

# Alaska's Conflicting Objectives

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*Abstract: The formal treaty-making period between the U.S. government and Native peoples ended in 1871, only four years after the United States purchased Alaska from Russia. As a result, Alaska Natives did not enter into treaties that recognized their political authority or land rights. Nor, following the end of the treaty-making period, were Alaska Natives granted the same land rights as federally recognized tribes in the lower forty-eight states. Rather, Congress created the Alaska Native Corporations as the management vehicle for conveyed lands in 1971. The unique legal status of these corporations has raised many questions about tribal land ownership and governance for future generations of Alaska Natives. Although Congress created the Native Corporations in its eagerness to settle land claims and assimilate Alaska Natives, Alaska Native cultures and governance structures persisted and evolved, and today many are reasserting the inherent authority of sovereign governments.*

The Bureau of Indian Affairs (BIA) reported in 1936 that it knew little about Alaska Natives. “Alaska is such an immense country, the Indians so widely scattered, and travel frequently is so tedious, slow and expensive that it is very difficult to plan a program,” wrote BIA field representative Oscar H. Lipps. D’Arcy McNickle, who answered directly to the Commissioner of Indian Affairs, added, “even the status of land ownership is an ambiguous one, which in some cases will have to be clarified before organization work can proceed.”<sup>1</sup>

The BIA proceeded anyway: the Indian Reorganization Act was extended to Alaska in 1936, recognizing Alaska Native villages as having the same authority as Native tribes elsewhere in the United States. But despite their new legal standing, the status of Alaska Native land ownership remained ambiguous.

What was not ambiguous, however, was the inherent power of Alaska’s tribes.<sup>2</sup> Federal recognition of a group of Native Americans as a tribe affirms the political relationship between the United States and tribes, which serves to protect the exercise of tribal sover-

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eignty under federal law. Tribal recognition is the legal imprimatur in federal Indian law on which the rights to exercise governmental powers over tribal members, tribal land, and nonmembers on tribal land are based. It is also one of the Department of the Interior's prerequisites for entitlement to the many federal Indian services it administers.

Many early scholars and jurists dismissed the notion that a group of Alaska Natives could constitute a distinct and historically continuous political entity with the same attributes of sovereignty possessed by tribes elsewhere. This assumption rested on the premise that Alaska's history is "unique" because it was the last territorial acquisition of the United States on the North American continent. The Treaty of Cession, whereby the United States purchased Alaska from Russia in 1867, provided that "the uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country." When the American colonies adopted the U.S. Constitution, tribes were recognized in the Indian commerce clause as separate entities with whom the federal government could deal on the same political basis as foreign states. This was generally done through treaties. But the formal treaty-making period ended in 1871. Consequently, no Alaska Natives entered into treaties that recognized tribal political authority or that ceded or secured recognized title to portions of aboriginal land.

Alaska's remote location, large size, and harsh climate further delayed the need to confront questions concerning the relationship between Indigenous inhabitants and the United States. Nonetheless, Congress enacted laws that provided services to Alaska Natives, protected and preserved aboriginal rights to land and resources, extended provisions of the Indian Reorganization Act to the Territory of Alaska in 1936, and offered opportunities for Alaska

Natives to acquire homestead and townsite allotments via the Alaska Native Allotment Act of 1906 and the Alaska Native Townsite Act of 1926.<sup>3</sup> None of these laws, however, purported to address the question of the nature and extent of tribal status or Alaska Native land claims.

It was decades later that several factors galvanized Alaska Natives, the State of Alaska, and Congress to find a resolution to the problem. When Alaska became a state in 1958, the new government was eager to acquire land around Alaska Native villages. However, in 1966, Interior Secretary Stewart Udall announced a freeze on any such land transfers. Two years later, when oil was found in Prudhoe Bay, oil companies paid the State of Alaska nearly \$1 billion for the oil lease. Then those companies needed to construct a pipeline to move oil from the new bonanza in North Slope to the port of Valdez and from there to far-off markets. These events convinced the state of the need to settle the Native land claims and finalize the state's land selections in order to proceed with future oil lease sales and infrastructure projects.<sup>4</sup>

Alaska Natives had no interest in simply recreating the Indian reservation structure and, with the leverage afforded them by the Prudhoe Bay discovery, reached a consensus to negotiate a new approach to land management. Some Alaska Natives had already experimented with for-profit tribal corporations under provisions of the Indian Reorganization Act, which is overseen by the Bureau of Indian Affairs. But the heavy hand of the BIA complicated the management and made it all but impossible to profit from such ventures, so no one wanted the BIA to be the "trustee" of the land. Instead, Alaska Natives supported the conveyance of land under fee simple title (which unlike reservation or trust property can be freely bought or sold) with profit-making, state-chartered corporations as the vehicle for settling land claims.<sup>5</sup> This arrangement

would give Alaska Native villages and regions more control because fee-patent land could be managed without oversight from BIA bureaucrats in Washington, D.C.

Alaska Natives' ultimate goal was self-determination, and they saw the Alaska Native Claims Settlement Act of 1971 (ANCSA), a lands-claim settlement drawn up by the U.S. Congress, as the pathway. Congress, on the other hand, saw ANCSA as an opportunity to "assimilate" Alaska Natives with corporations, cash, and fee simple title. ANCSA created twelve regional Native corporations (Alaska Native Corporations, or ANCs) as well as more than two hundred village corporations. These entities would receive title to 40 million acres of land and be paid nearly \$1 billion in exchange for the extinguishment of their aboriginal claims to 330 million acres of Alaskan land.

The main goal for both the state and federal governments was to establish clear title to Alaska lands to allow for unimpeded economic development. The new law would transform the communal character of Native societies, beginning with the enrollment of tribal members as individual shareholders of the new corporations. The laws even delimited the future of Alaska tribal societies: initially, only Natives who were alive in 1971 when ANCSA was signed into law were assigned shares, meaning that future generations would have less and less control over the corporations. Another significant problem for Alaska Natives was that the restriction on the sale of stock in Native corporations would be lifted after 1991, potentially leading to the widespread loss of Native control over Alaskan land.

ANCSA also abolished subsistence hunting and fishing rights. Subsistence continues to be a significant source of basic food security for Natives living in rural communities where cash economies are depressed. And, more important, subsistence is the underlying framework of Native culture.<sup>6</sup>

In terms of culture, lifestyle, and attitudes toward land and community, ANCSA clearly favored Western values over Native ones (see Table 1).

Ironically, Congress enacted ANCSA to promote the assimilation of Alaska Natives into the capitalist economy. But there was a twist: the corporations were to share 70 percent of the profits derived from subsurface and timber development with other Alaska Native Corporations. From its inception to the present, this form of socialism has forced the twelve regional Alaska Native Corporations to share an estimated \$3 billion in profits between themselves.<sup>7</sup>

In spite of the corporations' cultural divergence from Native values, Native corporate leaders recognized and made commitments to the preservation of their traditional cultures, as demonstrated by the mission statements adopted by eleven of the twelve regional corporations. Many regional ANCs also created affiliate cultural and educational nonprofit organizations or established dedicated funds to support cultural or educational activities.

In the early 1980s, Alaska Natives began to understand the flaws and dangers of ANCSA, and in 1982, delegates to the Alaska Federation of Natives (AFN) Convention directed the AFN to make the "1991 issue" (referring to the provision in the law lifting restrictions on the sale of stock) a top priority when proposing amendments to the law.<sup>8</sup>

Alaska Natives were also concerned that children born after 1971 were not allowed to become ANC shareholders unless they inherited stock. This restriction conflicted with their traditional values, which held that children born into a tribe are automatically members with full rights to land.

The AFN convened five Native leadership retreats and seven conventions to develop resolutions and amendments to ANCSA to address these problems and concerns.

Alaska's *Table 1*  
 Conflicting Objectives  
 Conflicting Values

Western Values	Tribal Values
Individualism	Communal orientation
Land is a commodity	Land embodies social, economic, and spiritual dimensions
Property is transferred through inheritance or purchase	Intergenerational ownership of property is determined by tribal membership

During the 1984 Native leadership retreat, Natives from all parts of the state identified the following common Native values, which became the underlying basis for the 1991 amendments:

1. Tribes are characterized by a *communal orientation* based on an extended kinship system and the sharing of subsistence resources, including collectively raising children. The sharing of resources should be conducted with respect for elders. Sharing and reciprocity serve as bonds uniting tribal members.
2. *Relationship to the land* is similar to the kinship or relationship among families. Additionally, subsistence resources are necessary for food security, physical well-being, and spiritual values. There is a trust obligation to pass land on to children.
3. *Native identity* is based on tribal membership and enrollment in Native corporations.<sup>9</sup>

The AFN proposed a series of amendments, which included protections for undeveloped land and restrictions on stock sales. Then – Secretary of the Interior Donald Hodel opposed the 1991 Native amendments on several fronts, arguing that they would impede the assimilation of Alaska Natives and undermine the primacy of individual rights over group rights. He opposed the automatic extension of restrictions on the sale of ANCSA stock, which

Natives felt were necessary for the protection of Native lands. He also maintained that the issuance of stock to Natives born after 1971 would dilute the value of the settlement for existing shareholders.

Nonetheless, the so-named 1991 ANCSA amendments were signed into law on February 3, 1988.<sup>10</sup> They protected both Native land and corporations by instating automatic protections for undeveloped land; protecting ANCSA lands from taxes, bad debt, and bankruptcy; providing for restrictions on the sale of stock; issuing stock to Natives born after 1971 and others who had missed initial enrollment; and allowing for issuance of stock and special benefits for elders.

The AFN was unable to secure the “tribal option,” which would have allowed Native corporations to transfer lands to federally recognized tribes. Congress insisted that if this land-transfer provision were included in the amendments, a “disclaimer” clause designed to maintain the status quo of tribal rights and governments should also be included, as Congress did not wish to step into the debate regarding tribal sovereignty. The AFN dropped the tribal option, believing that the disclaimer clause would undermine tribal sovereignty.<sup>11</sup>

As adopted, the 1988 ANCSA amendments recognized the values identified by Alaska Natives at the 1984 leadership retreat, including the communal rights of Alaska Natives, the protection of land own-

ership, and children's rights to land ownership and to their identity. In addition to the cultural and legal protections secured under the 1984 ANCSA amendments, Alaska Native Corporations worked to be federally recognized as tribes for special statutory purposes. One of the first efforts was to secure recognition for the purposes of consultation, primarily in consideration of the large federal land base in Alaska that intersected with ANCSA lands.

However, Native corporate leaders were expressly clear in excluding recognition of regional corporations as governments. This decision has led to ambiguous outcomes for Alaska Native sovereignty and land rights. Four years after the passage of ANCSA, Congress established the American Indian Policy Review Commission to conduct the most comprehensive review of American Indian policy since the 1930s. The Commission's final report, published in 1977, included an examination of the political status of Alaska Natives in the post-ANCSA era. Based on the history of federal dealings with Alaska Natives and of general principles of federal Indian law, the Commission concluded:

The Alaska Native tribes (referring, of course, to the historic and traditional tribal entities, not to the Native corporations organized under the Settlement Act), just as tribes of the lower 48, are domestic sovereigns. They possess all of the attributes and powers normally appertaining to such status, except those that have been denied or taken from them by Congress.

The Commission further concluded that ANCSA did not "effect a termination of the traditional Alaska Native tribes," noting:

The Settlement Act did not alter in any way the legal nature or status of any Alaska Native tribes. Nor did it alter the preexisting relationship between the United States and the Alaska Natives as members of such tribes. Particularly the Settlement Act neither terminated

the tribes nor the status of "Natives" of the members thereof.<sup>12</sup>

In 1991, the secretary of the interior requested that the solicitor from the Department of the Interior do an analysis on the nature and scope of governmental powers that Native villages could exercise over lands and nonmembers after the passage of ANCSA.<sup>13</sup>

The request was precipitated by emerging case law regarding tribal self-governance issues in Alaska and conflicting jurisprudence between Alaska Supreme Court and federal appellate court decisions.<sup>14</sup> In an exhaustive analysis, the solicitor adopted the conclusions of the Commission but stopped short of specifying which villages were tribes as a matter of law. The Department of the Interior deferred that question to the Bureau of Indian Affairs, which in turn published a list of all federally recognized tribes to "eliminate any doubt as to the Department's intention to expressly and unequivocally acknowledge that the Department has determined that the villages and regional tribes listed . . . are distinctly Native communities and have the same status as tribes in the contiguous 48 states."

One year later, the 1993 Tribal Entities List was ratified by Congress with the passage of the Federal Indian Tribal List Act of 1994. In addition to confirming the secretary's responsibility and authority to recognize tribes, the List Act affirms the sovereign status of such tribes and affirms the United States' obligation – as part of its "trust responsibility" – to maintain government-to-government relations with them.

The recognition of Alaska Native tribes as political bodies with powers of self-government has also been a growing question for the courts.<sup>15</sup> The Alaska Supreme Court found itself bound by the political question doctrine (a constitutional restraint on judicial power to resolve cases that raise

political rather than legal questions) and reversed course in tribal status litigation by finding that the Tribal Entities List “unquestionably” establishes federal recognition of the sovereign status and governmental powers of Alaska villages.

The Alaska Supreme Court also expressly overturned prior precedents that held to the contrary and thereby removed the conflict between state and federal court jurisprudence. The confirmation of tribal status, however, was curtailed in 1998 by the United States Supreme Court’s ruling in *Alaska v. Native Village of Venetie* that while tribes exist as governments, following ANCSA’s passage, they have no territorial reach absent the existence of Indian Country.<sup>16</sup> The question before the Court was whether former ANCSA fee lands qualified as Indian Country for purposes of tribal regulatory jurisdiction.

*Alaska v. Venetie* held that ANCSA lands do not constitute a dependent Indian community, because that term

refers to a limited category of Indian lands that are neither reservations nor allotments, and that satisfy two requirements – first, they must have been set aside by the federal government for the use of Indians as Indian land; second, they must be under federal superintendence.<sup>17</sup>

The Court acknowledged that other forms of Indian Country may exist in Alaska, including allotments of other trust or restricted lands set aside under federal superintendence. While land ownership is not necessarily a prerequisite for Native governmental authority or jurisdiction, there is a “significant geographic component” to tribal jurisdiction over many matters, which means that the lack of “Indian Country” in Alaska poses inherent challenges to the exercise of Native sovereignty.

Another recent decision opened the door to potential expansion of Indian Country in Alaska. In *Akiachak Native Community v. Sala-*

*zar*, Alaska tribes challenged a provision in the Department of the Interior’s land-into-trust regulations that excludes land acquisitions in trust in the State of Alaska from the scope of regulations. The Tribe argued that they should not be subject to discriminatory treatment in the lands-into-trust context. The Court agreed and noted that ANCSA did not repeal any portion of the Indian Reorganization Act, nor any portion of its 1936 amendments. Having established that ANCSA did not revoke the secretary’s authority to take Alaska lands in trust, the Court next examined the legality of the Alaska Exception and found it inconsistent with the Congressional mandate that the secretary not diminish the privileges available to tribes relative to the “privileges . . . available to all other federally recognized tribes by virtue of their status as Indian tribes.” Consistent with the Court’s opinion, the DOI revised its regulations regarding acquisitions of trust lands in Alaska. Subsequently, the secretary gave notice of final action to acquire approximately 1.08 acres of land underlying the Craig Tribal Association (one of Alaska’s 229 federally recognized tribes) tribal office for economic development and other purposes, setting a precedent for such acquisitions in the future.

Without a geographic component, tribal authority to banish nonmembers from communities to ensure public safety is coming under scrutiny in the courts. In 2003, an Anchorage Superior Court judge upheld the right of the village of Perryville to eject a resident who had a history of alcohol-fueled violence.<sup>18</sup> But no other court has addressed civil liberties concerns by those who have been banished without the benefit of a conviction or a trial by a jury of their peers. A potential violation of civil liberties could be the basis for contesting or placing constitutional limits on tribal jurisdiction in future cases.

Indeed, court decisions over the past twenty-five years, coupled with federal and

state enactments, have confirmed Alaska tribal authority over tribal members and certain discrete subjects. But the result today remains a patchwork of rules that do not enable tribal governments to provide for the rule of law in their communities, thus impeding the general development of civil society in Alaska Native villages. Legislation is needed to enable Alaska tribal nations to comprehensively govern their communities, conferring to the tribes the security, autonomy, and prosperity to which all peoples are entitled.

At an Alaska Tribal Leaders conference in the fall of 2016, tribal leaders called upon the Alaska Congressional Delegation, the president, the secretary of the interior, the attorney general, the Alaska governor, and the Alaska attorney general to unite behind legislation that would treat Alaska Native villages as if their lands were trust lands for the specific purpose of participating in federal initiatives tied to trust land status.

In October 2017, at the Alaska Federation of Natives convention in Anchorage, Alaska, Attorney General Jahna Lindemuth issued a sixteen-page opinion that clarified the state's view of tribal sovereignty. "The law is clear," she wrote. "There are 229 Alaska Tribes and they are separate sovereigns with inherent sovereignty and subject matter jurisdiction over certain matters. Indian country is not a prerequisite for Alaska Tribes' inherent sovereignty or subject matter jurisdiction, but it may impact the extent of that jurisdiction."<sup>19</sup> While there may be questions regarding the "extent of tribal jurisdiction" in Alaska, state recognition of tribal sovereignty forecloses blanket challenges on tribal court jurisdiction over domestic dependent relations among tribal members.

Native corporations also support a multitude of other initiatives to advance Native cultures, issues, and rights. Perhaps most sig-

nificant has been their ongoing support of the AFN because of its political role in advocating for Native rights. The twelve regional corporations are expected to pay annual membership and convention dues to the AFN and contribute special AFN assessment fees for advocacy on subsistence issues. In 2015, regional corporation dues totaled \$684,000; corporations also paid more than \$100,000 in convention dues. In addition, AFN members contributed \$246,000 for subsistence advocacy, funds that largely came from regional ANCs.

Congress extinguished subsistence hunting and fishing rights under ANCSA with the promise that the secretary of the interior and the State of Alaska would act to protect Native subsistence needs. That action did not come until 1980 with the adoption of the Alaska National Interest Lands Conservation Act that allowed for *rural* – not Native – subsistence priority in times of resource scarcity. And while the subsistence battles are not yet settled, subsistence rights may have been more seriously undermined had it not been for the political and financial support of ANCs.

Regional Native corporations also created and supported cultural and educational camps and foundations. Some ANCs have dedicated funds within corporations that support Native cultures. Others have formed elders' councils to advise them on key decisions affecting the corporation. In 2001, Cook Inlet Regional Inc. (CIRI) donated \$30 million to its CIRI Foundation, which brought its total endowment to nearly \$50 million. Since its establishment, the foundation has awarded more than \$28 million in scholarships to Native beneficiaries.

It is well known that ANCs, as for-profit entities, use land to generate financial capital. However, less known are the provisions of ANCSA that have allowed regional ANCs to acquire historic and sacred sites for their cultural significance rather than their commercial value. In addition to its initial selec-

tion and conveyance of eighty-eight sites, Sealaska Corporation pursued an amendment to ANCSA that provided for its final land entitlement and included seventy-six additional historic sites – despite the fact that historic sites do not generate revenues and in fact incur management costs for Sealaska.

Five regional and five village Native corporations brought resolutions to their shareholders to vote on the issuance of stock to Natives born after 1971. In casting their vote, shareholders were, in essence, asked to choose between the group rights of Native societies and the individual rights of Western societies. The decision whether to enroll new shareholders also pitted financial gain against cultural values, as selling more stock would dilute stock value for the original shareholders, resulting in decreased future dividends.

In the end, several corporations voted for group rights over individual gain. The adoption of resolutions allowing for the enrollment of shareholder descendants provides a concrete, quantifiable measure of the persistence of Native cultural values and the rejection of Western values. For example, Sealaska – whose tribal shareholders have had the longest continuous contact with Western society and who might therefore be assumed to be the most assimilated – voted in 2007 with more than 56 percent of the voting shares to enroll Natives born after 1971. Moreover, they extended this right in perpetuity. To date, Sealaska's enrollment has increased from roughly sixteen thousand shareholders prior to the vote to more than twenty-two thousand. Further quantifiable evidence of the persistence of Native values is that Sealaska shareholders voted in 2009 by an overwhelming majority of 76 percent of voting shares to give Elders one hundred additional shares. This followed on an earlier action to give each Sealaska Elder \$2,000 upon reaching the age of sixty-five.

ANCSA has been amended multiple times to accommodate the desires and cultural values of Alaska Natives. In yielding to Alaska Natives and supporting amendments to ANCSA – notably the 1991 amendments – Congress has for now relented in its initial objective to use ANCSA as a means to assimilate Alaska Natives.

Native corporations have served as the primary framework for achieving economic prosperity for Alaska Natives, but poverty has not been eliminated for this demographic. Furthermore, tensions between resource development and subsistence land use have arisen throughout almost every region. A number of regional corporations have adopted policies that address protection of land and resources against adverse development impacts. In some instances, Native corporations have opposed development activities despite the potential financial gain. Perhaps the most widely known is Pebble Mine, a project to build one of the largest open-pit mines in North America in the Bristol Bay region, the heartland of one of the largest wild sockeye salmon fisheries. The Bristol Bay Native Corporation has taken a strong position against the proposed mine.<sup>20</sup>

Native cultures have persisted in varying degrees among the different cultural groups, but it is also evident that Alaska Native Corporations have contributed in many ways to the survival and even re-emergence of Native cultures and languages. First, Natives who were born after 1971 are now enrolled as shareholders of ten regional and village corporations. In addition to their cultural identity, Natives also identify themselves by citing their membership in a corporation. ANCs have also selected historic and sacred sites in their title agreements that remain important to Natives despite the fact that they do not provide economic benefits. Corporate leaders sought the enactment of federal legislation recognizing ANCs as tribes in order to se-



cure special statutory rights and benefits. ANCs also provide financial support to the AFN, whose primary mission is the protection of Native rights and culture. Native corporations also support cultural and educational affiliate organizations that provide educational and cultural benefits. Finally, Native corporations have consistently supported the protection of subsistence hunting and fishing rights, which are the underlying basis of Native culture.

William Hensley, a prominent Alaska Native leader, has contended that the ulti-

mate long-term goal has been to preserve a sense of tribal spirit and identity among shareholders in order to maintain ownership of the land, arguing that “once there is no connection between shares and one’s heritage, that will be the end of Alaska Natives.” While ANCSA undoubtedly contributed to the assimilation of many Natives into Western society, Alaska Native corporations have contributed to the cultural persistence of Alaska Native societies.

#### AUTHOR BIOGRAPHIES

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#### ENDNOTES

- <sup>1</sup> D’arcy McNickle, “Alaska – Getting Acquainted,” *Indians At Work*, November 15, 1936, 5 – 8.
- <sup>2</sup> Congress prohibited treaty-making with Indians in 1871. 25 U.S.C. § 71. Consequently, after 1871, relations with Indians would be governed by Acts of Congress and not by treaty.
- <sup>3</sup> See David S. Case and David A. Voluck, *Alaska Natives and American Laws* (Anchorage: University of Alaska Press, 2012), 244 – 245. See also Snyder Act, Act of November 2, 1921, 42 Stat. 208, as amended, 25 U.S. Code Amendment, § 13.
- <sup>4</sup> For a general discussion of ANCSA’s various provisions, see Nell Jessup Newton, ed., *Cohen’s Handbook of Federal Indian Law* (Lexis Nexis, 2012), 330 – 337.
- <sup>5</sup> For a discussion of the differences between for-profit tribal corporations under the Indian Reorganization Act and for-profit state-chartered corporations, see generally David S. Case and David A. Voluck, *Alaska Natives and American Laws* (Anchorage: University of Alaska Press, 2012).
- <sup>6</sup> Thomas R. Berger, *The Village Journey* (New York: Hill and Wang, 1985).
- <sup>7</sup> For an overview of ANCSA history, see Robert D. Arnold, ed., *Alaska Native Land Claims* (Anchorage: The Alaska Native Foundation, 1978).
- <sup>8</sup> Alaska Federation of Natives, *1991: Making It Work, A Guide to Public Law 100-241, 1987 Amendments to the Alaska Native Claims Settlement Act* (Anchorage: Alaska Federation of Natives, 1991).
- <sup>9</sup> Kenneth C. Bass, III, *The ANCSA Structure Beyond 1991: Patching Up or Total Revision?* (Anchorage: Alaska Federation of Natives, 1984).
- <sup>10</sup> Alaska Native Claims Settlement Act Amendments of 1987, Pub. L. No. 100-241, 101 Stat. 1788 (1987) (to be codified at 43 U.S.C. §§ 1601 – 1628 [hereinafter 1991 Amendments]).
- <sup>11</sup> Janie Leask, “1991 Update: Where Do We Stand?” *Alaska Native News*, June 1987.

- <sup>12</sup> *American Indian Policy Review Commission Final Report: Submitted to Congress May 17, 1977* (Washington, D.C.: U.S. Government Printing Office, 1977).
- <sup>13</sup> Compare *Native Village of Stevens v. Alaska Management & Planning*, 757 P.2d 32, 34 (Alaska 1988) – “We conclude that Stevens Village does not have sovereign immunity, because it like most native groups in Alaska, is not self-governing or in any meaningful sense sovereign” – with *Native Village of Venetie I.R.A. v. Alaska*, 918 F.2d 797 (9th Cir. 1990), which held that the Native Villages of Venetie and Fort Yukon satisfied criteria for determining whether they were a “tribe or band” with a “duly recognized” governing body for purposes of invoking federal jurisdiction to enforce the Indian Child Welfare Act.
- <sup>14</sup> “Governmental Jurisdiction of Alaska Native Villages Over Land and Nonmembers,” Solicitor’s Opinion M – 36975, January 11, 1993.
- <sup>15</sup> See *John v. Baker*, 982 P.2d 738 (Alaska 1999); *In re C.R.H.*, 29 P.3d 849 (Alaska 2001); and *McCrary v. Ivanoff Bay Vill.*, 265 P.3d 337 (Alaska 2011).
- <sup>16</sup> *Alaska v. Native Village of Venetie*, 522 U.S. 520 (1998).
- <sup>17</sup> *Ibid.*
- <sup>18</sup> Lisa Demer, “Tribal Banishment of Togiak Non-Native Draws State Investigation,” *Anchorage Daily News*, April 4, 2017, <https://www.adn.com/alaska-news/rural-alaska/2017/04/03/governor-state-officials-examining-recent-banishment-of-a-togiak-man-who-is-non-native/>.
- <sup>19</sup> Jahna Lindemuth, “Attorney General Opinion: Legal Status of Tribal Governments in Alaska,” October 17, 2017, <https://aws.state.ak.us/OnlinePublicNotices/Notices/Attachment.aspx?id=109718>.
- <sup>20</sup> Bristol Bay Native Corporation, “BBNC Responds to PLP and AES Regulatory and Technical Services,” June 13, 2017, <https://www.bbnc.net/bbnc-responds-to-plp-and-aes-regulatory-and-technical-services-agreement/>.