

# Perspectives from AFN



**Julie Kitka, President**  
Alaska Federation of Natives  
3000 A Street, Suite 210  
Anchorage, AK 99503

December 2018

# About the Alaska Federation of Natives

## TABLE OF CONTENTS

<b>Background</b>	<b>3</b>
<b>Three Main Themes</b>	<b>3</b>
THEME ONE: ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA)	3
THEME TWO: COMPACTING & CONTRACTING: TWO EFFECTIVE MODELS TO ALLOW ALASKA NATIVES TO BUILD CAPACITY AND COMPETENCE AND CAN MEET THE MISSION OF THE DEPARTMENT OF DEFENSE (AND OTHER DEPARTMENTS).	5
THEME THREE: RAPID CHANGE IN THE ARCTIC AND THE CONTINUUM OF TRULY RELATED PEOPLE – ALASKA, CANADA, AND GREENLAND INDIGENOUS PEOPLES	7

# BACKGROUND

AFN is the largest statewide Native organization in Alaska and represents more than 125,000 Alaska Natives.

AFN was organized in 1966 and brought the Native leadership together to secure a fair settlement of our aboriginal land claim rights. Land claims settlement legislation was moving in the U.S. Congress, driven in part by the discovery of the largest oil field in the United States—Prudhoe Bay. To develop Prudhoe Bay, the companies and the government needed clear title, which was clouded by unresolved indigenous Native land claims. The Congressional land settlement was enacted on December 18, 1971—the Alaska Native Claims Settlement Act of 1971 (ANCSA).

Today, AFN has changed over the years, from a loose federation of Alaska Natives to a highly organized network of Native leadership and institutions. AFN is governed by a 37-member board of directors representing all areas of the state, both along regional and village lines and along Native institution lines. AFN is the largest umbrella Native organization in Alaska, representing federally recognized tribes, tribal regional consortiums, Native village and regional corporations.

## Three main themes:

1. The historic Congressional land claims settlement between the U.S. Government and Alaska Natives, which occurred in 1971 and has been amended by every Congress to address the real social and economic needs of Alaska Natives;
2. Two effective models the U.S. Government uses to engage Alaska Natives in the larger economy or to access and provide essential government services. **Compacting** and **contracting** with Alaska Natives has done more to build capacity within Native corporations and tribal consortiums, under a shorter timeline than any other approach;
3. The rapid change-taking place in the Arctic—environment, transportation, technology, economics, and people to people engagement.

## THEME ONE: ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA)

It is critical to the understanding of these issues to understand the nature of what Congress and the President intended when they enacted the Alaska Native Claims Settlement Act, in 1971. ANCSA is the foundation of much of Alaska Natives economic and legal relationship with the federal government, but it is much more than that. It embodies most of our **economic** and **relational agreements** with the federal government, agreements for which our people relinquished valid legal claims to lands and resources in Alaska, our homeland. The land claims settlement freed the State of Alaska<sup>1</sup> to receive its lands and the federal government to manage its lands. The citizens of the United States and the federal government, received a bargain: the Trans-Alaska oil pipeline was built, which this summer will deliver the 17<sup>th</sup> billion barrel of oil to domestic consumers, from U.S. fields—17 billion barrels of domestic oil, directly attributable to the agreements that are made possible by ANCSA. The fields of Prudhoe Bay alone have delivered several hundred billions of dollars of goods, services and taxes to the federal government. ANCSA made this possible by addressing the status and valid land claims of Alaska Natives.

---

<sup>1</sup> Alaska was granted statehood by the Congress on January 3, 1959. The Alaska Federation of Natives was formed in 1966. In 1971 when the Alaska Native Claims Settlement Act (ANCSA) was enacted by the Congress, Alaska was a fledging state, not even 15 years old. The size of Alaska is approximately 375 million acres (about one-fifth the size of the continental U.S.). Of this, the State of Alaska was given approximately 104 million acres under Statehood and Alaska Native people retained approximately 44 million acres under ANCSA.

The world-class discovery of oil in Prudhoe Bay, together with the need for clear title in order to build a pipeline across Alaska to transport the oil to meet the energy needs of our country, created a sense of urgency and an historic opportunity for a settlement of our land claims. In December 1971, after years of effort by Members of the U.S. Congress, Alaska Native leadership, and others, ANCSA was signed into law by President Richard Nixon.

For extinguishing aboriginal claims across the entire State of Alaska, Alaska Natives were allowed to **retain** fee simple title to 44 million acres of land and received \$962.5 million for lands transferred to the State, federal and private interests. ANCSA, as part of a large Congressional experiment, **rejected a reservation and tribal model of land settlements and authorized Alaska Natives to create regional and village for-profit corporations.** Alaska Natives became shareholders in these Native corporations; electing Native boards of directors; and getting acquainted with the corporate structure. Under ANCSA, the Native corporations were authorized to select and receive conveyance of the land entitlement, and monetary payments required in ANCSA from the state and federal governments. Our Native corporations own and manage Native lands and assets – they are not for the most part in tribal ownership. It took years, and in some respects decades, to get the promises of ANCSA implemented. **It is critically important to understand ANCSA was a land settlement, not a settlement of all claims.** Native people were concerned with the land, their culture and the ability to survive by hunting and fishing. The cry of “Take our Land, Take Our Life” accurately reflects the level of concern within the Native people.

The structure of ANCSA, of corporations owned and operated by Alaska Natives, was a secondary issue on the minds of Alaska Native people during the land claims fight. As can be expected, there were many public policy assumptions in the 1971 massive law that were just the attitudes of the time and have not proved out. ANCSA has been consciously modified or eliminated over the years at the request of Alaska Native people.

The public policy decision to put the land and resources in Native corporations vs. tribes and a more tribal structure was a shift from traditional settlements with Native Americans. For many years now, we continue to have discussions on the roles of federally recognized tribes and of Native corporations. AFN supports both types of institutions and works to strengthen both. Many Native leaders have spent their whole working lives trying to make the corporate structure work with Native values and aspirations for our people. The corporate structure has been an amazing flexible tool, opening up new types of opportunities and Native people have adapted to it.

AFN has continued its support of Alaska Native self-determination by continuing support for Native corporations and their growth in capability; and by continuing support for Alaska’s federally recognized tribes, and tribal consortiums. AFN has spent decades protecting in law and regulations our hunting and fishing cultures. AFN has worked with the tribes to maintain and increase funding for tribal programs such as health care, housing, social services programs, tribal courts and generally tribal rights.

## THEME TWO: COMPACTING & CONTRACTING: TWO EFFECTIVE MODELS TO ALLOW ALASKA NATIVES TO BUILD CAPACITY AND COMPETENCE AND CAN MEET THE MISSION OF THE DEPARTMENT OF DEFENSE (AND OTHER DEPARTMENTS).

**COMPACTS:** Self-governance compacts are authorized by the Indian Self-Determination and Education Assistance Act, PL 93- 638, as amended, and are used primarily for tribes to assume operation of the Indian Health Service and Bureau of Indian Affairs programs. However, the statute also authorizes tribal compacting of programs from other bureaus of the Department of Interior. Interior publishes a list annually of all non-BIA programs, services, functions and activities that are eligible for inclusion in self-governance agreements. There are required programmatic targets. Currently nearly the entire Indian Health Service and Bureau of Indian Affairs is compacted – with Alaska Native tribes, consortiums or statewide compacts running for example the statewide hospital, regional hospitals, sub regional and village health clinics.<sup>2</sup> Compacting is an effective tool not used just with Natives Americans. The US government uses compacts for other purposes as well. For international engagement the United States uses two types of compacts: the **Compact of Free Association** with the Commonwealth of the Northern Mariana Islands, Confederated States of Micronesia, Marshall Islands and Palau; and the **Millennium Challenge compact** for countries such as Mongolia, Indonesia and a host of other low and medium income, qualified countries.<sup>3</sup>

Alaska Natives seek to be leaders in our relationship with the federal government, supporting innovation and new arrangements which can provide for the needs of Alaska Native people, keep up with change and support U.S. interests, including national security interests. We actively study different arrangements the U.S. Government has with others and seek to learn and adapt where appropriate. Alaska is also held up as a model in a number of areas for other U.S. interests abroad. Alaska Natives have been involved in leadership exchanges and discussions for years with Indigenous leaders in Canada, Greenland and Russia; not to mention other parts of the world.

For Alaska Natives, we seek greater opportunity to make decisions affecting federal land, which surrounds our communities. The decision-making sought includes management of fish and game, land use and water rights. Currently, AFN and the tribes are seeking to expand shared decision-making using cooperative agreements and expanding responsibilities in existing co- management bodies. The Co-management arrangements vary by which federal law applies, the species, range (including international waters) and desire of the local people.

Over several Administrations, the momentum has been moving to expand Alaska Native management of federal public lands in Alaska. The vast land units in Alaska managed by the Bureau of Land Management, the Fish and Wildlife Service and the National Park Service are virtually all closely linked to Alaska Natives through geographic, historical and cultural ties. AFN continues to advance to the federal administration proposals to bring greater cost-savings to the government and allow Alaska Natives to assist the federal government in their responsibilities as landowners in the state.

---

<sup>2</sup> See list of Alaska Native Health Corporations and the hospitals and clinics they run.

<sup>3</sup> See Millennium Challenge Corporation website ([mcc.gov](http://mcc.gov)) for the full list of 2017 countries who qualified as candidates for negotiating compacts; and those who do not qualify. For quick reference, some of the countries who do NOT qualify include: North Korea, Bolivia, Burma, Eritrea, South Sudan, Sudan, Syria, and Zimbabwe.

**CONTRACTING:** The Alaska Native corporations have broader responsibilities than many other typical American corporations because of ANCSA. Alaska Native corporations were not started as ordinary corporations and were not intended to function as ordinary corporations. In over 200 separate laws, the Congress tasked Alaska Native Corporations with different roles and responsibilities and opened up various opportunities.

A small number of Alaska Native corporations participate in full and open competition because of the capabilities and experience they have achieved.

Another path, which the Congress authorized, is the SBA 8(a) Business development program. Through the SBA 8(a) Business development Program, Alaska tribes and Native corporations have the opportunity to provide cost effective quality services to the U.S. Government.

The Small Business Administration's (SBA) 8(a) Business Development Program is the federal government's primary means of developing small businesses owned by socially and economically disadvantaged individuals. For years the SBA ignored the start-up and existence of Native corporations, partly due to the remoteness of Alaska, the unusual nature of Native corporations and the light staffing presence of the agency in Alaska.

In the 1990's<sup>4</sup>, Section 8(a) of the SBA program was modified to provide special consideration for Native corporations and American Indian Tribes in order to encourage business development in some of the most socially disadvantaged communities and provide strong incentives for federal agencies to contract with Native owned businesses. Native corporations and Tribes became eligible to negotiate federal contracts through direct award, compete on contracts reserved for small business 8(a) eligible bidders, and own more than one 8(a) company.

Native corporations and tribal contractors participate in the 8(a) program to facilitate economic development and growth in their communities. Through their participation in the 8(a) program, Native corporations and Tribes support and benefit their shareholders and tribal memberships through sustainable and predictable dividends, elder benefits, scholarships, burial assistance, educational training, internships, and contributions to Native and non-Native non-profit corporations, and advocacy efforts on behalf of the region or tribe.

Today, many Native corporations and Tribes have demonstrated a record of maturing from emerging small 8(a) businesses to graduated successful competitive small business and have strengthened their institutional structures and earned the experience necessary to compete for both competitive and sole- source awards. Through the 8(a) program, regional and village corporations compete in markets nationwide, and provide quality services to the federal government in diverse business lines.

Native corporations further promote and encourage the use of other small business contractors, often teaming or joint venturing with local Service Disabled Veteran Owned Small Businesses, Women Owned Small Businesses, and other Minority businesses, thus stimulating local jobs.

SBA 8(a) contracting has created benefits that it was intended to create. **Our corporations have built up a capacity that did not exist before.** Methodically, efficiently and responsibly, these corporations

---

<sup>4</sup> 1987 Amendments to the Alaska Native Claims Settlement Act.

have built up a capacity to provide employment to Native shareholders, provide training to young people, and develop and offer scholarship opportunities. Our corporations have built up a capacity to provide jobs and help young people see what it takes to succeed in modern America. They have built,

as intended, a managerial and business expertise that can carry forward. They have helped create an economic stability where none existed before. Our people take pride in this work.

To conclude on compacting and contracting, the Alaska Native people have the leadership, capacity and institutions to be strategic partners much more than you can imagine. And this leadership is continuing to develop, and capacity is growing.

### **THEME THREE: RAPID CHANGE IN THE ARCTIC AND THE CONTINUUM OF TRULY RELATED PEOPLE - ALASKA, CANADA, AND GREENLAND INDIGENOUS PEOPLES**

All Indigenous peoples do not have homogeneous interests. Some want to preserve traditional ways of life, while others want greater participation in dominant state structures. However diverse, Indigenous peoples share the struggle for self-determination and a history of injustice from conquest and colonization. As a result, Indigenous peoples have faced centuries of discrimination in terms of their basic rights to their ancestral property, language, cultures, governance, and basic services, such as education, health and nutrition, water and sanitation and housing.

Across the Arctic, Indigenous peoples share their ties to their homelands, their traditional ways, cultures and desires to improve the lives of their families and communities.

There is a high level of engagement between peoples across the Arctic, in both formal and informal ways. In many ways Indigenous peoples are the same across the Arctic, just their national government structures and range of opportunities are different.

**In conclusion**, there are five main areas which are helpful to understand:

1. Understanding Alaska Natives and other Indigenous peoples in the Arctic is critical to a mission of success in the Arctic. Alaska Natives are extremely organized and open to engagement and collaboration. Alaska Natives have tools (Native corporations and tribal consortiums) and have built tremendous capability over the last 40 years both in contracting and compacting.
2. The Congressional experiment (ANCSA) requiring Alaska Natives to engage in the corporate, market economy has transformed Alaska and has far-reaching impacts with other Indigenous peoples.
3. Alaska Natives' connection to the land and our subsistence hunting and fishing cultures remain strong and transcend boundaries across the North. Our identity, a sense of belonging, inclusion and human dignity is fundamentally linked to the ownership of our land. Land connects people to one another and is the foundation for mutual interdependence and co-existence. The settlement of our land rights, and the recognition of our property rights gave up a foothold to participate in the modern economy, as well as protect our traditional cultures and homeland.
4. Alaska Natives provide a distinctive and remarkable case study in the way Native communities can interact with Federal and State governments and participate in economic and social development, while preserving traditional ways of life. We have resolved many thorny issues of land claims and revenue sharing from hydrocarbon and other natural resources and have accomplished all this despite being scattered in remote communities in a difficult and unique natural environment.

5. ANCSA was a Congressional experience, never tried before in US history. The success of this experiment rests upon the actual experience of Alaska Natives implementing this complex land settlement, utilizing the tools of a corporate structure, engaging in our economic life in meaningful ways, and the difficult choices made every day of the last 40 plus years. The success of this model in Alaska affects all the Indigenous people in the Arctic.

Alaska is in many ways a source of inspiration and interest, although each areas wishes to go along on their own path.





**Alaska Federation of Natives**

3000 A Street, Suite 210, Anchorage, AK 99503

(907) 274-3611 | [nativefederation.org](http://nativefederation.org)