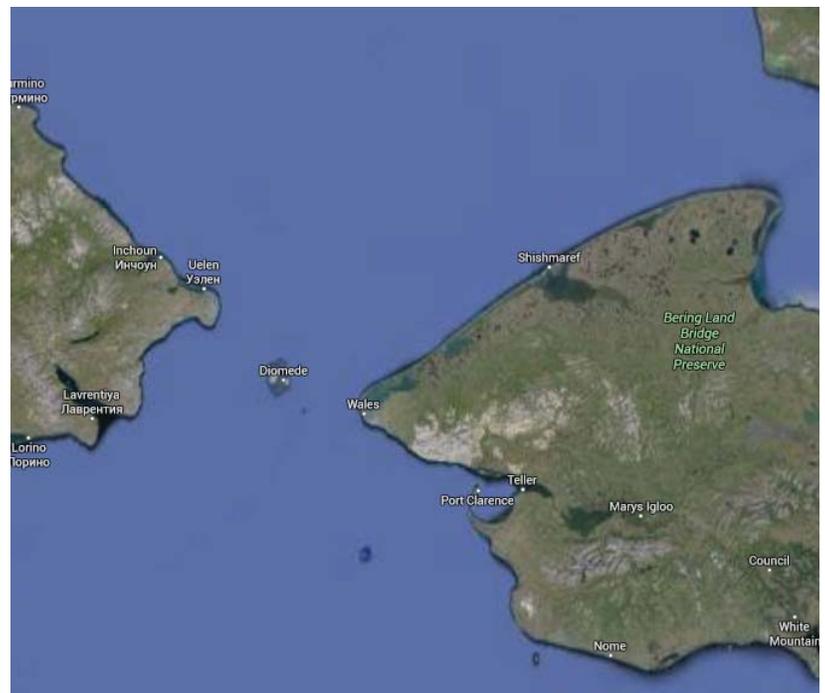
- Urges federal agencies and state governments to include coastal Alaska Native villages in marine transportation and emergency response planning for the Arctic; and
- Requests our Alaska Congressional delegation monitor and ensure that federal agencies engage with rural stakeholders in these processes.

BACKGROUND:

Economic development in the Arctic, including the potential opening of marine transportation routes, is getting increased attention from the private sector and government agencies. This is because of the reduction of Arctic sea ice in recent years, and in expectation that climate change will open greater shipping access to the Arctic. For example, the U.S. Coast Guard has plotted a shipping route through the Bering Strait and is currently taking public comments on whether to establish this route as the first commercial shipping lane along Alaska's west coast. According to news reports, in 2014 the Coast Guard counted 340 transits of the Bering Strait by 120 large vessels. In 2016, a cruise ship with more than 1000 passengers is scheduled to cruise the entire Northwest Passage from Seward to New York.

Although at present there is no international cargo shipping along the Northwest Passage route, which is less accessible than the route along the Russian Arctic coast, any route between the Pacific Ocean and the Arctic Ocean necessarily passes through the Bering Strait. Increased tourism and exploitation of resources within the Arctic will inevitably increase marine traffic along the Alaska coast, whether or not transcontinental cargo shipping through the Northwest Passage is ever feasible.

The Bering Strait and nearby areas of the Bering Sea and Chukchi Sea are extremely sensitive environmentally: hundreds of thousands of marine mammals migrate from the North Pacific to the Arctic through the Strait twice annually, including bowhead, grey and right whales. The Diomedes, St. Lawrence, and King Islands (plus the marine coastline in Alaska) support nesting colonies of millions of auklets and other seabirds. On Little Diomede Island, it is estimated that 7 million sea birds nest each year.



Currently the Russians are shipping massive oil tankers through their side of the Bering Strait. (Our hunters in the Bering Straits see these vessels.) Given that at its narrowest, the distance between mainland Alaska and mainland Russia is only 44 miles and that St. Lawrence Island is only 26 miles from the Russian mainland, we remain concerned that any accident or dumping of oil or other toxic materials in Russian (or US) waters, will wash up on/and or impact our communities in Western Alaska. Yet, the United States and the State of Alaska have very little response capacity in Western Alaska and the Arctic for shipping disasters, whether for emergency response, pollution cleanup, or salvage operations. The nearest Coast Guard station to Nome is in Kodiak, 630 air miles away. The distance is much further when one follows a marine transportation route.

Coastal villages up and down Western Alaska and the Arctic Coast rely on subsistence use of fish and game, and will be impacted by increased shipping traffic in the Bering Sea and Arctic. Unfortunately, not all of Western Alaska is defined as “Arctic” and Alaska Native tribal governments are not automatically understood to be stakeholders when issues of Arctic policy and development are considered by the federal and the state governments, particularly issues relating primarily to offshore areas or involving international agreements.

For these reasons, it is critical that federal and state agencies engaged in transportation and emergency response planning in the Arctic – the Coast Guard, the National Oceanic and Atmospheric Administration, the Department of State, and the Alaska Department of Transportation and Public Facilities – consciously treat Western Alaska and Arctic coastal communities as stakeholders and include their tribal governments in the planning processes. We request our Alaska Congressional delegation monitor and ensure that, in fact, federal agencies do engage rural stakeholders.





SUBSISTENCE ECONOMIC DISASTER DECLARATION PROGRAM

BACKGROUND:

For generations, Alaska Natives have relied on the plentiful lands and waters of our state to hunt, fish, and gather food through an economy and way of life that has been commonly termed ‘subsistence.’ A recent study estimates that subsistence harvests make up more than half of the diet of rural Alaska residents at a commercial cost of roughly \$98 and \$164 million per year.

Alaska Native villages that rely on subsistence are experiencing dire threats to their food security due to diminished availability of fish and wildlife resources as a result of climate change. By example, the State of Alaska declared the walrus hunts on St. Lawrence Island a disaster in 2013, and four villages on the island have requested a disaster declaration for the 2015 hunt.

Amendments to the Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) authorize the President to issue major disaster and emergency declarations, and allow federally recognized Indian tribes to seek a declaration of emergency or major disaster directly from the President, rather than go through their respective state for assistance from the Federal Emergency Management Agency (FEMA). However, there is still no clear regulatory or statutory mechanism that allows tribes to request a disaster declaration for subsistence catastrophes.

In 2012, the Governor of Alaska and the U.S. Secretary of Commerce declared the commercial king salmon fisheries on the Yukon and Kuskokwim Rivers as well as the Upper Cook Inlet a disaster. Congress subsequently appropriated \$20.8 million to offset the economic loss, of which \$1.2 million was allocated each to the Alaska Village Council of Presidents (AVCP) and the Tanana Chiefs Conference (TCC) for subsistence related relief. The precedent for subsistence disaster relief as part of a commercial disaster declaration therefore exists - however, it is unclear whether tribes may obtain such relief absent a commercial effect.



Alaska Natives request the Obama Administration to direct FEMA and U.S. Commerce Department to clarify the definition of “commercial fishing” in the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to include “customary trade and barter,” to allow agencies to consider subsistence disasters as emergencies or major disasters.

RECOMMENDATION:

In addition, we request the Administration to support the MSA amendments proposed by tribes, to include a tribally designated seat on the North Pacific Fisheries Management Council and the pronouncement that subsistence fishery failures are grounds for disaster relief.

Finally, Alaska Natives would like the Administration to expand U.S. Arctic policy to consider the disastrous impact of climate change on food security of subsistence communities, and include Alaska Natives directly in this expansion.

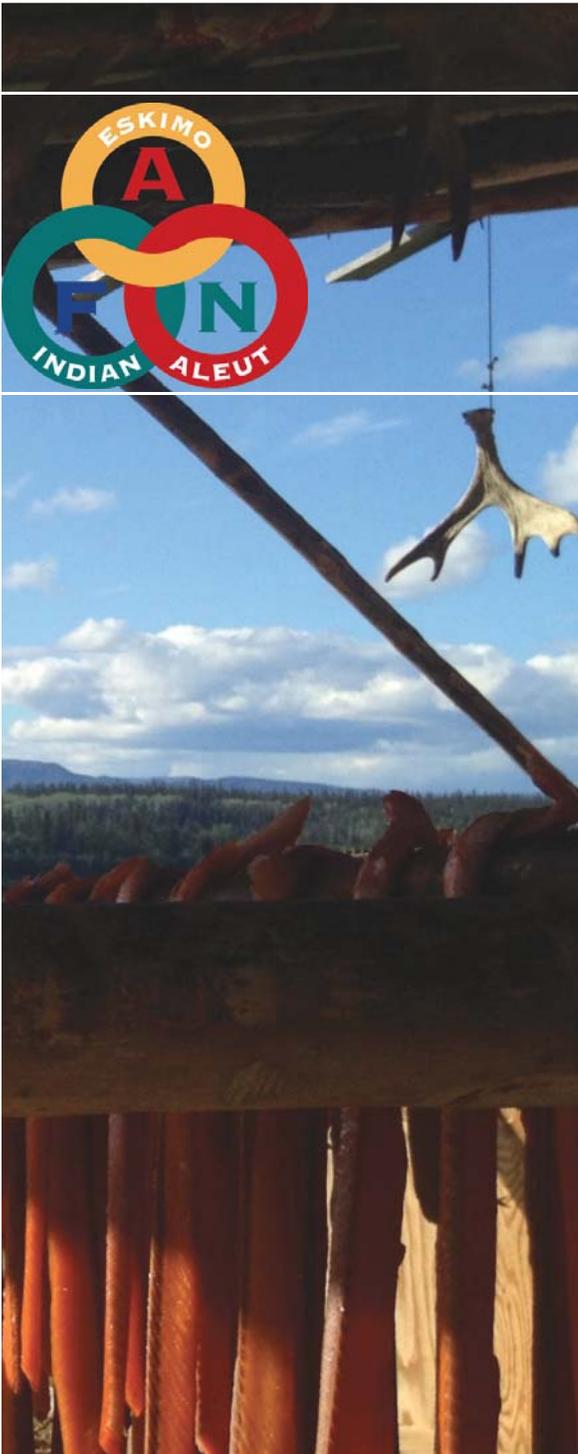


SELF GOVERNANCE AMENDMENTS

In summary, the Alaska Federation of Natives encourages Congressman Young to sponsor a companion bill in the house (similar to SB 286) which would amend Title I and Title IV of the ISDEAA (25 USC ss 450 et seq).

BACKGROUND:

AFN supports proposed amendments to both Title I and Title IV of the ISDEAA (25 U.S.C. §§ 450 et seq.). The amendments as proposed would: conform Title IV to Title V in order to create consistency and administrative efficiencies for Tribes now operating under two compacting regimes; establish a clear “final offer” process; clarify and limit the reasons for which the agency may decline to enter a proposed agreement; protect Tribes from DOI attempts to impose unauthorized terms in compacts or funding agreements; provide a clear avenue of appeal and burden of proof for Tribes to challenge adverse agency decisions; clarify Tribal and federal oversight roles in construction to ensure fiscal prudence and public safety; leave unchanged the discretionary authority to compact non-BIA programs within DOI; and make important amendments to Title I, the self-determination contracting law, such as clarifying reporting requirements, rules of interpretation, and applicability of certain Title I provisions to Title IV agreements. Senate Bill 286 passed the Senate by unanimous Consent and was sent to the House on July 7, 2015. The house does not have a companion bill at this point.



TRIBAL CO-MANAGEMENT OF ALASKA'S FISH AND WILDLIFE RESOURCES FOR SUBSISTENCE USES

THE ALASKA FEDERATION OF NATIVES

BY: MAUDE BLAIR
NICOLE BORROMEO
AURORA LEHR



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INTRODUCTION

Alaska’s renewable fish and wildlife resources are vital to the food security of Alaska Natives, and are the cornerstone of ancient cultures and economic systems. Accordingly, Native peoples—including Aleuts, Athabascans, Alutiiqs, Haidas, Inupiat and Yup’ik Eskimos, Tlingits, and Tsimshians—have a profound interest in managing these resources through maximum self-determination. However, even though climate change poses an existential threat to Alaska’s renewable resources, as well as the Native families that depend on them, the federal and state governments largely exclude Alaska tribes from the subsistence management of these resources.

Specifically, the federal government manages fish and wildlife for subsistence uses on “public lands” and waters within Alaska (60% of the state), while the state manages subsistence uses on the remaining 40% of Alaska’s lands and waters, including state lands, Native lands, and private lands. This system, in place since 1990, is based on intractable contradictions between the “equal access” provisions of the Alaska Constitution and the subsistence provisions in the Alaska National Interest Lands Conservation Act (ANILCA). ANILCA creates a “priority preference” for “subsistence uses” of the state’s renewable resources in times of scarcity, whereas Alaska’s Constitution prohibits such a priority.

Climate change and pressure from other resource user groups has accelerated Alaska’s need for innovative subsistence management ideas to facilitate mitigation and adaptation at the local level. The Native community’s favored solution is expanding co-management on the state’s public lands to include Alaska tribes and Native organizations in an effort to bring Native peoples into the decision-making directly.

OVERVIEW OF ALASKA'S SUBSISTENCE LAWS

The division of responsibility for the management of subsistence fishing and hunting in Alaska stems from two irreconcilable legal mandates.

Federal law, embodied in Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA),¹ provides rural Alaskan residents with a “priority” in the taking of fish and wildlife on public lands for subsistence purposes in times of scarcity. Section 3114 creates this preference.² Section 3115 meanwhile sets out Alaska’s bifurcated subsistence management structure, as well as the authority for the state to exclusively manage its renewable fish and wildlife resources provided it “enacts and implements laws . . . which are consistent with . . . [the priority] preference . . . specified in section . . . 3114”³

Alaska, through the Boards of Fish and Game, initially made meaningful attempts to comply with ANILCA by adopting a subsistence priority through regulations in 1982. However, in 1985 the Alaska Supreme Court struck these regulations down in *Madison v. State*,⁴ ruling Alaska law prohibited such a priority. The Alaska State Legislature then amended the state’s subsistence statutes in 1986 to provide for the priority. But in 1989, the Alaska Supreme Court held in *McDowell v. State*⁵ that the “equal access” clause in the Alaska



the “equal access” clause in the Alaska Constitution—which guarantees all Alaskans equal access to the state’s fish and wildlife—precluded the state from implementing a rural subsistence priority that was consistent with ANILCA.

Following *McDowell*, Alaska Native leaders and state policymakers tried to bring Alaska law into compliance with ANILCA over a ten-year period. However, despite the urging of three separate governors and numerous regular and special legislative sessions, Alaska has been unable to reassume responsibility for the management of subsistence hunting and fishing on the state’s public lands. Consequently, because the state is unwilling and unable to give itself the legal authority to comply with Title VIII of ANILCA, the federal government has managed subsistence uses on federal public lands since 1990.⁶ This dual management system is complex and sometimes conflicting, since federal and state managers tend not to collaborate.

CLIMATE CHANGE WARRANTS TRIBAL CO-MANAGEMENT



Notably missing from the recent history of subsistence resource management in the state are Alaska Natives, even though hunting, fishing, and gathering continue to be the foundations of Native society and culture. A vast majority of Alaska's 140,000 Native people (nearly 20% of the population) participate in hunting, fishing and gathering for food during the year, which is becoming increasingly difficult with climate change.

Evidence of climate change is extensive throughout Alaska, especially in the northern regions of Alaska, and is threatening the state's renewable resources as well as Alaska Native subsistence users. By example, a recent Government Accounting Office report found that flooding and erosion due to warming temperatures endangered 86% of Alaska Native villages, and 31 villages qualify for immediate relocation.⁷ Alaska Native perspectives are thus especially important in understanding the processes and impacts of climate change on subsistence resources.

Instead of overhauling the current, broken dual management system, Alaska Native peoples are advocating for co-management of Alaska's fish and game resources. Because Alaska Natives have thrived in changing environments for hundreds of thousands of years, and have managed Alaska's renewable resources in changing climates, Native peoples should be invited to participate in subsistence co-management now more than ever.

As it relates to the management of fish and game in Alaska, co-management is an arrangement where responsibility for resource management is shared between the government and user groups. This model puts local users, most often Alaska Natives, in a power sharing position rather than that of an advisor or commentator.

Co-management is not a demand for a tribal veto power over federal or state policies. Rather, it is a departure from paternalism in decisions that affect tribal rights and resources. Successful co-management incorporates, in a constructive manner, the policy and technical expertise of each party in a mutual, participatory framework.⁸

FEDERAL POLICIES SUPPORT TRIBAL CO-MANAGEMENT

Two broad federal policies support co-management by Alaska Natives: the federal trust responsibility and tribal self-determination.

SELF-DETERMINATION

The United States has operated under a policy of tribal self-determination through self-governance since July 1970 when President Nixon delivered his historic Special Message on Indian Affairs to Congress.

Under this approach, the federal government consciously works to strengthen the capacity of Alaska Native tribal governments and organizations to provide for their respective communities and members by transferring federal functions and operating funds to willing tribes.

Specifically, the Indian Self Determination and Education Assistance Act of 1975 (ISDEAA),⁹ directs the Secretaries of Interior and Health and Human Services to enter into self-determination contracts or compacts with federally recognized tribes to operate certain federal programs, and to transfer the program requirements together with the operating funds to the tribe. Participating tribes remain subject to federal reporting and audit requirements for purposes of accountability.

The federal government routinely uses the 1994 Tribal Self-Governance Act,¹⁰ or Title IV of the ISDEAA, to transfer authority over federal programs, including co-management functions, to Alaska tribes.

TRUST RESPONSIBILITY

The United States also has a “special relationship” with federally recognized Alaska Native tribes, under which the federal government has charged itself with the highest legal duties and moral obligations of trust toward Alaska tribes and individual tribal members.

Rooted in early federal-tribal treaties, the U.S. Constitution, federal statutes, and opinions of the U.S. Supreme Court, the trust responsibility is somewhat murky in origin and inconsistent in application,¹¹ but at minimum requires federal agencies to consult with Alaska Natives, on policies having tribal implications — such as subsistence hunting and fishing rights.

In November 2000, President Clinton officially created the federal policy on tribal consultation through Executive Order 13175.¹² The Order, which draws heavily on the trust responsibility, applies to all federal actions that have tribal connotations and obligates federal agencies to:

- (1) consult with tribal officials when formulating and implementing policies that have tribal implications; and
- (2) maximize the use of agency discretion to resolve tribal concerns.

In November 2009, President Obama reinforced the federal government’s tribal consultation policy through an executive memorandum that requires each federal agency to submit a formal plan for implementing Executive Order 13175.¹³

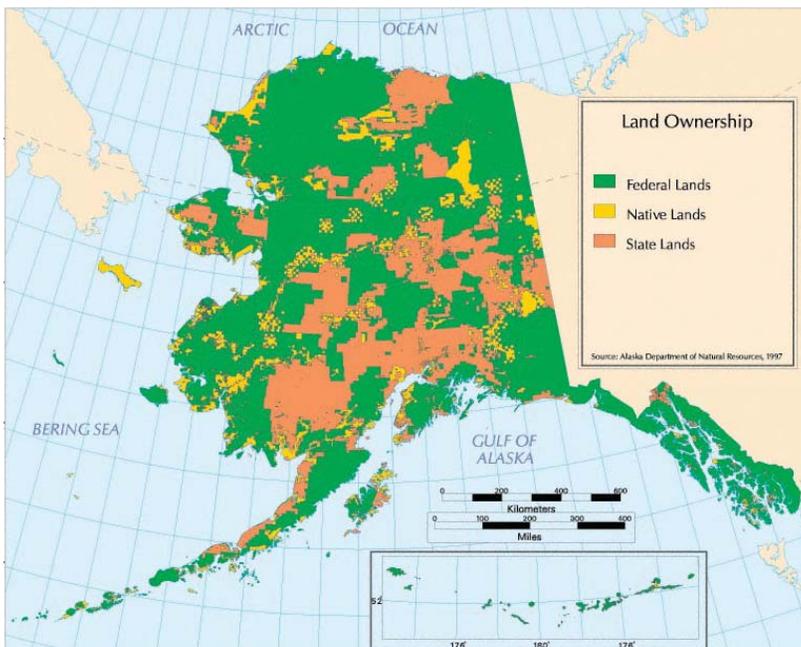
Today, federal agencies and Alaska tribes frequently meet to discuss items of mutual concern, including the Alaska Federal Subsistence Management Program. Accordingly, many Alaska Native tribal officials view co-management as a natural extension of the trust responsibility and are eager to create more partnerships between federal agencies and Alaska tribes.

FEDERAL GOVERNMENT AND ALASKA NATIVE CORPORATIONS

Alaska Native corporations (ANCs) also have a unique relationship with the federal government. Through the Alaska Native Claims Settlement Act of 1971 (ANCSA),¹⁴ Congress charged these new entities with managing land and money from the land claims settlement for the benefit of their shareholders who, at the time of creation, were all Alaska Natives. Although they must follow laws for-profit corporation, these ANCs are also required under ANCSA to provide for the health, education and welfare of their shareholders who are Natives or Descendants of Natives as defined by the Act.¹⁵ Because of the special nature of these corporations, ANCs are considered “tribes” for purposes of qualifying for certain federal programs and funding even though their relationship to the federal government is a political one rather than a government-to-government relationship.

In the Consolidated Appropriations Act for Fiscal Year 2004, Congress directed the Office of Management and Budget to consult with ANCs on the same basis as Indian tribes under Executive Order No. 13175. Congress expanded that directive to all federal agencies in the Consolidated Appropriations Act for Fiscal Year 2005. Some federal actions might only affect one tribe or one ANC but many actions will affect multiple tribes, a village ANC, and a regional ANC at least, so it is very important to identify all the possibly affected parties early on to ensure their participation in the process.

CO-MANAGEMENT MAKES SENSE FOR ALASKA



There is a wide range of potential co-management arrangements between governments and resource users, each with differing institutional arrangements, levels of user participation, and political will. What is necessary to properly develop and sustain successful co-management arrangements is the presence of certain conditions, including¹⁶:

- Clearly defined boundaries;
 - Membership;
 - Group cohesion;
 - Organizational capacity exists;
 - Benefits of participation must exceed costs;
 - Individuals affected by management arrangements are represented in decision making;
- Management rules are enforceable by resource users;
 - Legal frameworks exist that give users ownership over resources and authority to make management decisions;
 - Cooperation and leadership at the community level exist;
 - Decentralization and delegation of authority; and
 - Coordination between government and local community.

Co-management mobilizes several assets to aid effective management. One is facilitated access to information. Others are increased legitimacy through increased transparency in decision-making, greater accountability for officials, and increased respect for indigenous perspectives.¹⁷

Alaska Natives, as local users, are meaningfully involved in the management of the resources they so heavily rely upon for daily life. Because of their inherent interest in the health of the local lands and people, and special trust relationship with the federal government, Alaska Natives bring new resources to their co-management partners. Local users augment scientific research and knowledge with traditional ecological knowledge (TEK), defined as the “cumulative body of knowledge, practice and belief, evolving by adaptive processes and handed down through generations by cultural transmission, about the relationship of living beings (including humans) with one another and with their environment.”¹⁸

Coordinating the management of resources through partnership allows information to flow freely between partners, integrating TEK with existing state and federal research. Alaska Native tribes, as sovereign governments, are also able to leverage financial resources in addition to those available from state and federal sources. Three-way partnerships between Alaska Native-state-federal governments also provide stability by distancing resource management from the political fluctuations of any individual partner.



CO-MANAGEMENT FUNCTIONS

Co-management is not a new concept. Since 1994, the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) have entered into more than a dozen co-management agreements in Alaska. The State of Alaska participates in several of these co-management structures with the federal government and Alaska Native groups, such as the Alaska Migratory Bird Co-management Council and the Alaska Beluga Whale Committee. The State is also a signatory on the Yukon Kuskokwim Goose Management Plan. Under these agreements, Alaska Native organizations have committed to conduct work in four categories of management functions: research, regulation, allocation and enforcement.¹⁹

Among other things, research includes collecting and analyzing baseline and harvest data, designing research projects, collecting tissue samples, carrying out tagging projects, and participating in research conducted by the federal government, the state of Alaska, academic institutions and private organizations.

Regulation involves applicable restrictions on harvest, such as seasons, bag limits, and location.

Allocation refers to who is allowed to harvest what fish or wildlife, which is sometimes done on an amount per village basis in Alaska.

Enforcement involves ensuring that applicable regulations are followed.

ALASKA EXAMPLES

There are several current or proposed federal/tribal co-management projects that incorporate different levels of tribal authority. The projects assume varying degrees of the four interrelated functions noted above.

CASE STUDY: ALASKA ESKIMO WHALING COMMISSION (AEWC)

The Alaska Eskimo Whaling Commission (AEWC) is the oldest and perhaps most successful co-management model in Alaska. Created in 1998, the National Oceanic and Atmospheric Agency (NOAA) and the North Slope Borough work together to manage the bowhead whale population among ten affected Alaska whaling communities, including Wales, Kivalina, Point Hope, Wainwright, Barrow, Nuiqsut, Kaktovik, Gambell, Savoonga, and Little Diomedes; and also to participate in the formulation of U.S. whaling policy before the International Whaling Commission (IWC).



The AEWC undertakes all four functions of the co-management model. Research is done both independently and in partnership with other organizations. Although the IWC determines how many whales can be taken altogether, the AEWC determines the regulation and allocation of the take between the member communities. Enforcement of laws and regulations is done almost entirely by the AEWC, though the federal government supports them in this function.

CASE STUDY: YUKON-KUSKOKWIM GOOSE MANAGEMENT PLAN (YKGMP)

Migratory birds are an important subsistence resource in Alaska. The 1916 Treaty between the United States and Canada banned the harvest of migratory birds during the spring and summer, which is when most of the birds are in Alaska.²⁰ Because of the cultural and dietary importance, Alaska Natives continued to take the birds during this time. To balance the needs of the Alaska Native people with their treaty obligations, the U.S. Fish and Wildlife Service (USFWS) and the Alaska Department of Fish and Game (ADFG) entered into the landmark Yukon-Kuskokwim Delta Goose Management Plan with the Association of Village Council Presidents (AVCP) and AVCP's Waterfowl Conservation Committee in 2005.²¹ For those species of birds that migrated to the Lower 48, the Fish and Wildlife Departments of California, Oregon and Washington were also parties to the agreement. Under this arrangement, the Yupik Eskimos in western Alaska agreed not to harvest certain species of birds at certain times in exchange for a promise by the USFWS that it would not bring enforcement action against people who take other species of migratory birds. This has enabled Alaska Natives in the Y-K Delta to govern their own harvest of most species of migratory birds.

CASE STUDY: AHTNA WILDLIFE CO-MANAGEMENT

Hunting in Alaska is governed by a complex and confusing dual management system on federal and state lands. Alaska Native corporations retained title to 44 million acres of their traditional lands in the land claims process, however, Alaska Native people have no meaningful role in regulating hunting, even on the lands they own. Additionally, the people of the Ahtna region in central Alaska face competition for game from urban populations because their region is accessible by the road system.



Representatives from the Ahtna region are working to create a demonstration project through which tribal members from the Ahtna region and representatives from Ahtna, Inc. would be authorized to manage wildlife, including hunting, on lands conveyed to Ahtna, Inc. under ANCSA. Ideally, the Ahtna group, the State of Alaska and the Federal Subsistence Board would enter into a co-management agreement for the lands within Ahtna's traditional territory (state, federal and ANCSA lands).

The goal of the co-management structure would be to coordinate state and federal laws and regulations, and Ahtna's ordinances and policies, to ensure conservation of wildlife populations and to provide the hunting opportunities necessary for Ahtna tribal members to continue their tribal hunting way of life. Under a proposal drafted by Ahtna, the Secretary of the Interior would be required to enter into a co-management agreement with Ahtna. The State of Alaska would be afforded the opportunity to join but would not be required to do so. There would be no change to the state's current authority to manage wildlife on lands owned by the state. The intent is to unify wildlife management throughout Ahtna's traditional territory to the maximum extent possible, recognizing the differences in state and federal law, and Ahtna's authority over lands it owns.

CASE STUDY: KUSKOKWIM INTER-TRIBAL FISH COMMISSION

Another proposed federal-Alaska Native partnership concerns the salmon in the Kuskokwim River. Yupik people living on the Kuskokwim River have created a Kuskokwim River Intertribal Fish Commission (KRITFC), which tribes residing on the river join by resolution.

The Federal Subsistence Board (FSB) currently receives subsistence advice from 10 Regional Advisory Councils (RACs). Two of these councils – the Yukon-Kuskokwim Delta RAC (YKDRAC) and the Western Interior RAC (WIRAC) – are composed primarily of rural residents throughout the Kuskokwim and Yukon River drainages. Under a preliminary proposal, The Secretary of the Interior will create another RAC called the Kuskokwim Fisheries Management RAC (KFMRAC), which will consist of members appointed by the Governor of Alaska, the Secretary of the Interior, the YKDRAC, and the WIRAC. The KFMRAC will provide recommendations to the Federal Subsistence Board for the management of subsistence fisheries throughout the Kuskokwim River drainage. The KFMRAC will also develop comprehensive salmon management plans for the Kuskokwim River. Modeled after the Northwest Indian Fish Commission and the Columbia River Inter-Tribal Fish Commission, the KRITFC would include a strong science arm that incorporates traditional knowledge. This process would be repeated for fisheries on the Yukon River.



Creating and authorizing Inter-Tribal Fish Commissions and a Tribal-State-Federal co-management regime for salmon management for the Yukon and Kuskokwim Rivers will result in greater cooperation and better management, critical for the future of the Chinook salmon stocks. Co-management will help build tribal capacity and create jobs and opportunity for young people, enabling them to stay in their villages. Co-management will unify management throughout the river, discarding ineffective, controversial and artificial jurisdictional boundaries that have nothing to do with the best salmon management practices. Conservation and rebuilding of the Chinook stocks will be the controlling goal for the co-management structure, and will be the common goal for all parties. Co-management will be more efficient and will save federal funds.

OUTSIDE EXAMPLES

Co-management structures that include Native people and the federal government have also existed outside of Alaska for many years.

CASE STUDY: CRITFC

The 1855 treaties between the United States and the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, the Confederated Tribes and Bands of the Yakama Nation, and the Nez Perce Tribe reserved and guaranteed the right to harvest fish in their homelands. They managed this resource, along with the other natural resources upon which they depended, using traditional wisdom and knowledge passed down for generations. Over time, federal, state, and local governments encroached upon that 1855 treaty fishing right. This impact on tribal salmon culture was exacerbated by the steep decline in salmon numbers starting in the late 1800's.



In the 1960's and 70's, a variety of court cases and legislative actions began to reaffirm the tribes' treaty fishing rights. In 1977, the four treaty tribes joined forces to create the Columbia River Inter-Tribal Fish Commission to provide coordination and technical assistance to the tribes in regional, national, and international efforts to ensure that treaty fishing rights issues are resolved in a way that guarantees the continuation and restoration of tribal fisheries.

CRITFC provides the member tribes and the region with invaluable biological research, fisheries management, hydrology, and other science to support the protection and restoration of Columbia River Basin fish. CRITFC employs lawyers, policy analysts, and fisheries enforcement officers to protect tribal treaty rights, and the commission works closely with state and federal agencies to ensure fair harvest sharing between tribal and non-tribal fisheries. They educate the general public on salmon and lamprey restoration, the nature of treaty fishing rights, and tribal culture, and they provide resources to their tribal members to help them continue traditional fishing practices.

CASE STUDY: IDAHO GRAY WOLF RECOVERY PROGRAM

In 1995, the USFWS resolved to reintroduce gray wolves to their traditional habitat in the northern Rocky Mountains. State governments are the Fish and Wildlife Service's traditional partners in such efforts, but the governments of Idaho, Montana, and Wyoming declined to participate in the wolf recovery program.



Many of the Nez Perce tribe's members were in favor of wolf reintroduction, but the tribe's leaders knew that involvement in the project would require both technical capacity and political courage. The implementation agent would have to be able to monitor and manage the wolf population across a vast, rugged, and largely roadless wilderness area encompassing nearly 13 million acres of central Idaho. Management would also have to occur in the face of strong opposition from powerful rancher and hunter organizations and from states rights advocates.

The tribe signed a cooperative agreement with the USFWS, developed a Gray Wolf Recovery and Management Plan for Idaho, and received approval of that plan from the USFWS. While the USFWS retained ultimate responsibility for wolf recovery, the Nez Perce plan adopted an innovative team approach to accomplish the program's four key tasks—monitoring, wolf management and control, research, and education and outreach. The tribe is primarily responsible for monitoring the wolves. Tribal biologists gather data about the wolves' movements, food habits, habitat use, and reproductive success. Wolf management and control is a team responsibility. The USFWS handles law enforcement, addresses policy issues, and when necessary, authorizes lethal control measures. Research, education, and outreach are conducted by an even larger group of program cooperators. The tribe, federal agencies, special interest groups, and affected parties together conduct research and address public concerns about the effects of wolves on livestock and game populations.

The Gray Wolf Recovery Program has been a success in terms of tribal self-determination and tribal sovereignty. The Nez Perce were able to make a credible offer to implement wolf recovery because of the expertise, track record, and reputation the tribe had earned in earlier wildlife management efforts. Just as these investments in institutional effectiveness and technical capacity enabled the Nez Perce to seize an opportunity for increased self-determination, its effective management of wolf recovery is now opening even more doors—proof that good governance and enhanced self-determination go hand-in-hand. The tribe's entrepreneurial involvement in wildlife management has similarly increased tribal sovereignty. The Wolf Recovery Plan gives the tribe a new measure of responsibility over off-reservation treaty lands (on which Indian jurisdiction is otherwise limited) and promotes sovereign, government-to-citizen or government-to-government relationships between the tribe and private landowners, the State of Idaho, and other governmental entities.

NATIVE COLLABORATIONS

The vast majority of ANC shareholders are also tribal members, and many of these shareholders/tribal members live in rural Alaska. Tribes and ANCs work together in all manner of projects, from political action to social programs. The management of fish and game resources is of great concern to both tribes and ANCs, so this is a natural area for them to collaborate.

There are 8 tribes in the Ahtna region and the regional ANC, Ahtna, Inc., holds fee title to about 1.5 million acres of land out of their 1.77 million acre entitlement under ANCSA. For the Wildlife Co-Management Project highlighted above, representatives from the tribes and the ANC will jointly determine the governing structure of the Ahtna Inter-Tribal Wildlife Commission and manage wildlife on the Ahtna corporation's lands, and the commission will represent the interests of the Alaska Native people on federal lands in that region.

For the Kuskokwim River Inter-Tribal Fish Commission (KRITFC) highlighted above, all of the tribes on the Kuskokwim River drainage are eligible to join the Commission and then appoint their own commissioner to the KRITFC. Member tribes will delegate authority to the KRITFC to develop fishery management programs and make recommendations to the FSB on fishery management policies, however tribes will retain ultimate authority to adopt a tribal management plan consistent with KRITFC and the Federal Salmon Management Plan.

Alaska is a vast state with small villages scattered throughout. People who rely on the same resource, such as caribou or salmon, as it travels around the state and over international lands and waters, come from different tribes and even different ethnic groups. It is crucial to unify these different Alaska Native voices to be able to better work with federal and state representatives to create solid management plans.

ALASKA NATIVES HAVE THE CAPACITY TO CO-MANAGE

Since the passage of the ANCSA, Alaska Natives have embraced self-governance and continue to build capacity with homegrown talent. There are three models used by Alaska Natives in administering services and growing capacity.

First is independent management, notably through ANCSA corporations. Nine of the top ten Alaskan-owned businesses, ranked by gross revenue, are Alaska Native corporations²². Although Alaska Native corporations are businesses in every sense of the word, there are some unique differences between them and other corporations in Alaska. Alaska Native corporations are guided by the principles of utilizing earned power and profits to empower our people and honor our cultures.

A second model is delivery of state and federal services by Alaska Native organizations through contracts and compacting agreements. In the late 1990s, Alaska Natives took over responsibility of health services delivery from the federal government by contracting through a statewide consortium. Today, more than 2,000 staff members provide an array of high quality health services throughout the state. Similarly, there are fourteen regional housing authorities that partner with state and federal funding agencies to provide safe, affordable housing in their respective communities.

Finally, the public-private partnership model has been remarkably successful in addressing specific needs. Alaska Native youth develop skills and expertise in science and engineering fields through the Alaska Native Science & Engineering Program (ANSEP), which engages students beginning in the sixth grade in a longitudinal education model to place them on a career path to leadership. The ANSEP model demonstrates the effectiveness of public-private partnerships in addressing a specific need, here the need for trained oil and gas industry professionals. A successful co-management model will build on the continually growing capacity of Alaska Natives, and their traditional knowledge, to preserve and harvest fish and game in partnership with state and federal governments.



FUNDING

Alaska Natives need a seat at the table to manage fish and game resources that we depend upon for sustenance and to practice our rich and diverse cultures. Although we have traditional knowledge of resource management that goes back centuries, we need to build capacity in order to continue and grow more co-management projects. There is a crucial need for targeted funding to enhance the skills and abilities that will allow us to achieve measurable and sustainable results.

There is also a need to educate our young people on the Western ideas of resource management so that they can bridge the gap with traditional ways of management and use the best practices and knowledge of both styles. Funding for programs that train Alaska Natives on the job and for scholarships to study resource management at universities would be a huge boost to co-management projects statewide.

CONCLUSION

Protecting our subsistence way of life through maximum self-determination is critically important to Alaska Natives, particularly as Native peoples cope with climate change and continued marginalization by the federal and state governments. As noted above, tribal co-management is not a new concept for Alaska, but instead has been successfully in place for nearly two decades, as demonstrated by the AEWC's stewardship of the bowhead whale harvest quota, and Alaska tribes and Native organizations have the capacity to do more. Given the opportunity to expand to subsistence uses of fish and game, tribal co-management will help to unify Alaska's dual system for the betterment of all Alaskans.



ENDNOTES

- 1 Codified as amended in scattered sections of 16 U.S.C., 43 U.S.C., and 48 U.S.C.
 - 2 16 U.S.C. § 3114 (“Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes.”).
 - 3 *Id.* at § 3115.
 - 4 696 P.2d 170 (Alaska 1985).
 - 5 785 P.2d 1 (Alaska 1989).
 - 6 Testimony of Professor Robert T. Anderson, Hearing To Examine Wildlife Management Authority within the State of Alaska Under the Alaska National Interest Lands Act and the Alaska Native Claims Settlement Act Before the U.S. Senate Energy and Natural Res. Comm., 113th Cong (Sept. 19, 2013) (on file with author).
 - 7 See GAO-04-142, *Alaska Native Villages: Most are Affected by Flooding and Erosion, but Few Qualify for Federal Assistance* (Dec. 2003); see also GAO-09-551, *Alaska Native Villages: Limited Process Has been Made on Relocating Villages Threatened by Flooding and Erosion* (June 2009).
 - 8 Edmund C. Goodman, *Protecting Habitat for Off-Reservation Tribal Hunting and Fishing Rights: Tribal Comanagement as a Reserved Right*, 30 *Envtl. L.* 279 (2000).
 - 9 25 U.S.C. §§ 450 *et seq.*
 - 10 25 U.S.C. §§ 458aa-hh.
 - 11 AMERICAN INDIAN POLICY REVIEW COMMISSION, Final Report (May 1997), available at http://www.doi.gov/cobell/commission/upload/6-1-AmIndianPolicyComm_FinRpt_Chp-4-Trust-Responsibility_May1977.pdf (last visited Mar. 5, 2015).
 - 12 Executive Order 13175 — Consultation and Coordination with Indian Tribal Governments, 65 *Fed. Reg.* 67,249, (Nov. 9, 2000).
 - 13 Memorandum from the Heads of Executive Departments and Agencies, Subject: Tribal Consultation (Nov. 5, 2009).
 - 14 43 U.S.C. § 1601 *et seq.*
 - 15 See 16 U.S.C. §1606(r).
 - 16 Christopher Nannes, *Improving the collection, analysis and dissemination of information in small-scale fisheries*, (U.N. Fisheries & Aquaculture Dept., Working Paper, 2003)(on file with author).
 - 17 U.N. Food & Agric. Org. Advisory Comm. on Fisheries Research, Nov 18-21, 2003, *Small Scale Fisheries: Past Experience and Future Solutions* (presented by Dr R. Mahon and D. Wilson)
 - 18 Brett Kenny, *Tribes as Managers of Federal Natural Resources*, 27 *Natural Resc. & Env’t*, 1 (2012).
 - 19 Eric Smith, *Some Thoughts on Comanagement*, 14 *Hastings W.-N.W. J. Env’tl. L. & Pol’y* 763, 767-68 (2008).
 - 20 1916 Convention Between the United Kingdom and the United States of America for the Protection of Migratory Birds in Canada and the United States.
 - 21 2005-2006 Yukon-Kuskokwim Delta Goose Management Plan, available at <http://www.calistacorp.com/sites/default/files/documents/RC%20SG%20Goose%20Management%20Plan.pdf> (last visited Nov. 18, 2015).
 - 22 ALASKA BUSINESS MONTHLY, Top 49ers Executive Summary, available at <http://www.akbizmag.com/Alaska-Business-Monthly/October-2015/Top-49ers-Executive-Summary/> (last visited Nov. 15, 2015).
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TRIBAL COURT FUNDING

The Alaska Federation of Natives encourages our Congressional Delegation, other members of the Congress and the Administration to budget and appropriate, a \$17 million line item in the FY17 Department of the Interior budget request to fund tribal courts in PL 280 states.

BACKGROUND:

The Bureau of Indian Affairs (BIA) does not provide tribal court funding for tribal nations located in Public Law 280 (PL 280) states, like Alaska. This means that tribal nations in Alaska receive no federal support for their tribal court systems. A functioning court system is absolutely essential to maintaining public safety while fostering healthy tribal communities.

The tribal courts that do operate in Alaska are staffed and operated mainly by volunteers that understand the important function they provide. Tribal courts are a first line of defense in protecting vulnerable children and ensuring that Alaska Native children remain with Alaska Native families through the application of the Indian Child Welfare Act. Tribal courts also help to combat domestic violence at the local level while increasing public safety in the villages. For those tribal nations that do not have a functioning tribal court because of the lack of funding, the administration of justice falls to state courts. These state courts are often many miles away and require travel by plane or boat to get there. This creates a giant jurisdictional vacuum and leaves many Alaska Natives without access to justice.

Congress recently required the BIA and the Department of Justice (DOJ) to produce a report examining how much money it would cost to provide tribal court funding to tribal nations in PL 280 states. The joint BIA/DOJ report estimated that it would cost \$16.9 million to fund tribal courts in PL 280 states in a manner consistent with BIA tribal court funding for tribal nations located in non-PL 280 states (those courts are funded at approximately 6.14% of true cost). The report specifies that \$11.5 million of those funds would be needed in Alaska. Now that the need has been quantified it is time to turn those estimates into actual dollars.

We respectfully request that \$17 million be budgeted and appropriated in the FY 17 budget to fund tribal courts in PL 280 states.



ALASKA NATIVE VETERANS ALLOTMENTS

The Alaska Federation of Natives encourages the Administration to support the passage of The Alaska Native Veterans Land Allotment Equity Act, HR 2387 and S. 1955.

BACKGROUND:

Alaska Natives and Native Americans have a long and proud history of military service, serving in greater numbers per capita than any other ethnic group. More than 2,800 Alaska Natives served in the military during the Vietnam War Era. At the same time the Vietnam War was being fought, our Alaska Native land rights were being settled. The Alaska Native Claims Settlement Act of 1971 (ANCSA) extinguished the Alaska Native Allotment Act of 1906, which permitted each Alaska Native of majority to select 160 acres of land for private ownership. However, it was logistically impossible for Native service men and women serving the in Pacific theatre to apply for allotments by the deadline, even though they were eligible.

In 1998, Congress passed The Alaska Native Veterans Land Allotment Equity Act (Act) to allow Alaska Natives who served in the Armed Forces for at least six months during 1969 through 1971 to apply for allotments within 18 months of the implementation of rules pursuant to the Act. In that period, 1,071 veterans applied for allotments. However, only 432 allotments were approved. Many applications were denied and some veterans could not apply for the following reasons:

- those Native veterans whose service during the Vietnam War, which was fought between 1964 and 1975, fell outside of that three-year window did not qualify under the Act;
- the land base that veterans could choose from was limited by the Act, and by transfers and land designations already made. Not one single veteran received an allotment in the Southeast, Cook Inlet, Chugach and Arctic Slope regions of Alaska because of the limited land base;
- under the Act, heirs could not apply for decedents unless the decedent was killed in action or died as a direct result of the war; and
- some veterans who qualified, did not apply within the 18 month period because of language barriers, communications challenges, logistical hurdles, and health issues.

This year marks the 40th anniversary of the end of the Vietnam War. We have lost many veterans in the years since who should have received Native allotments but did not because of their in-country service and the limitations in the previous Act.



FEDERAL LEGISLATION

Congressman Don Young and Senator Dan Sullivan have introduced the Alaska Native Veterans Land Allotment Equity Act in the House (H.R. 2387) and Senate (S. 1955) to address these issues and offer Alaska Native veterans an equitable opportunity to apply for a Native allotment.

The draft language would allow veterans who served between August 5, 1964, and May 7, 1975, an opportunity to apply for an allotment, and would allow the heirs of qualifying veterans to apply on behalf of the estate. The bill would also expand the land base from which veterans could select allotments.

Alaska Native peoples have a unique and spiritual connection to our lands. Allowing veterans to participate in the allotment program would honor their service to our country.



NATIVE ALLOTMENT APPLICANTS AFFECTED BY THE AGUILAR DECISION

The Alaska Federation of Natives requests the Department of Justice to engage, advocate for and if necessary, sue the State of Alaska to recover land for which Native allotment applicants had pre-existing use and occupancy, which was subsequently conveyed to the State of Alaska, prior to the Native Allotment applicant filing a Native Allotment application.

BACKGROUND:

In 1979, a U.S. District Court held in Aguilar that a Native allotment applicant's use and occupancy of the land prior to the State of Alaska's (SOA) selection gave them a preference right which was not eliminated simply because the SOA filed an application prior to the applicant filing a Native allotment application. Therefore the U.S. Department of the Interior had a responsibility to determine whether land conveyed to the SOA was erroneously or mistakenly conveyed based on whether the Native allotment application, filed subsequent to the conveyance, claimed use and occupancy prior to the state's selection. If it was determined that an applicant's use and occupancy was prior to the SOA's selection, then the Department of the Interior had a responsibility to recover the land for the Native allotment applicant.

In Alaska there are over 300 pending Native allotment applications in which the land of the application, Native land, has been found in federal district court to have been erroneously or mistakenly conveyed to the State of Alaska by the Bureau of Land Management. These applications are referred to as Aguilar applications. The State of Alaska refuses to re-convey the land to the Native allotment applicants. DNR interprets the reconveyance of Native allotment land as discretionary authority under state statute even though the land has been found to have a valid preexisting right to the Native allotment applicant under the Aguilar decision.

We respectfully request the Department of Justice to take action on behalf of the Native Allotment applicants. We have worked tirelessly in Alaska to inform state law makers, but there continues to be an anti-Native lands tone within the Alaska legislature. It is the Department of Justice's duty to take action to see that these Native allotments are properly conveyed to their rightful Native owners and heirs.



ALASKA VILLAGE BUILT CLINIC LEASE PROGRAM

BACKGROUND:

Village Built Clinics (VBC) lease program, administered by the Indian Health Service (IHS), is used to fund the costs associated with health clinics in rural Alaska. VBCs are the sole health care facilities for their communities in the vast, predominantly road-less regions of rural Alaska. Current funding levels for the VBC lease program provide only a fraction of the operations costs resulting in deteriorating clinic buildings, reduced operations, deferred building maintenance, accreditation compliance problems and ultimately a threat to the provision of safe patient care in the villages.

REQUESTED ACTION

The Alaska Tribes request an increase of recurring funding (currently at \$4.5 million/year) to the IHS in the amount of \$12.5 million (for a total of \$17.0 million/year), to adequately fund the VBC lease program by the IHS in rural Alaska

BACKGROUND: COMMUNITY HEALTH AIDE PROGRAM (CHAP)

Alaska Native people in rural communities depend on local health clinics as their only source of primary health care. The CHAP is mandated by Congress as the instrument for providing basic health care services in remote Alaska Native villages. The CHAP is the backbone of the rural health care system and in many cases provides the only local source of health care for many Alaska Native people. Certified Community Health Aide/Practitioners, Dental Health Aide Therapists and Behavioral Health Aide/Practitioners provide ongoing services based out of the village clinic facilities. In addition, the clinics are used by medical, dental, eye care, and behavioral health professionals itinerating to the villages from the regional hospitals.

Alaska has about 170 VBCs, generally owned by the local city, tribal government or the regional tribal health corporation serving that community. The clinic facilities are leased by the IHS in order to provide clinic space for the CHAP. Unfortunately, years of underfunded lease payments have left many of the clinic facilities in disrepair, and in some cases closed. Rural Alaska was fortunate that many of the clinics were upgraded or replaced through partnership between the clinic owners and the Denali Commission. Unfortunately, continued underfunding of the VBC lease program will also jeopardize this investment in our communities.

CHRONIC UNDERFUNDING

Since the mid-1970s, the IHS has consistently under-funded the VBC leases. The last significant increase to the program occurred in 1989, at which time the number of clinics funded was also increased. VBC lease program has not received an increase to its base since then. In FY 2006, a study showed the lease payments to the villages covered only 55 percent of operating costs statewide. The costs of doing business in rural Alaska has increased tremendously since then. In order to hold the system of care together, financial responsibility for the village clinics has shifted from the IHS to the village governments and/or regional health corporations.

MAINTENANCE AND OPERATIONS

VBC leases are “Full Service Leases” which cover most basic expenses involved with maintenance and operation of the clinic facilities. Those expenses include basic rental costs (loan amortization/depreciation, fuel, electric, water/sewer/refuse, janitorial services/ supplies, maintenance and repair services/supplies and building insurance). In 2011 the IHS developed revised Guidelines for Environmental Health Practices at Village Health Clinics to provide a tool for annual inspections of the VBC-leased Facilities. For most clinics, the IHS lease monies do not cover the actual cost of fuel, electricity, and water/sewer bill let alone provide funds sufficient to maintain a high quality healthcare environment.

LITIGATION:

In response to the funding crisis, some Alaska Native tribes and tribal organizations have been looking for alternative ways to secure full funding for VBCs that they own. One such alternative is through mandatory leases under Section 105(l) of the Indian Self-Determination and Education Assistance Act (ISDEAA), which requires the IHS to enter into a compensated lease with a tribe or tribal organization for any facility owned by the tribe or tribal organization and used to provide health care services under the ISDEAA. One Alaska tribal health organization, Maniilaq Association, has submitted two Section 105(l) lease proposals, both of which were rejected by the IHS and have led to litigation that is still ongoing. The IHS has refused to agree to fully compensate Maniilaq under the Section 105(l) leasing regulations, insisting that compensation pursuant to the regulations is discretionary, or to incorporate the leases into Maniilaq Association’s ISDEAA Funding Agreement. The IHS’s rejection of Maniilaq’s first lease proposal, for its clinic facility in Ambler, Alaska, was overturned by a federal district court in August, 2014, on the grounds that the IHS failed to respond to the proposal within the time frame required by the ISDEAA. *Maniilaq Association v. Burwell*, Civ. No. 13-380 (D.D.C. Aug. 22, 2014). The district court ruled that Section 105(l) leases may be incorporated into an ISDEAA funding agreement, but did not reach the question of whether or not full funding under the Section 105(l) regulations is mandatory or discretionary. That question is currently being litigated in Maniilaq’s appeal of its second lease proposal, for its clinic facility in Kivalina, Alaska, which was filed on January 30, 2015.

SUMMARY:

- The VBC lease program is a unique and critical component of the health care delivery system in Alaska. The delivery of quality health care is dependent on having a well-maintained clinic facility. This crisis in underfunding now threatens decades of investments by the federal government, rural Alaska villages, and regional tribal health organizations.
- Obtaining an increase in funding for the VBC lease program has been a priority of the Alaska Tribes for many years; however, dramatic increases in energy costs in rural Alaska have accentuated the crisis.
- We are requesting that Congress provide appropriations and direct the IHS to fully fund the VBC lease program.

Please contact the Alaska Native Health Board for more information:
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EQUITABLE VOTING FOR ALASKA NATIVES

BACKGROUND:

Since the 1867 Treaty of Purchase of Alaska, Alaska Natives have endured challenges in our ability to participate in the American electoral process, including denial of citizenship, a literacy test, and an English literacy requirement in the Alaska State Constitution. While the last of these hurdles was removed in 1970, other hurdles – such as inadequate election information, State Division of Elections staffing problems, physical and geographic barriers to polling sites, and the state’s reluctance to modernize Alaska’s electoral system – remain resolute.

Voting rights for Alaska Natives continues to be an ongoing issue. Alaska Natives do not have equal access to in-person, absentee or early voting, nor do we have equal access to voting materials, affecting our ability to cast informed ballots. This problem is particularly acute in rural areas of the state.



While the nation celebrates the 50th anniversary of the Voting Rights Act (VRA), Alaska remains woefully behind other states in many significant areas. By example, at least 38 Alaska Native villages lack polling locations. In addition, our villages and tribes have been in almost constant litigation with the state over language translation issues (and have been for almost seven years). Alaska Native voters, which represent a significant portion of the Alaskan electorate, have become dependent on the VRA and other federal protections to surmount decades of discrimination.

The U.S. Department of Justice is very aware of the current situation in Alaska, and in a rare move drafted a bill to ensure Native voting rights: the Tribal Equal Access to Voting Act. In addition, it is likely that federal observers will be present during our next election cycle to ensure the following aspects of the voting process already enjoyed by urban Alaskans:

1. Equal access
2. Early voting
3. Absentee voting
4. Language assistance administration

RECOMMENDATION: Alaska Natives request the Obama Administration direct Attorney General Loretta Lynch to visit rural Alaska so that she can hear from Native peoples the challenges faced voters, such as those faced by Native elders who cannot read English and therefore cannot understand ballot issues. Such a visit would inform the Attorney General an understanding of our issues, as well as the obstacles we face in order to solve them.

In addition, a visit by Attorney General Lynch would highlight the need for a bi-partisan Native American Voting Rights Act, which Senator Jon Tester recently introduced and is expected to move forward after the August recess.



COMMUNITY-BASED RESILIENCY THROUGH MAXIMUM SELF-DETERMINATION

BACKGROUND:

The Alaska Native Claims Settlement Act of 1971 (ANCSA) was the first substantial settlement between the federal government and Alaska Natives/American Indians in which Native peoples exercised self-determination. Narrowly, the Act accomplished what Alaska Natives sought to achieve: a fair and just settlement of aboriginal land claims. More broadly, however, ANCSA laid the groundwork for other Natives peoples to enhance tribal self-determination through federation legislation.

Specifically, the Indian Self Determination and Education Assistance Act of 1975 (ISDEAA) and the Tribal Self-Governance Act of 1994 (TSGA) permit the Secretaries of Interior and Health and Human Services to contract or compact with federally recognized Indian tribes and tribal consortia for the administration of health, education, economic development, and other social programs, services, activities, and competitive grants.

One example of successful self-determination in Alaska is our tribal health system. The vision that Alaska Natives would be healthiest people in the world began in June 1998 when a consortium of Alaska Native tribes and tribal organizations assumed statewide management of tribal health services. Today, more than 2,000 medical professionals provide an array of high-quality health care to approximately 150,000 Native Americans and Alaska Natives throughout the state. The Alaska Native Tribal Health Consortium (ANTHC) operates the Alaska Native Medical Center (ANMC), a state of the art, 150-bed hospital in Anchorage. ANTHC additionally engineers and constructs water, sanitation and health facilities throughout Alaska, particularly in rural areas.



Tribal housing, under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), is another example of successful self-determination in Alaska. Tribal housing allows Native peoples to tailor housing programs to their needs by consolidating federal funding programs and making tribes or tribally designated housing entities (TDHEs) the direct recipients of grants. Today there are 14 regional housing authorities in Alaska that partner with federal and state agencies to provide safe, affordable, and culturally appropriate housing statewide.

Alaska Natives request the Obama Administration to further enhance tribal self-determination by expanding our contracting and compacting opportunities within the federal government.

RECOMMENDATION:

Specifically, our people would like the Administration to start a demonstration project outside of the Departments of Health and Human Services or Interior, such as the U.S. Department of Energy, so that we may utilize our internal capacity to assist federal climate change adaptation and mitigation efforts – just as we have done under ANCSA, ISDEAA, TSGA, and NAHASDA.



REVITALIZE THE NATIONAL GUARD IN RURAL ALASKA

BACKGROUND:

With origins rooted in the patriotic men and women of the Alaska Territorial Guard who provided vital strategic instruction on how to properly defend Alaska's 54,000 miles of coastline during World War II, the Alaska National Guard has a host of skills and talents to offer our nation and state¹.

Formed in 1942, the ATG – or 'Eskimo Scouts' – operated until 1947 in response to the Japanese attacks on Pearl Harbor and brief occupation of the Aleutian Islands. Nearly 6,500 volunteers from over 100 rural Alaska Native villages enrolled in the Guard over the five-year period, the majority of whom were Alaska Natives. No compensation was rendered. Moreover, the ages of the ATG volunteers at enrollment ranged from as young as 12 to as old as 80 years indicating that most were either too young or too old to be drafted, but desired to serve nonetheless².



ATG Soldiers in Barrow, AK

In addition to their official duties, Guard volunteers actively and successfully promoted racial integration within the U.S. military, as well as racial equality within the villages they protected. Several former volunteers were also instrumental in achieving Alaska statehood in 1959, as members of the Alaska Statehood Committee or delegates to the Alaska Constitutional Convention³.

Following WWII the ATG units were transferred to the Alaska National Guard, with the 'Rural National Guard' – a subset of the Guard – employing more than 1,800 men and women and fortifying the sustainability and prosperity of rural Alaska Native villages before the closing of the RNG⁴.

RECOMMENDATION

There needs to be a revitalization of the Alaska National Guard, particularly the Rural National Guard. The RNG provided an economic base for hundreds of rural Alaska Native villages, and a sense of purpose for thousands of young Natives guardsman who wished to remain residing in their home villages. A concerted effort must be made to restore the Rural National Guard.

1 ALASKA DISPATCH NEWS, Commentary by Brig. Gen. Laurie Hummel, Hummel to Alaska: National Guard will again be a source of pride, available at <http://www.adn.com/article/20150618/hummel-alaska-national-guard-will-again-be-source-pride> (last visited Nov. 30, 2015).

2 ALASKA MILITARY FUNERAL HONORS, Alaska Territorial Guard (ATG) Information, available at <https://alaskahonorguard.wordpress.com/alaska-territorial-guard-atg-information/> (last visited Nov. 30, 2015).

3 Id.

4 STATE OF ALASKA, Chair Emil Notti, Final Rural Guard Transition Report: Revitalization of Rural National Guard, available at http://gov.alaska.gov/Walker_media/transition_page/rural-guard_final.pdf (last visited Nov. 30, 2015).