S. HRG. 107–88

# GOALS AND PRIORITIES OF THE ALASKA NATIVE COMMUNITY

## HEARING

BEFORE THE

## COMMITTEE ON INDIAN AFFAIRS
## UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

ON

TO RECEIVE THE VIEWS OF THE ALASKA NATIVE COMMUNITY REGARDING GOALS AND PRIORITIES OF ALASKA NATIVES

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# GOALS AND PRIORITIES OF THE ALASKA NATIVE COMMUNITY

**THURSDAY, MAY 10, 2001**

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
*Washington, DC.*

The committee met, pursuant to notice, at 2:45 p.m., in room 485 Russell Senate Office Building, Hon. Daniel K. Inouye (vice chairman of the committee) presiding.

Present: Senators Inouye and Murkowski.

## STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI [assuming Chair]. We have a few votes on. Senator Inouye is chairing this hearing and he is coming over immediately.

We have Norm Ream, president of the Thirteenth Regional Corporation; Julie Roberts, a board member of the AFN; Ed Thomas, president of the Tlingit and Haida Central Council; Roy Hundorff, cochair of the AFN board; and I do not know who else I have missed. Have we missed anybody? Yes, we have missed several. We have Mike Williams, Vernita Herdman, Matthew Nicolai, Ed Thomas. Who else have I missed? Chris McNeil. I do not know how many witnesses we have got. Of course, we have got Julie, who arranged this, but she did not give me a list of everybody who was supposed to be here. She and I were supposed to meet one-half hour ago to get the list. But we have got Al Ketzler, of course, in the front row; Loretta Bullard; Rita Stevens. Now, have I missed anybody? This is supposedly the witness list. If we have got anymore, we will somehow manage to accommodate additional witnesses.

In any event, we do thank you for appearing. You have got an important message to give us, and we want to get the views of the AFN with regard to this oversight committee hearing. As you may or may not know, I am the senior member of the Committee on Indian Affairs on the Republican side. I value the fact that my constituents have come such a great distance to present their focus on the important issues before Alaska's Native community. I certainly appreciate the fact that we are here holding this hearing today and on the issues that are of importance to you folks as well as the U.S. Senate.

This time change was made to accommodate me particularly because I had an extensive hearing this morning with the Secretary

of Energy, who will be coming up to Alaska, Spencer Abraham, and he presented his budget before the U.S. Senate this morning. So we did switch the hearing to allow me an opportunity to be here.

As I examine the issues that will be addressed, I think it is clear that there are many needs that must be addressed, and this is an opportunity to get them on the record. But I want to take a moment to discuss one issue that has been receiving a great deal of attention in recent months, and that is the matter of relations between natives and non-natives in my State of Alaska.

We certainly all abhor racial bias anywhere that it occurs, either in our own country or overseas. We are one of the few nations, as you know, that has a Civil Rights Commission to enforce the rights of all American citizens. Now, the State of Alaska is not without incidents of bias and prejudice. Yet I think most Alaskans would agree that we are one; we are one in the sense that we are Alaskans and under our State Constitution there is no special class of Alaskans. In fact, many Alaskans believe that we can, and should, be a model for the world in the way our many diverse cultures live and work together, and have in the past. I think it is fair to say that we do interchange between Alaska Native and Native Alaskan oftentimes without the reflection on the true meaning of which is which.

In Anchorage, we have a group called "bridge builders," made up of over 1,000 people from 60 cultures in our State who are citizens of our State and represent all of the world's constituents and major religious traditions. I think it is interesting to reflect on their goal, because their goal is to create the first city without prejudice. The significance of that is that they have a goal. The focus of bridge builders is to build on the positive advantages diversity brings to the Alaska community, and I stress positive advantages that diversity brings. Through understanding and acceptance, they are working to build a community of tolerance and mutual respect instead of distrust and fear that often leads to hate and violence.

I think we must all reflect on recent incidents of violence against Alaskans which we find unjust and which we find unacceptable. We cannot tolerate violence or hateful actions against anyone. Prosecution and prompt justice must be leveled at those responsible for such reprehensible acts, and we must pursue and foreclose upon other investigations of unresolved incidents among Alaskans. But most important, we must come together—and that is, come together as a bridge builder, as they are doing in Anchorage, to ensure that such incidents do not occur again. I emphasize we want to take advantage of our experience to ensure that we make a better life and better opportunities for those who are coming in our footsteps.

We must also continue to support our Federal and our State officials who are responsible for justice in rural Alaska. In many of our smaller communities we have rape, we have incest, domestic violence, some are not even reported, and much of it goes unprosecuted. This is not a good message to send anywhere, but particularly to our young people. I am very supportive of the recent expansion of the Village Public Safety Officer programs [VPSO] which was passed. The Alaska legislature in the last meeting on Tuesday increased the parole responsibilities, allowing parolees

from rural communities the option of returning to rural Alaska where they have family and cultural support. VPSO's will receive a pay increase of 11 percent, have State retirement benefits, as well as career advancement opportunities.

This was one of the recommendations of the Alaska Native Commission that I believe will improve the lives of those living in rural Alaska. Now maybe this is not enough, but it certainly is moving forward in the right direction. And, yes, it is important to bring these matters to the forefront for discussion and to identify the adequacy of our enforcement agencies to be responsible in enforcing laws. But equally important is to reach out to rural Alaskans where the problems of alcohol, drugs, and violence against women occur with intolerable frequency. And I believe that improving the VPSO programs will help in that direction.

Some of you know that I am currently working with the Alaska Native health providers to make significant improvements to the reauthorization of the Indian Health Care Improvement Act of 2001. These changes will provide more flexibility with the current service as well as expanding the options for treatment of chemical dependency, inhalant, and behavioral disorders. I believe that more attention should be given these areas and to victims, particularly young women. I think the young women in rural Alaska should have available to them a lifeline to a shelter when it is needed. These are among a few of the immediate needs in much of rural Alaska.

But I also want to express my belief that actions which may polarize Natives and non-Natives, as we all know, are counterproductive. So we all must be very careful how we proceed to address our shared concerns. I want to make it clear that I want to work with all Alaskans and ensure that no Alaskan suffers any form of discrimination. I think we would all agree this is best achieved by dialogue, not confrontation. It is my hope that when the U.S. Civil Rights Commission conducts hearings in Alaska this summer the hearings will allow all sides to present a fair and objective view of Alaska.

I am very, very, very concerned about efforts that are underway by the AFN to participate in the U.N. Conference on Racism later this year. I really fear that the concerns of Alaska Natives may be used improperly by countries whose primary purpose is to undermine the credibility of the United States. I do not suggest that the voices of Alaska Natives should be muted in any way. But it is the history of these United Nation conferences that I really question. As some of you know, the U.N.-sponsored conference has had little credibility except for those who will use the findings to issue anti–American propaganda.

I think all of us should take notice that last week the United States was voted off the U.N. Commission on Human Rights. One of the new members added was Sudan, a country that currently engages in, yes, slavery. Sudan as a member of the U.N. Commission on Human Rights is a country where people are being bought and sold every day. The other country of criticism on that Commission is Libya, where things are not much better. This up and coming U.N. conference could very well be a sham and I urge the AFN to reconsider its position in this U.N.-sponsored conference.

As a country faithful to the rule of law and the equity of all its citizens, and as Alaskans bound together under challenging conditions with dreams of greatness for our great land, I know we can seize the opportunity presented by crimes of hate and try and come together in a spirit of forgiveness. I cannot help but reflect on the comments of Will Mayo, the former president of the town of our Chiefs Conference, when he spoke at a recent healing ceremony between the Alaska Native Heritage Center in anchorage about the need to seek forgiveness—first, from those that we have hurt, and then from those who would hurt us through their words and actions, however stark or subtle. Well, Will Mayo went further to say,

Forgiveness notwithstanding, we are not absolved from our responsibility to speak out publicly. Doing so, however, must come from a clear heart rather than from a clutter of anger and recrimination. We must offer solutions and not offer blame.

Well, with the eloquent words of Mr. Mayo in mind, I look forward to proceeding with this hearing. I would ask that Mr. Mayo's speech as printed be part of the record as it was offered in Sunday's edition of the Anchorage News. Without objection, it will be so ordered.

[Referenced material appears in appendix.]

Senator MURKOWSKI. I would encourage the witnesses to come. I am told that Senator Inouye is not feeling well and that is why he is not here. But he hopes to be on his way and join us later. He asked me to proceed with the statements. The first witness I understand is your president, Julie Kitka.

Julie, we wish you a good afternoon.

## STATEMENT OF JULIE KITKA, PRESIDENT, ALASKA FEDERATION OF NATIVES, ANCHORAGE, AK

Ms. KITKA. Thank you, Senator Murkowski. For the record, my name is Julie Kitka. I am the president of the Alaska Federation of Natives. I want to thank you, Senator Murkowski, Vice Chairman Inouye, and Chairman Campbell for holding this hearing today and allowing the Alaska Native community an opportunity to identify and put into the record some of the key issues facing Alaska Natives, both some of our congressional priorities as well as some of our needs. I will be very brief in my comments because we have so many of our membership here and I do not want to take up their time, and since they are here they should be allowed to testify.

First of all, I would like to invite the Senate Committee on Indian Affairs to come to Alaska this summer or fall. I hope the committee members will look at their schedules and hopefully will come up and travel to some of our communities.

Senator MURKOWSKI. I would instruct that the professional staff will extend that invitation by letter signed by the Chairman and Cochairman to each individual member inviting the committee to Alaska on behalf of the AFN. Please proceed, Julie.

Ms. KITKA. Thank you, Senator. I also want to put into the record three different reports and studies. The first one is the AFN implementation study which is a congressionally mandated study that AFN produced for the Congress. We released it in December 1999, and I believe this is the first hearing that it could be a subject of. And just for the Congressional Record, I would like to submit that for the record.

Senator MURKOWSKI. Without objection.

[Referenced report appears in appendix.]

Ms. KITKA. The purpose of that study was to recommend to the Congress ways to implement the Alaska Native Commission Report, and we feel that it has got a lot of really good, practical ideas. We are also in the process of wanting to update that to add new ideas to that study and would like to be able to bring that to the committee's attention.

Senator MURKOWSKI. Senator Inouye has joined us. I have made my opening statement, so you missed a rather extended series of remarks, and we have just started with the first witness.

## STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

Senator INOUYE [ASSUMING CHAIR]. First, my apologies for being late. I usually am prompt. But today we had a few problems.

As you know, we are here to receive testimony from representatives of the Alaska Federation of Natives on their goals and priorities for this Congress. We look forward to receiving your testimony. I would like to say that we are well aware that the U.S. Commission on Civil Rights recently decided to hold hearings in Alaska. We also have been made aware of recent court rulings, so we recognize that you have a full platter. But what we would like to know is what your priorities are for legislative action in this sesion of the Congress. This is one of a series of hearings that we will be conducting to receive testimony from the whole spectrum of the Native peoples of this land.

So, Julie, I am sorry I was not here to hear your testimony but I will read it.

Ms. KITKA. Thank you, Senator. I was just putting some different things in the record. The second one I wanted to put into the record is the AFN Federal issues packet of the congressional priorities we have for this Congress. There are a lot of issues and we do not want to cover all of them today but we wanted to put them into the record.

The third report I wanted to put in the record is a 5-page summary and a 19-page brief with 150 pages of attachments that we provided to the U.S. Civil Rights Commission. And just for the record, we wanted the committee to have those.

The last report we wanted to submit within the 30 days is we are almost completed with a draft position paper on rural energy issues as far as the Native people of Alaska is concerned, and we want to share that both with the Energy Committee as well as the Indian Affairs Committee.

Senator INOUYE. They will be made a part of the record.

[Referenced materials appear in appendix.]

Ms. KITKA. We very much hope that the committee might come up to Alaska this summer or this fall. I had one final issue I wanted to raise prior to turning it over to the rest of the panel members because of the short timeframe. I did want to respond briefly to Senator Murkowski's comments in regard to the World Conference Against Racism, Racial Discrimination, Xenophobia, and Intolerance. The main reason why that conference got our attention is the purpose of that conference is to look at practical ways that people can deal with these issues. That is what we were looking for is the

sharing of information between now and the conference of what people are doing to deal with those issues.

As far as Native people, we reccgnize that there are over 300 million indigenous people in the world scattered over 70 countries and many of them will also be partnering and pulling together and participating, looking at practical ways that they can protect their people and advance their people in their homelands on these issues. Our number cne priority is trying to make those connections with these indigenous people around the world. In Canada, for example, there are 1,000 native villages and a lot of the same concerns socially and economically as we have. And so that is what our primary goal in this World Conference is.

Senator MURKOWSKI. As you noted, in my opening statement I am particularly condemning the credibility of the U.N. in removing the United States, which has been a world leader without exception in the issue of human rights, and putting in a country like Sudan that practices slavery. I think that suggests that we not give much credibility to the U.N. Human Rights Commission structure in that decisionmaking process. I do not differ with you in your objectives, but I think they need a strong message from the United States.

Ms. KITKA. I just wanted to put in the record what we were looking for out of this process is those practical strategies and recommendations, the networking with the other indigenous people around the world as well as other minority groups. We do believe it is a historic opportunity for us to learn from other Native people around the world as well as share both our positive experiences and some of the challenges that we face with other people.

Senator MURKOWSKI. But be careful you do not get used, all right? Because my message is very strong and clear. They look to groups to extend their propaganda relative to the inconsistencies and not practice what they preach.

Ms. KITKA. Thank you, Senator.

Senator INOUYE. Are you finished?

Ms. KITKA. Yes; the rest we will reserve to put it in written comments as well as attachments.

[Prepared statement of Ms. Kitka appears in appendix.]

Senator INOUYE. Before I call upon the first panel, may I ask a question of you in your capacity as president of the Alaska Federation of Natives. One of the most contentious and controversial matters that this Congress will be debating in this session will be the Artic National Wildlife Refuge [ANWR] and ANWR is your backyard. What is the position of your organization on the openning of ANWR foe exploration?

Ms. KITKA. The position of the Alaska Federation of Natives, I believe it was in 1996 we had board meeting as well as convention discussion and debate on that, and the Alaska Federation of Natives supports the responsible opening of ANWR with adequate safeguards and regulation of the industry. And so we are in support of that.

We also are in support of the Gwich'in people having an opportunity to sit at the table and have some of their issues and concerns addressed and that they not be ignored in that.

Senator INOUYE. Thank you very much.

Now, may I recognize members of the first panel. Loretta Bullard, executive director of the Kawerak Inc. of Nome; Alfred Ketzler, Sr., chief administrative officer, Tanana Chiefs Conference, of Fairbanks; Rita Stevens, Kodiak Area Native Association of Kodiak; and Edward K. Thomas, president, Tlingit and Haida Indian Tribes of Alaska.

May I first recognize Ms. Bullard.

**STATEMENT OF LORETTA BULLARD, PRESIDENT, KAWERAK INC., NOME, AK, ACCOMPANIED BY TERRY HOEFFERLE, BRISTOL BAY NATIVE ASSOCIATION**

Ms. BULLARD. Thank you, Senator Murkowski and Senator Inouye, for this opportunity to testify. I am president of Kawerak Inc., which is a regional nonprofit in Northwest Alaska, and also the chair of the AFN Human Resources Committee which is an association of the regional nonprofits around the State. I will be testifying on several issues.

The first issue is dealing with the Indian Reservation Roads funds. For the past 2 years I have been serving on the negotiated rulemaking committee for the Indian Reservation Roads Program. I am encouraging this committee as well as our Alaska congressional delegation to seriously explore the idea of creating a set aside of Indian Reservation Roads funds for the State of Alaska. Currently under the formula that is in place through the Indian Reservation Roads Program, 80 percent of the funds are allocated based on your existing roads or existing vehicle miles traveled. The remaining 20 percent is based on population. It does not address the need for new road construction. And because Alaska started from just about zero infrastructure in terms of our roads, we are getting very little funds through that process. And so I encourage this committee to look at that issue.

The second issue that I wanted to bring to the attention of the committee is last spring or fall our AFN Human Resources Committee attorneys had developed a bill for consideration, and submitted to the Alaska congressional delegation, which deals with providing the authority to our Indian Reorganization Act or traditional councils giving them the authority to enforce alcohol and substance issues at the village level in rural Alaska. We do have Village Public Safety Officers, which Senator Murkowski mentioned, in about 80 of our villages in the State of Alaska. That leaves approximately probably 160 communities with very little or no law enforcement. We do have State troopers in our regional centers, but between the weather and the fact that they are short staffed, we have situations occurring in our villages where it will take the troopers anywhere from 2 days to 2 weeks to respond. These are serious situations, these are not misdemeanors. For the most part, misdemeanors and those issues do not get addressed whatsoever, only felony situations get addressed.

Our communities in which the IRA traditional councils have exercised their authority are the communities where a lot of the situations that alcohol contributes to have been prevented. So we strongly encourage that that bill be introduced.

The third issue I want to speak to is Federal lands contracting. A number of years ago when the title IV amendments were passed

which authorized compacting of the Department of the Interior functions other than just the Bureau of Indian Affairs [BIA] we looked at that as an opportunity compact for some of the management of Federal functions in the State of Alaska associated with National Park Service and other Federal units and preserves in the State of Alaska. Currently, the Department of the Interior is interpreting that language as being purely discretionary on their part.

So, again, we had our regional nonprofit attorneys assist in drafting language which we support, that would provide that authority to the native organizations and entities in the State of Alaska to do a demonstration project to contract for the management of some of those lands and units in the State of Alaska. Two-thirds of the State is owned by the Federal Government and there are I think opportunities for employment as well as the opportunity to help manage the resources in the State, and we would very much like that opportunity.

In closing, I just wanted to mention that we wanted to express our appreciation to Senator Campbell, although he is not here, for S. 344, which would amend the TEA-21 Act to allow for a pilot project between Indian tribes and Federal Highways for contracting of those dollars directly.

We also wanted to express support for Don Young's contract support bill that he has developed to amend Public Law 93–638. Also the Indian Child Welfare Act amendments which have been developed.

We know that language has not been finalized yet, but we understand that there is a workgroup of tribal attorneys as well as tribal leaders that are involved in helping draft some amendments to title IV that would make title IV more consistent with title V. We would just like to express that we support that concept also.

Thank you for this opportunity to testify.

[Prepared statement of Ms. Bullard appears in appendix.]

Senator INOUYE. May I ask questions as we go along. You have indicated in your prepared testimony that because the State objected to your proposal on enforcement of alcohol and substance abuse laws the proposal was not introduced. Are you able to work it out with the State?

Ms. BULLARD. We had a meeting with the attorney general and number of commissioners about 2 months ago, maybe 3 months ago in February. We thought that we were going to have an avenue to sit down with the State and address rural law enforcement and rural justice issues. We thought we had that agreement, but then we received a letter from the attorney general which was saying that they would not sit down and talk with us on those issues until such time as the AITC lawsuit against the State of Alaska for discriminatory law enforcement in the bush was dropped or set aside. We certainly do not have any authority over AITC to tell them to drop that lawsuit. So, at this point right now, I do not really see that there is an avenue to address those issues.

Senator INOUYE. On the matter of funding for roads and highways, are you suggesting we should have one system for Alaska and another for the other 48 States?

Ms. BULLARD. Yes; I am. The funding system that is currently in place allocates money based on your existing roads. In Alaska we have very few roads, and so that system does not work for us.

Senator INOUYE. Very few of my colleagues on this committee, other than, obviously, the Senators from Alaska, have gone beyond the Arctic Circle. So, I doubt if too many of my colleagues have any idea of what life is like there. Can you provide us with a map pointing out where the villages are and what roads have already been put in place and what roads you need?

Ms. BULLARD. There are very few roads in the State. Currently, the BIA is looking at making some funds available to each of the IRA and traditional councils across the Nation that would allow the IRA and traditional councils to do an inventory of their current as well as their projected roads needs. Those dollars have not been made available. In Alaska, the BIA had only identified each IRA and traditional councils communities one project per village.

Senator INOUYE. Well, if you would give us a map so I can show it to my colleagues as to where they are all located.

Ms. BULLARD. Sure.

Senator INOUYE. I have been to many of the villages but most of my colleagues have gone only to Juneau, have gone to Anchorage, and Fairbanks.

Senator MURKOWSKI. I would point out one thing. These roads pretty much are within the villages. The ability to connect the villages is a task that is beyond the realm of funding for all practical purposes. So you should understand it is relatively limited.

Senator INOUYE. Impossible to do it?

Senator MURKOWSKI. Well, it is not impossible, but pretty close. Senator Stevens has been known to do the impossible from time to time. But we have fewer paved roads than Vermont. Vermont has got twice as many roads as we do.

I think you had something to say, Ms. Bullard?

Ms. BULLARD. I was going to say that, for example, we do have one road in our region that connects two of our communities and that was a BIA road that was done 7 years ago or so. It happens once in a while.

Senator INOUYE. May I now recognize Mr. Ketzler.

## STATEMENT OF ALFRED KETZLER, SR., CHIEF ADMINISTRATIVE OFFICER, TANANA CHIEFS CONFERENCE, INC.

Mr. KETZLER. Thank you, Mr. Chairman, members of the committee. For the AFN, today I will speak to four issues. The first is subsistence and subsistence management. Two decades ago we saw wildlife shortages within Alaska that drove us to seek protections in Congress. We now see some of the fruits of these congressional actions in our hunting areas as a result of Federal and State co-management.

The success of co-management in navigable waters is partially dependent upon cooperation of both partners. Although the State of Alaska has enacted a Memorandum of Understanding with the Federal Office of Subsistence Management with regard to subsistence fishing, both parties are drawn into two distinctly different directions as managers.

Congress should not enact any amendments to title VIII of ANILCA that weakens current Federal protections of subsistence, or eliminate secretarial oversight or authority when the State is in compliance with Federal law, or allow State agencies discretion to define customary trade.

The next issue I would like to speak to is on suicide within the State of Alaska, particularly in the rural communities. As pointed out in AFN's "A Call to Action," which was published in 1989, also published as a Pulitzer Prize-winning series by the Anchorage Daily News of "A People in Peril" in 1988, a suicide typically occurs when an individual experiences overwhelming pain that exceeds their coping capabilities. Stress on the family, loss of health, job, home, money, status, or personal security can cause an individual to commit suicide. Clinical depression, where a person feels worthless, hopeless, shame, guilt, and self-hatred is highly correlated with suicide. It is also well know that prolonged alcohol abuse leads to depression and therefore can lead to suicide.

Given these reasons why one may commit suicide, coupled with Alaska Native Commission's findings, it is more than apparent why suicide is happening in epidemic proportions among rural Alaska Natives. That is, every possible reason for a person to commit suicide is operating in many Alaska Native communities.

On title IV-E of the Social Security Act and tribal access, title IV-E is a critical source of funding for foster care and adoption services in the United States. Although the title IV-E program was intended by Congress to service all eligible children, American Indian children under tribal court jurisdiction do not enjoy the same entitlement to title IV-E as other children. Title IV-E does not provide funds for children placed by tribal courts or for tribal governments providing foster care and adoption services to children under their jurisdiction.

For the past 15 years, tribes have engaged the State of Alaska without success in discussions regarding pass through access to title IV-E funding to help pay for the cost of foster care for children in tribal custody. Over the past seven years, approximately half of all the tribal children in protective custody in regions like the Tanana Chiefs service area of Alaska have been under the jurisdiction of its member tribes and half under the jurisdiction of the State.

It is estimated that 75 to 85 percent of the children currently in tribal foster care would be eligible for foster care maintenance reimbursements under title IV-E.

Tribes in Alaska have been forced to finance foster care for children in tribal custody through alternative funding such as BIA social services and the Temporary Assistance for Needy Family programs. Tribes should not have to finance child welfare services with limited funding that Congress intended to focus on other social issues.

S. 550 has been introduced which rectifies this oversight. This bill has been developed with the consensus of tribes nationally and is endorsed by the American Public Human Service Association. We recommend that this committee lend its full support of this bill.

The final issue is self-governance. I would ask this committee to work diligently with tribal leaders to endorse amendments to title

IV of Public Law 93–638, amendments that would empower tribes to extend their capacities to operate tribal governments, enabling more effective performance when battling difficult community problems such as alcohol, child welfare, education, public safety, resource management, and environmental protection. Passage of these amendments should also reverse the impediments and restrictions included in the title IV Self-Governance Regulations.

Any significant change to Federal statute, regulation, or policy must be the result of true consultation meetings with tribal leaders using consensual mechanisms for developing these changes. It cannot be a "listen to tribes and proceed as usual" approach.

Pursuant to Public Law 93–638, title IV, Alaska tribes insist on better efforts from the Department of the Interior non-BIA agencies to negotiate with tribes in developing self-governance compacts and funding agreements. Alaska tribes would like to also work with DHHS non-IHS agencies to negotiate and enter into compacts and funding agreements. We therefore urge this committee to endorse passage of title VI to Public Law 93–638 that would allow tribes to negotiate self-governance compacts and funding agreements with these DHHS agencies.

We will at a later date submit the amendments as part of our testimony. And I thank you very much for the opportunity to be here and testify.

[Prepared statement of Mr. Ketzler appears in appendix.]

Senator INOUYE. Thank you very much. Do you have suggested language to bring about a solution to the different management schemes provided by the State and the Federal on subsistence?

Mr. KETZLER. On subsistence, not really. I am not the resident expert on subsistence, so I really could not tell you.

Senator INOUYE. I believe your testimony cites the situation where the Federal agency and the State agency do not see eye to eye and, as a result, nothing happens.

Mr. KETZLER. Right. That is with the State and, of course, their position and the Federal authorities.

Senator MURKOWSKI. Senator Inouye, as you know, the Federal is enforcing the subsistence provision. But it is not resolved.

Senator INOUYE. On the matter of the suicide prevention specialists, are you suggesting that this be a Federal position?

Mr. KETZLER. Yes.

Senator INOUYE. Under what agency would that specialist be operating?

Mr. KETZLER. It could come either with the BIA programs under the social services or under the Indian Health Service and their social program.

Senator INOUYE. So you are suggesting a line item directing these agencies to hire a specialist?

Mr. KETZLER. Yes; Also, the State of Alaska has passed some legislation creating a commission to study the issue because not only in rural Alaska but in Anchorage there has been a series of suicides that came to their attention. They are looking at the whole State to try to determine what all the causes are.

Senator INOUYE. When will the amendments that you referred to be made available?

Mr. KETZLER. I have them with me. I did not include them in my packet because they are 29 pages long.

Senator INOUYE. I would suggest you provide that as soon as possible.

Mr. KETZLER. All right. Thank you. We will.

Senator INOUYE. Senator Murkowski.

Senator MURKOWSKI. I think your questions are certainly provoking, Senator. There is a combination of causes. One is the lack of any identifiable job opportunity among some and despair among others. My own view is if you have the responsible job opportunities you have a way of perpetuating pride in your accomplishments and contribution. But, unfortunately, in many areas the job opportunities are pretty much limited to local and Federal Government.

Senator INOUYE. I notice the unemployment is 50 percent in some villages.

Senator MURKOWSKI. Well, yes, some villages. What we have tried to do in Alaska, and it is very controversial and may upset some people to say this, but we have tried to maintain and assist the cultures in their traditional areas through funding mechanisms, yourself, Senator Stevens, and others, and still tried to maintain an environment where the young people would want to come back. And some do. But the reality is the prospects for job opportunities in some of the areas are very limited. Regional village corporations have I think made significant progress and some regions are more fortunate than others. The development of the Red Dog zinc mine has had extraordinary employment opportunities in an area of Western Alaska that did not exist before.

So what we are attempting to do is a difficult thing to do. This is not a good comparison but it is a reality. During the Depression if you could not make it on the farm you went to the city. That really happened in America. And it was done out of necessity because there was no safety net. To some extent, through assistance and various programs, we have provided somewhat of a safety net. But by the same token, the development of the village and regional corporations have provided significant opportunity and self-development from within. So I think things are difficult but they are in transition and I think things are getting overall better rather getting worse. Some might disagree with me.

Senator INOUYE. Thank you very much.

May I now call upon Ms. Stevens.

## STATEMENT OF RITA STEVENS, KODIAK AREA NATIVE ASSOCIATION, KODIAK, AK

Ms. STEVENS. Thank you, Senator Inouye. Mr. Chairman, members of the Senate Committee on Indian Affairs, my name is Rita Stevens, and I am a board member of the Alaska Federation of Natives and serve on the Human Resource Committee. I am also president and CEO for the Kodiak Area Native Association. I want to thank you and am very grateful for the opportunity to be here before you today to testify on Alaska Native issues that we hope will be addressed in this 107th Congress. I will mainly be addressing family resource centers, the reauthorization of the Indian Health Care Improvement Act, contract support costs, and the need for improved access to advanced telecommunications services.

The family resource centers. The Alaska Federation of Natives Human Resources Committee requests that Congress enact legislation establishing a 5-year family resource demonstration project in rural regions of Alaska. Families in rural Alaska face many difficult challenges. Incidents of child abuse, neglect, drug abuse, domestic violence are common in rural Alaska. Rural Alaska suffers from high rates of criminal behavior, Fetal Alcohol Syndrome and Effect, teen pregnancy, alcohol related deaths, and suicide. We need family resource centers in the rural areas to attempt to address these issues.

There are currently some resources available to address these needs, but most of these support programs and services are not easily accessible to Alaska's rural communities, making it difficult and costly to benefit from them. The Human Resources Committee believes that more must be done to provide resources that are easily accessible to Alaska's rural families. The AFN implementation study recommends the establishment of a major demonstration program in Alaska to provide the family resource centers. These centers would provide a focal point for all programs for children and families, including: Adult basic education, before and after school outreach, child care, Head Start, healthy families, employment training, general assistance, and so forth.

Consolidating programs and services in family resource centers in each village would ensure that rural families have access to the kinds of support programs and services available to urban families.

We recommend a 5-year demonstration project that would establish block grant funding for the consolidation of programs and services for children and families; provide participation grants to encourage integration of governmental services; and allow for development of integrated programs in rural communities. We further recommend that the demonstration projects be conducted with the most directly affected Native regional nonprofits with experience in social service programs.

The Indian Health Care Improvement Act Reauthorization. The AFN Human Resources Committee also supports the reauthorization of the Indian Health Care Improvement Act, as provided for in S. 212. The Indian Health Care Improvement Act was enacted in 1976 and is now due for reauthorization to continue the Federal provision of health care services to Native people. Since its enactment, the Act has reduced serious illness and resulted in a healthier Native community.

Nonetheless, there is still much work to be done to raise the health status of the native people to a level equal to that of the general population. For instance, even with the improvements made over the years, native people suffer a death rate from alcoholism that is 627 percent higher than that of the general population. Death from tuberculosis is 533 percent higher, and death from diabetes is 249 percent higher. This is not acceptable, and S. 212 goes far to addressing these needs.

AFN also supports the core principle of self-determination embodied in the act, an area where our Alaska regional health care providers have been national leaders. S. 212 builds upon our achievements under the Indian Self-Determination Act.

It is important to note that S. 212 was drafted with the input of tribes, tribal organizations, urban Indian organizations, and health care providers, and that many Alaska Native health organizations were deeply involved in this process. S. 212 reflects this very substantial Alaska Native participation, which is why AFN strongly urges Congress to pass S. 212 this year. The future health of our native people depends on it.

Contract support cost shortfalls. With regard to contract support costs, AFN calls upon Congress to enact legislation to make contract support cost funding a guarantee, so that tribal organizations at the forefront of self-determination and self-governance compacting are not penalized for their efforts. Alaska's regional nonprofit health and social service providers continue to suffer from severe contract support shortfalls. As you know, we only reserve a fixed amount of IHS and BIA funding to carryout our significantly under-funded health and social services programs.

We receive only what the IHS or BIA had to run their programs. The result of the contract support shortfall is therefore a dollar-for-dollar further reduction in the funding that would otherwise provide desperately needed health and social services to Alaska's Native people. Therefore, we recommend that the Senate introduce and promptly pass legislation modeled after last year's House bill, H.R. 4148.

The access to telecommunication services. Our Resource Committee also requests that Congress ensure Alaska Native service providers and rural villages have affordable access to advanced telecommunications services. Alaska Native regional nonprofit corporations are trying to deliver educational and social services to tribal members in rural Alaska. But telecommunication services required to do this costs 10 times more than in urban Alaska. There is an increasing need for up-to-date technology to allow the regional nonprofits to deliver vocational education, adult literacy, social services, economic development, and other services to rural Alaska villages.

The universal service programs have significantly narrowed the digital divide in many places around the country, but at the same time have not yet reached all rural Alaskan communities. Schools, libraries, and health clinics are able to access the Internet at reasonable rates, but community members and businesses cannot. Further, in regions where the regional nonprofit health corporation, funded by IHS, is separate from the regional nonprofit social service agency, which is funded by BIA, only the health corporation is eligible for improved Internet access. This limitation prevents the distribution of core educational and social service programs under existing law.

The cost of providing advanced telecommunications services in Alaska will remain high because these services must be provided via satellite. But these services are needed to revolutionize the way Alaska's nonprofits deliver social and educational services. Therefore, we urge Congress to modify the existing universal service programs to allow Alaska's nonprofit regional corporations to more efficiently provide services to rural Alaska, and to provide reasonably priced Internet access to village residents.

We recommend one of the following steps: First, an amendment to section 254(h)(1)(A) of the Telecommunications Act to clearly identify Alaska nonprofits as eligible entities for universal service support; or, second, direct the Federal Communications Commission [FCC] or the Joint Federal-State Board to provide Alaska Native regional nonprofits with universal service support equal to that provided to rural health providers, as called for in section 254(b)(7) of the Telecommunications Act; or, third, amend the Telecommunications Act so that schools, health care providers, or other eligible entities in rural Alaska villages become Internet service providers on a not-for-profit basis as universal service rates.

Before closing, I would wish to briefly address two additional areas of concern to our regional Native health and social services providers.

First, Congress needs to promptly close the loophole that is forcing our regional tribal organizations in Alaska, but nowhere else, to engage in collective bargaining under the threat of crippling strikes against our Alaska Native-operated IHS hospitals. This action, promoted by the National Labor Relations Board, is based on a distinction that the DC. Circuit Court of Appeals last December called "irrelevant;" namely, that our IHS hospitals and clinics are not technically on "reservations." We need to be clear: If the Kodiak Area Native Association or any other Alaska Native regional health care provider faces a strike, the result will be devastating to our people, for whom we are the only health care provider. We therefore urgently call upon Congress to close this loophole by amending the Indian Self-Determination Act as proposed last year in section 515 of S. 979.

Second, we call upon Congress to revisit and amend the 1978 Indian Child Welfare Act. Although this bold act has greatly improved the future of our native children, 23 years of experience has shown many areas where further improvements can be made. Alaska regional nonprofits, tribes, States, and adoption attorneys have all worked very hard over several years to develop and refine a mutually acceptable package of amendments to be shortly introduced in the House by Congressman Young. We respectfully urge the committee to introduce parallel legislation, so that these long-awaited improvements can finally be enacted.

Mr. Chairman, I want to thank you and express my appreciation to you and the committee for this opportunity to testify on these important issues faced by Alaska's Native people. Thank you.

[Prepared statement of Ms. Stevens appears in appendix.]

Senator INOUYE. Thank you very much, Ms. Stevens. On the 5-year demonstration project for family resource centers, are you suggesting that every village have one?

Ms. STEVENS. If you do not mind, and with your permission, Mr. Chairman, I would like to refer that to one of our AFN committee resource members for clarification. Terry Hoefferle.

Mr. HOEFFERLE. Senator Inouye, that is the objective.

Senator INOUYE. How many centers would that be?

Mr. HOEFFERLE. In the demonstration project, I believe there are six in the works. But ultimately we would hope that every small community in the State would have a center that would be able to

provide integrated services. There are 226 of those small communities in the State.

Senator INOUYE. Just for the record, will you give your name and title.

**STATEMENT OF TERRY HOEFFERLE, CHIEF OF OPERATIONS, BRISTOL BAY NATIVE ASSOCIATION**

Mr. HOEFFERLE. My name is Terry Hoefferle, and I am chief of operations of the Bristol Bay Native Association.

Senator INOUYE. Thank you very much, sir.

On the matter of the amendment to the Telecommunications Act, have you contacted the FCC to see if they are amenable to your suggestion?

Ms. STEVENS. Mr. Chairman, I have not contacted them, but I know people are working on different ways of solving the problems for this digital divide issue. All of us in Alaska in the nonprofit regional corporations have our information systems officers and departments that work very hard at trying to come up with solutions. I do not know of any specific one that has contacted them.

Senator INOUYE. I ask this because oftentimes the agency would be happy to do it without congressional directive. And we try not to intrude ourselves unless it is necessary. So I would suggest that AFN touch base with the FCC and see if they won't go along. They might very well say we will do it.

Ms. Bullard.

Ms. BULLARD. I was going to say that Kawerak, the entity that I work for, we used to receive a subsidy through the USF fund, and by doing that I think our cost went from like $1,600 per month for our lines to $150 per month. Our ability to get that subsidy was revoked because we are not a health corporation, we are a regional nonprofit that provides education, employment, and other services. We did appeal that through the FCC and we are still waiting for a response. But they have been very clear that because we are not a health corporation, we are not a library, and we are not a public school, we are not eligible for those subsidies.

Currently, in our region it would cost us $14,000 per month for one T-1 line from like Nome to Unalakleet. That same line in Anchorage costs $900 per month. We have 16 communities that we are trying to provide Internet access to. The costs are just phenomenal in the bush.

Senator INOUYE. That matter does not come within the jurisdiction of this committee, but I can assure you that we will transmit your suggestion to the Commerce Committee. Senator Stevens and I are on that committee also.

Senator Murkowski.

Senator MURKOWSKI. Thank you, Senator Inouye. A couple of things. Since Senator Inouye and Senator Stevens are on the Appropriations Committee, I think you should take advantage of the opportunity to indicate what the shortfall was in your tribal contract support during the last fiscal year. Do you have that figure?

Ms. STEVENS. I am sorry, I do not, Senator Murkowski.

Senator MURKOWSKI. Our indication is it is about $15 million. It might be anywhere from $7 million to $12 million. But if you could provide that for the record.

[Information follows:]

The shortfall for fiscal year 2000 for Kodiak Area Native Association is $17,950,855 wich equates to 81.2 percent funded.

Senator MURKOWSKI. I noted in the H.R. 4148, which is the tribal contract support cost technical amendment proposal, the estimated outlays for the year 2001 were $1.6 billion. And for 10 years, it went up to $3.7 billion. Now I just point that out to indicate the indication is that is what it would take collectively to adequately fund the level that is requested. I cannot speak for the Appropriations Committee, but I did want it to be noted in the record because that is a pretty significant funding level.

One other point that came up in your presentation, I believe I understood you to say that if you could not be bound by labor laws, I think was your terminology, collective bargaining, you could provide with less funding. Then the question is, why should these facilities be exempt when other nonprofit hospitals must engage in collective bargaining? So we get into an issue here that can become quite controversial.

Ms. STEVENS. Yes; I understand.

Senator MURKOWSKI. Senator Inouye, I have got a physician appointment at 4 o'clock. So I am going to have to be excused at that time.

Senator INOUYE. May I now call upon Mr. Thomas, president of the Tlingit and Haida Indian Tribes.

## STATEMENT OF EDWARD K. THOMAS, PRESIDENT, TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA CENTRAL COUNCIL, JUNEAU, AK

Mr. THOMAS. Thank you, Mr. Chairman. If confirmed as the Secretary, oops, wrong speech. Greetings from Alaska. Tlingit and Haida Central Council is a federally recognized tribe with 23,000 members. Just for the record, 40 percent of the federally recognized tribes in this Nation are from Alaska. Two-thirds of Alaska's lands are Federal lands. And so our relationship to the Federal Government is very profound and very important. I thank the committee for this opportunity to provide our points of view on the issues facing Alaska Natives. I will not be reading my testimony. There are a number of issues covered in my written testimony that I will not be talking about, for example, the unmet needs issue. I provided a copy of that for the record and will not be talking about that in my verbal testimony.

I wish to draw your attention to the attachment to my written testimony, however. In that attachment, I talk about the comparison of the cost of living or the cost of doing business in Alaska in comparison to the rest of the country. For example, a business trip from Juneau to Angoon costs $86 to fly the 59 miles. In comparison to driving on a highway down in the "lower 48," as any other tribe does down here, to travel the 59 miles, it would cost approximately $6 in gas. Our cost for the same distance is 14 times that of a similar trip down here in the "lower 48."

Federal agencies hardly ever take into account the high cost of doing business in Alaska when determining appropriations levels. As a matter of fact, it may even be just the reverse. For example, the TEA-21 roads program, that you heard some testimony about

here today, set up some guidelines or some criteria for determining the allocation of money. If those guidelines were followed and the regulations were promulgated in April 1999 as required by law, we would be getting twice as much roads money for our tribes in Alaska as we get right now. So we are losing out on about 50 percent of the money we would be eligible for just because the BIA is unable to promulgate regulations on the road program.

Relative to, the earlier discussion about building roads between communities may be a vision of some people in some regions, but it really is not in Southeast Alaska. The building of roads between a village and its water source, between a village and its major transportation link with ferry systems, to build a connection to other areas of commerce within a particular community is very important. Even housing programs, we do not have dollars, nor is TEA-21 money set aside for the development or improvement of road programs in our housing programs. So often it is necessary to relocate housing programs that are not in the main centerpiece of a community simply because of landscape and other logistical things that are important for development of the housing program.

So the roads program is probably more important in Alaska than it is in many other parts of the country who get much more roads money than we do on a per capita basis.

Another example is the high cost of energy. In the attachment of my testimony, you will see that the cost per kilowatt hour in Southeast Alaska rural communities is four or five times that of the national average. This is electrical costs. A number of years back, you might recall that Congress, in cooperation with the President, set aside dollars for Northern tier States to get subsidies because their cost of energy during the winter months was atrocious. Well, their costs even in the winter months are less than one-half of those of our costs in our villages year round.

So, although it may not be practical to replace the power cost equalization programs the State of Alaska provides now, we need to start planning for the future. If there is a development of ANWR, or if there is a renewal of the right-of-way for the current Alaska pipeline, there must be money set aside from the extraction of those resources to equalize the high cost of energy in our villages. There is no way to get away from that right now. It is not realistic for us to allow for royalties to go to the State and then have us politically battle with the majority in the State legislature to try to get them to provide power cost equalization as a second thought. That will not happen, we all know that, it has not happened in the past without some very heavy duty negotiations.

When we talk about BIA moneys, there are 12 BIA regions. Of the 12 regions, Alaska is No. 1 in the cost of doing business. We now rank No. 3 in per capita of the allocation of funding. And we would be back down to No. 11 if it were not for the Small and Needy Tribes funding provided by Congress just a few years ago. The Small and Needy Tribes funding does not always go through our tribal compacts, nor are they always used for the severe needs of our people.

The point of all of this is that it is very important I think that at a time when this Nation does have surpluses, at a time when we are looking at the needs of the world, that we look at Alaska

and we dramatically increase funding to all programs that are available to the Alaska Natives while there is opportunity to do so.

Now, when I come here and request funding on behalf of the citizens of my tribe, I am requesting funding for the needy people of my tribe. Not every citizen of my tribe gets assistance from the Federal Government, that does not happen, just as not every citizen does from every State or any of the major cities. But our needs of our needy are just as important as the needs of any governor of any State or any mayor of any large city. So it is important to look at us in those context. Historically, we have always been compared to what our funding was last year, not compared to what our needs are. If we were talking about depression, the unemployment rates in our communities are two and three times that of what a depression unemployment rate would be in the lower 48. That is a travesty and it needs to be addressed. We cannot address it with soft talk. It is time to step up to the plate and provide meaningful resources to address real problems. These are not phantom problems.

And so I implore you to look at these things seriously, that we talk here in real terms. I did provide in my written testimony some real examples of what our costs are and some real examples of what our needs are.

Another thing that I want to talk about is tribal consultation. The Congress, through this committee worked very hard on developing good tribal consultation mechanisms. The House has done the same. Since the first Bush administration, we have had presidential declarations on tribal consultation. Yet, this last year during the budget process there was absolutely no consultation with Alaska's 229 tribes on the development of the BIA budget. Absolutely none. The tribes were not even sent copies of the "green book." That is critical for tribes to decide on what they are going to need based on what was allocated in the past 1 or 2 years. So I ask that Congress put more teeth into the policies dealing with the consultation issues. These are issues that will be valuable not just to the tribes, but also to the agencies.

Now you heard some talk about the under-funding of indirect costs. I talk quite a bit about it in my testimony, give some very real numbers. I will not repeat a lot of that, but I do want to point out that the under-funding of indirect costs greatly undermines the ability of tribes and tribal organizations to attain self-determination. There is no doubt about it. It reduces our ability to compete with social programs from other funding sources, such as from some of the foundations and other organizations like that. It diminishes our administrative efficiency. By wasting so much time in double accounting, we are not able to adequately deal with the problems on our table or in court simply because we are wasting time trying to recover dollars that are really not there because of the double accounting created by theoretical under-recovery. It reduces program effectiveness because oftentimes when we do not get full funding of indirect costs we have to reduce some of the direct dollars from the direct cost pool programs and put them into indirect cost just so that we can continue for another year.

I think that if, and I can probably prove this, if we got full funding from every funding source, including Head Start and some of the employment programs, that our total rate would go down. Sen-

ator Murkowski pointed out the dramatic rise. This under-funding creates a spiral increase of rates. It creates a problem that is forced to be dealt with by one agency of the Federal Government. It should be spread out through all those governmental agencies for whom we manage programs.

Another topic that I have been asked to talk about is capital projects. Capital projects in Alaska are critical. They are very important for the existence of our people. There are capital projects all over the States, not just in rural Alaska but in urban centers. In many of the urban centers, local employment is a very important component of those projects and it happens for the most part. When a project goes to a village, however, it is put out for bid and there are guidelines on who can bid. What happens is that because they are categorized as capital programs they are not allowed to set up these projects as training programs or as employment programs or job development programs. So I think that one technique that could be used for these capital projects in our villages, yes, they will be capital projects, but call them job development programs and allow for on-the-job training programs to be a part of these programs in the villages.

Also, it is very important to emphasize and to probably even give points to those tribes or communities that can use force accounting. Force accounting is a very valuable tool for bypassing a lot of the Federal and State requirements that require those bids to go nationwide and they could be handled much more efficiently locally.

In closing, I want to thank you again very much for your time. I know that Congress has many issues that you must address. I know that your time is very limited and your time is very precious and in the best interest of our entire Nation. So, therefore, I come to you—I am the compassionate part of the conservatives—and I want to let you know that I appreciate all your hard work and we are very thankful for all the assistance you give to our people. [Native language.]

[Prepared statement of Mr. Thomas appears in appendix.]

Senator INOUYE. Thank you.

Senator Murkowski.

Senator MURKOWSKI. Thank you very much. I am sorry that I have to leave. But I wanted to thank you, Ed, for that excellent statement, and the rest of the panelists, and I will look forward to the statements of the balance of the panelists.

I do want to enter in the record, on behalf of the Arctic Slope Regional Corporation, a written statement that I guess came out of a roundtable discussion on Indian energy issues on May 8, expressing the Arctic Slope Regional Corporation's support for ANWR energy production by the people who know the land in question the best, the Alaska Natives. Evidently, there were comments made at the roundtable by Mr. Guinnes which the Arctic Slope Regional Corporation and the native village of Katovik wish to respond to. So I would ask unanimous consent that their written statement be submitted in the record on their behalf. I thank the panelists and I thank the Alaskans.

Senator INOUYE. Without objection, so ordered.

[Material appears with Senator Murkowski's prepared statement in appendix.]

Senator INOUYE. Thank you.

You have spoken, Mr. Thomas, about the lack of consultation. That concerns me a lot because I know of your unique situation, that the conditions in Alaska differ greatly from those found in the lower 48. When they held the pre-BIA budget consultation meetings, did you suggest to them that one of the meetings be held in Alaska?

Mr. THOMAS. I did not say one; I suggested that they have five regional meetings in Alaska because any one of those regions is as large as West Virginia and I think it would be a lot cheaper to have them in the five former BIA agency jurisdictions. If they were to budget it, I do not believe it would cost more than $80,000. And if you look at the total budget for the BIA in Alaska, that amount of money is worth it; it is worth it not just to the tribes, it is worth it to the BIA to bring each tribe into each of those centers to have consultation on the budget.

Senator INOUYE. When they turned you down, what reason did they give?

Mr. THOMAS. They said there is no money. They said they do not have money and that the consultation strategy has not been developed. I wrote them down to strategy for them in a meeting we had back here in Washington, DC in December of last year, that all it would take is a couple of the agents of the BIA to be oriented on how they consult with tribes on development of budget and then have them travel to each of the five jurisdictions under the former BIA agency offices.

Senator INOUYE. As you may know, the Native American Housing Assistance and Self-Determination Act will be up for reauthorization. Do you have any suggestions as to changes in this act before we reauthorize it?

Mr. THOMAS. I have not really looked too deeply at the act, I must admit. No, I do not. But I must emphasize the consultation thing. We are at a pivotal point in history and there are some good things happening but there are some negative things happening. If we do not provide meaningful consultation to Alaska's people, whether the things happen positive in this legislation or not, we always get left behind because we do not know. We always get left behind because we do not tell people what our needs are. That is really a sin right now. When there is so much opportunity for communication and people travel elsewhere at the drop of a hat, I just do not understand why we cannot make that a reality in Alaska.

Senator INOUYE. I will most certainly discuss this matter with the new Assistant Secretary and suggest to him that consultation be much more than just advice after the fact. I hope he agrees with us.

What do you mean by "force account project management methodology"?

Mr. THOMAS. Force accounting is when the person or the agency, the municipality, the tribe gets a contract, they can manage it themselves. That is called force accounting; you do not contract it out, you do not put it out to bid, you just manage it. You might hire a subcontractor to do the electrical part of a building, somebody else to do the framing, and then hire a bunch of people to nail the things onto the building. That methodology is a very popular

one used by many of the small municipalities in Southeast Alaska. That takes it out of the bid realm. Because once it goes into bid, they have got to open it up to everybody and oftentimes the successful bidders are from Washington, Oregon, California, as far away as Colorado.

Senator INOUYE. You are suggesting that Alaska be exempt from the bidding process?

Mr. THOMAS. Well, if they use force accounting, they are exempt anyway. Even in the lower 48, if you had force accounting you would be exempt.

Senator INOUYE. And you are suggesting also that this method would result in the hiring of more natives?

Mr. THOMAS. More local people, yes. It is a proven point. One community that is very successful in doing that in southeast Alaska is Kako. When they get a project they hire an engineer, he goes out and helps design the program, they build it, he oversees it, he is the inspector, and they have a carpenter and things of that nature. Now, you cannot do everything that way, but there are a number of programs that can be done that way, and I really would encourage them.

The one major problem we have is just so many outsiders coming in doing the work, not only do they leave with the money, they leave behind a project that nobody has been trained to manage, nobody knows how to maintain it. All those things are problematic because it gets into the dependency cycle again. So we really need to get smarter on having more and more of the people who work on those projects be local. Then they will have the skill when the project is over to manage it as well as maintain it. And the dollars will maintain and rotate in that community.

Senator INOUYE. I thank you very much, Mr. Thomas. The next opportunity I have in meeting with Mr. McCaleb I will suggest that he set aside at least 1 day to meet with an Alaskan Native delegation.

Mr. THOMAS. Thank you very much.

Senator INOUYE. Ms. Bullard, Mr. Ketzler, Ms. Stevens, and Mr. Thomas, on behalf of the committee, I thank you very much.

Now, may I call upon Matthew Nicolai, president and CEO of the Calista Corporation of Anchorage; Norm Ream, president and CEO of the Thirteenth Region of Seattle; and Chris McNeil, president and CEO Sealaska Corporation, Juneau, AK.

Mr. Nicolai, welcome, sir.

**STATEMENT OF MATTHEW NICOLAI, PRESIDENT AND CEO, CALISTA CORPORATION, ANCHORAGE, AK**

Mr. NICOLAI. Thank you, Mr. Vice Chairman, members of the committee. We want to thank you for the opportunity to testify before this committee. We are truly honored to be here today. My name is Matthew Nicolai. I am president of Calista Corporation, a regional corporation established under the Alaska Native Claims Settlement Act of 1971. We own 6.5 million acres of subsurface properties.

We serve 13,300 shareholders who mostly live in the 56 villages in the Wade Hampton and the Bethel Census Districts. Under the U.S. Census report, our region has now 23,200 people living in the

area. The median household income is $23,796 in Wade Hampton, while it is at $29,628 in the Bethel Census District. According to the U.S. Census Bureau, 8,052 or 35 percent of our population live in poverty, while 80 percent of our residents living in the area make ends meet through hunting and fishing protected under ANILCA. Unemployment in our region is running at 70 to 80 percent, and the average income is about $8,000 per person.

In our region we have no roads. Village residents in 175 communities, basically this is throughout Western Alaska, depend on liquid fuel for power generation, for heating, and transportation. Our village residents in our region consume about 17 million gallons of diesel. Village residents are paying from $2.96 a gallon to $6.21 a gallon for gasoline, while we pay $2.91 to $5.01 for diesel for these villages. These are typical prices in the 175 communities.

One of the reasons why we are bringing this issue to the Committee on Indian Affairs, energy is an issue among Native Americans and also to Alaska Natives. We did participate in the roundtable discussions 2 days ago and we want to be participants while the rest of Native America discusses the issues on energy infrastructure in Alaska. We do not want to be left behind while the power grids in the lower 48 States are being discussed by the Energy Committee and while the Native Americans are bringing forth their issues to the Committee on Indian Affairs for assistance to resolve energy needs of the Western States.

In Alaska we have an issue called Power Cost Equalization program to offset costs to rural areas as a result of development of urban energy centers. More than 100,000 Alaskans benefit from this program today. The Alaska State Legislature is looking at the demise of the PCE program today. Therefore, it is very critical that we look at working with the Energy Committee looking at alternatives that we want to look forward on.

The typical cost of power in our region is running at 35 cents a kilowatt hour all the way up to 50 cents a kilowatt hour. In our region we formed a light and power organization called Nuvista Light and Power to look at alternatives that we want to bring in. After we looked at areas for opportunities of how we can use energy to develop alternative power centers that we want to look at, we submitted a whole package to the Committee on Indian Affairs. I do not have the time to go through those opportunities.

In our region we have a world-class 13 million ounce of gold deposit in upper Kuskowkwim. We cannot put together a package where we develop these properties because energy and transportation are a problem to us. Therefore, we have been looking at alternatives that we want to move forward to the committee. There are some areas that we want to take to the committee of possible Federal-State-private partnership to resolve the energy needs for our villages.

There are many alternatives that we want to talk about and we want to use this as a stepping stone to look at alternatives, whether we look at Alaska Native Commission on Energy, or even developing energy as a part of the Denali Commission. The Denali Commission has been very strong in resolving water, sewer, health clinics, bulk tank issues without redtape. That is why we wanted to address this issue to the committee, and we look forward to work-

ing with the Energy Committee and Committee on Indian Affairs. We are going to forward our issues also to the Bush administration, to the Governor of Alaska, looking at these alternatives.

There is one issue, Senator, that you did ask about on NAHASDA. It is a very emotional issue in our region. Under NAHASDA, regional corporations today are recognized as tribes under the Native American Housing Assistance Self-Determination Act. In our region, AVCP housing has been doing an excellent job but they need help. The HUD study in our region shows there is a need for 3,500 homes. That means, if you divide that, it is going to take 83 or 87 years to build that many homes. Our people cannot wait. We will submit our testimonies wanting further assistance and further recognition of continued tribes of the regional corporations and we will submit our own regional housing plans because our people cannot wait.

There are 10 villages in our region that have their Indian housing plans and these 10 villages that are doing their own are making homes. We have counted the homes that they have developed and it has gone up to 82 homes in those 10 villages. That is why it is very important to us that we work with our nonprofits and also work with our villages to make sure that the housing needs are met in Alaska.

In conclusion, Mr. Vice Chairman, we will work with the Committee on Indian Affairs. We want to have the opportunity to submit forward our issues to you.

And we thank you very much for this time, Mr. Vice Chairman.

[Prepared statement of Mr. Nicolai appears in appendix.]

Senator INOUYE. Thank you very much, Mr. Nicolai. We will most certainly transmit your views on energy to the appropriate committee here.

I presume the high costs of energy, gasoline or diesel, primarily come about because of transportation costs?

Mr. NICOLAI. The transportation issue, most of the fuel that is delivered is done during the summertime by use of barges. Even though the wholesalers do purchase the fuel, by the time it is brought forth to the villages, the transportation cost bring up the fuel price. Usually, I always say at the spigot, in Kenai, the wholesaler, we are buying it at 52 cents to 60 cents, which is the Department of Defense price. But by the time it reaches many of the villages and 175 communities the price goes up.

Senator INOUYE. To $6?

Mr. NICOLAI. It does at times. It goes up in Lime Village $6.91 a gallon for gasoline in our region. While the rest of America is crying down here at $2.35, we have been crying about energy for a long time.

Senator INOUYE. I do not know what I can say. Do you have any suggestions on amendments to the reauthorization of the Housing Act?

Mr. NICOLAI. We do have some areas that we want to move forward. The size standards of some of the villages that cannot afford their own Indian housing plans, the administrative codes that are forwarded by HUD requires that they appoint a tribally-designated housing entity. That means some of our villages in our region have to wait 5 to 10 years for homes to arrive to them. Our populations

centers especially in our region has increased more than any other parts of Alaska Native villages. So we are going to move forward asking our villages to see that the relaxation of the size standard—there is a minimum size standard of $300,000 plus that you cannot run your own Indian housing plan. We want to see our villages run their own Indian housing plans so they could submit packages that they can develop their own homes.

Our people are crying for homes. When you have one housing agency, and we are not being anti-one housing agency, it stifles the contracting to our villages. As I said, 40 homes a year for 3,500 homes—87 years is a long time. We will be dead.

Senator INOUYE. I can understand that. We have a similar situation in Hawaii. Native Hawaiians are still waiting to get on the land there.

I would suggest you get together with the staff to work out amendments that might carry out your intent. I thank you very much.

Now, may I call upon Mr. Ream.

## STATEMENT OF NORM REAM, PRESIDENT AND CEO, THE THIRTEENTH REGION, SEATTLE, WA

Mr. REAM. Good afternoon. I am Norman Ream, a member of the board of directors of the Alaska Federation of Natives and the president and CEO of the Thirteenth Alaska Native Regional Corporation. Hundreds of our shareholders of the Thirteenth Regional Corporation live in Alaska, but we also have shareholders residing in every other State of the Union. They are Native Alaskans who in part were displaced by war, or who left Alaska to pursue educational or employment opportunities, or to serve in the Armed Forces of the United States. Our roots, however, remain firmly grounded in Alaska and we stand side-by-side with other Alaska Native corporations in the pursuit of our common goals.

As a principal organization representing Alaska Natives, Alaska Federation of Natives has a long-term interest in ensuring continuance of cultural and other values that are so important to Alaska Natives. Since passage of the Alaska Native Claims Settlement Act, many issues have been resolved for Alaska Natives with your sponsorship and support. But there are still other issues to be resolved. I want to briefly mention two issues which are important to the Alaska Native community.

And I will make a little statement about ANWR. The opening of the coastal plains of the Arctic National Wildlife Refugee to oil and gas exploration and development would provide increased opportunity for employment of Alaska Natives and utilization of native corporation contracting companies. Potential production from this area would also significantly extend the life of the Trans-Alaska Pipeline, further stabilizing the economy of the entire State. We urge your support for the congressional action necessary to this opening. We recognize that this issue is not without controversy, but we are convinced that Alaska Native involvement in the exploration and development will improve the protections and ensure development is done safely, with minimal impact to the habitat and wildlife that is so important to our subsistence way of life.

In addition, this committee could be helpful in supporting the funding of training and educational programs that will assist Alaska Natives seeking to become employed in the oil and gas industry. There are tremendous opportunities for younger Alaska Natives to become involved in this industry. As the generation of workers that came to Alaska to support development are beginning to retire, it is critical that our shareholders capture a significant portion of these jobs. In this regard, we encourage support for Senator Murkowski's energy bill.

Finally, I want to bring to your attention the unresolved issue of land rights in Alaska for the shareholders of the Thirteenth Regional Corporation. The Alaska Federation of Natives [AFN] has worked with the Thirteenth Regional Corporation to assist with draft legislation to provide land rights. This has been done while carefully considering the equities and the impact such legislation will have on other Alaska Natives, the State of Alaska, and the national interest in Alaska.

We have received a strong AFN resolution of support for Federal legislation confirming and establishing the parameters of land rights for the Thirteenth Regional Corporation. Our hope and expectation is that such legislation will be introduced during the current 107th Congress. The AFN's resolution of support urges Congress to enact legislation to provide a just and equitable distribution of the land to the Thirteenth Region so as to put our native shareholders on a more equal footing with the shareholders of other Alaska Native Corporations. We look forward to working with you as we move ahead toward achieving the Thirteenth Region's long held dream of a land base in Alaska, the home of our ancestors.

Thank you for giving us this opportunity to meet with you today.

Senator INOUYE. Thank you, Mr. Ream. The legislation that you refer to on land distribution, has that been introduced yet?

Mr. REAM. It has not been introduced yet. We expect it is close, maybe 2 or 3 weeks from now. We are still making some refinements.

Senator INOUYE. I presume that you have discussed this matter with the Alaskan delegation?

Mr. REAM. Yes; very thoroughly.

Senator INOUYE. Then we can expect the Senators to introduce that?

Mr. REAM. We are thinking the Congressmen introduce it.

Senator INOUYE. On the matter of ANWR, as you know, I have been supportive of the Alaskan position and, as a result, I receive a lot of letters of criticism and attacks. They almost always cite this tribe or this village that is opposed to it, Gwich'in, or something like that. Do you know anything about this tribe?

Mr. REAM. The one tribe that opposes it?

Senator INOUYE. Yes.

Mr. REAM. I am not sure. Matthew, are you familiar with that? There is one.

Mr. NICOLAI. Mr. Chairman, Gwich'in has a position where in the Convention that we had 2 or 3 years ago they did not support the opening of ANWR. They are about 180 miles away from the site.

Senator INOUYE. Is this a large group of people?

Mr. NICOLAI. No; however, Mr. Chairman, Tanana Chiefs, a group in the region, passed a resolution not in favor of ANWR. That is a group of 44 villages.

Senator INOUYE. I see. Thank you very much, Mr. Ream.

May I now call upon Chris McNeil.

**STATEMENT OF CHRIS McNEIL, PRESIDENT AND CEO, SEALASKA CORPORATION, JUNEAU, AK, ACCOMPANIED BY VICKY OTTE, COOK INLET REGION INC., ANCHORAGE, AK**

Mr. MCNEIL. Thank you very much, Mr. Vice Chairman. We really do appreciate the opportunity to testify today. For the record, my name is Chris McNeil. I am the president and CEO of Sealaska. I am also representing today the Association of ANCSA Regional Corporation Presidents and CEOs. The Association of ANCSA Corporation Presidents and CEOs was formally organized in 1998 and is comprised of members representing the presidents and CEOs of the thirteen regional corporations. Mr. Chairman, I would like to submit for the record my testimony as well as the report "Native Corporations: Building a Foundation for Alaska's Economy, Economic Destiny," that was produced by Cook Inlet Region.

Senator INOUYE. It will be made part of the record.

Mr. MCNEIL. Mr. Chairman, I will outline only the highlights of the report. It indicates that the Alaska Native Regional Corporations are major players in the Alaska economy. In 1999, the corporations had revenues of $2.1 billion and assets of $2.8 billion. The corporations had given out dividends of $49.5 million and it had $392 million in payrolls. The employment statewide is about 10,000 and the Alaska Native direct employment produced is 2,500 people. In addition to that, the corporations have provided $8.6 million to charitable organizations, and $5.1 million to scholarships for Alaska Native shareholders.

But there is a difference and I would like to take the time, Mr. Chairman, to indicate the place of native corporations as well. I think the important issue here is that native corporations have other broader obligations that other corporations just do not face. The funds for scholarships and the funds that are expended to support subsistence are the first thought, they are not an afterthought for the native corporations. This is one of the ways that we provide support to our native shareholders. But in order to do this, the corporations must focus in on profitability and making money for their enterprises.

The report shows that of the 13 regional corporations and the approximate 225 village corporations several have had very definite successes. We are certainly very proud of them. At the same time those successes are very large in absolute numbers, and it is clear that the ANCSA corporations make a big impact on the economy. But there is really another context as well. Relative to the needs in Alaska, the successes have a small economic impact among Alaska Native people. The actual benefits relative to the needs are relatively small. It means that there is a lot more that we must do.

The ANCSA corporations, as you know, were an experiment in tribal settlements. One of the benefits of it, of course, is that it is

organic. There have been about 140 amendments since 1971 that are meant to clarify and enhance ANCSA. One of the urgent needs as a result of the implementation of ANCSA is that we continue to need economic programs and incentives for the ANCSA corporations. I would like to just focus on two examples that we have been looking at recently.

It has been widely reported that several of the corporations were involved in a recent spectrum purchase in auction 35. It gave us the opportunity to also look at the context of providing wireless services in rural Alaska and in Native America. We have been able to ascertain what that really means in terms of trying to put together an enterprise that would provide wireless services to deal with some of the digital divide and the wireless technologies that are evolving. And what we found is that there is certainly a need for wireless and for high speed Internet access. Certainly, with our people in the villages with hunting and fishing, it is important for safety reasons alone to have access to the wireless that everybody else takes for granted is we think a fairly important issue.

But there are real problems, at least in our analysis. We have had the opportunity to talk with the FCC about the Tribal Lands Initiative that was announced last year. What we have found is it is very uneconomical. There is a reason why there isn't wireless built out in many rural areas. The more typical situation is for a wireless buildout where there is a small geographic area and high population density in urban areas; it is just exactly the opposite in rural Alaska. But we have reviewed and had a preliminary look at what we have been able to discern at least are the available programs sponsored by the Federal Government through the FCC, including Universal Service program, the LifeLine programs, and the Tribal Lands Initiative. But so far, we do not believe that it is economically viable, at least in the model that we are looking at.

We would like the opportunity to have further discussions of course with the FCC and probably later with the Congress because we believe that it will take a different kind of model to be able to make this work in rural Alaska and probably also in many of the areas of the Indian reservations in the United States. But this has been a chance for us to look at this from a real build-out operational standpoint. We think that there are some opportunities here to be able to provide a service that is very much needed.

In addition to that, may I just say that capital formation through loans and other incentives for private investment just remains a problem for all of Native America, certainly it does among the ANCSA corporations. To the extent that the economic tribal bills that have been recently tabled and others in the past, we would like to just be sure that the legislative language clearly permits the ANCSA corporations to fully participate in them. I recall the structure of the Overseas Private Investment Corporation and it to be the American Indian Private Investment Corporation is a very excellent model. I hope that at some point that is able to be revisited because I think it does provide a model for essentially taking advantage of the credit of the United States in order to support an independent entity that could be a big mover in providing economic development for both ANCSA corporations and for Indian tribes.

Finally, Mr. Chairman, just looking at one issue in our own region. We have what amounts to being a tribal recognition-like issue with five of our villages who were left out of the Alaska Native Claims Settlement Act. They are called the "landless" in our area because they were otherwise qualified. But this is an issue that we have had extensive discussions with prior Administrations and with the Alaska delegation as well. This is one Alaska issue that we would like to revisit.

Thank you very much, Mr. Chairman.

[Prepared statement of Mr. McNeil appears in appendix.]

Senator INOUYE. Thank you very much, Mr. McNeil. On the matter of NAHASDA, the housing act, some of the witnesses, as you recall, have suggested that Alaskans are not getting their fair share. In this statement submitted to the committee, you seem to suggest that the regional corporations want to continue to be recognized as tribes, and that they want to continue to have funding allocated to the tribes. Are you suggesting you are getting enough money?

Mr. MCNEIL. Mr. Chairman, there is really never enough money to build out housing in Alaska. We will just make all efforts we can to increase the funding for the villages.

Senator INOUYE. It is often suggested that the availability of reasonably priced energy and fuel can have an impact on economic development and the maintenance of quality of life. Do you have any suggestions as to the problems cited by Mr. Nicolai?

Mr. MCNEIL. I think it is an issue. Even in Southeastern Alaska where the fuel prices, for example, are not as egregious at all as in Western Alaska, it still makes a huge amount of difference. For example, Sealaska has looked at the chance to have further value-added and primary processing with its standing timber. It is simply not economic. You cannot compete with the industry elsewhere in Canada and in the Pacific Northwest. It would take not only looking at the energy prices, of maybe having a cooperative or something on that order, but I think it also requires some other kinds of incentives to be able to essentially equalize it by bringing lower cost capital or other investments in.

Senator INOUYE. Do you support the development of ANWR?

Mr. MCNEIL. On behalf of the association?

Senator INOUYE. Yes.

Mr. MCNEIL. The corporation does support the opening of ANWR. But I would also like to repeat what President Kitka said, that certainly we do not hold out or represent the statements or interest of the Gwich'in community. We are confident that they will express their views independently.

Senator INOUYE. Well, Mr. Nicolai, Mr. Ream, and Chris, thank you very much.

Senator INOUYE. And now our final panel, the chairman of the Alaska Inter-Tribal Council of Anchorage, Mike Williams; and the advocacy coordinator of Rural Alaska Community Action Program, Vernita Herdman.

Chairman Williams, welcome, sir.

## STATEMENT OF MIKE WILLIAMS, CHAIRMAN, ALASKA INTER-TRIBAL COUNCIL, ANCHORAGE, AK

Mr. WILLIAMS. Good afternoon, Mr. Chairman, members of the committee. Thank you for this opportunity to testify to you today. I know that this hearing is not only about the legislative priorities of Alaska Natives, but, Mr. Chairman, I want to speak this afternoon about the wishes, hopes, and dreams of Alaska's 229 federally-recognized tribes.

There is an old English saying that "if wishes were horses, beggars would ride." To me, that has always seem to be to scold people for wishing. I prefer to go with the true meaning of the word taken from the time the English people themselves were, as we Yupik people are today. Living from the earth. Because the word "wish" comes from the old English word "winnan" which means to win, and that word comes from an older English word "winian," which means to accustom, train, or wean. Alaska's tribes wish that this Congress and especially members of this committee become accustomed to looking at Alaska Natives as tribal peoples whose traditions, practices, and values derive from their ancient and modern day use and occupancy of our traditional lands.

The Alaska Native Claims Settlement Act of 1971 did not erase our governments. The U.S. Supreme Court decision in the *State of Alaska* v. *the Native village of Vinatai* did not erase the age old authority of our tribal leaders. It is our utmost earnest wish within that whenever the members of this committee address the issues of Alaska Natives uppermost in your minds are the status, rights, and authorities of our tribal governments.

The word "hope" is defined as "to wish for something with expectation of its fulfillment." Recently, one of the dearest hopes of the Alaska tribal community was fulfilled when Alaska's Governor Tony Knowles put his signature on two vital documents. The first document is the Administrative Order No. 186, signed by Governor Knolls on September 29, 2000, on my birthday. The intent of Administrative Order No. 186 is,

> To make clear for all State and Federal agencies, the courts, the tribes, and the public that the State of Alaska recognizes and respects the governmental status of the federally-recognized tribes within the boundaries of Alaska.

The second document is the Millennium Agreement. The preamble to this agreement begins,

> Tribes exist in Alaska. Since time immemorial indigenous peoples have lived on their land in organized societies and distinct traditional cultures with their own forms of autonomous sovereign government that predate the United States and the State of Alaska.

Mr. Chairman, I am including copies of these documents in my submittal to the committee today. It is my sincere hope, on behalf of Alaska's federally-recognized tribes, that each member of the committee receives their own copies.

Administrative Order No. 186 erased a century or more of public policy which denied the existence of Alaskan tribes. Policy guides action, and so for over 100 years our tribal leaders have been forced to scale the hurdles of bureaucracy in order to deal with, first, the territory of Alaska, and, later, the government of America's 49th State. And yet, our rights as indigenous peoples were pointed out in the 1867 Treaty of Session which outlined the terms

of Alaska's purchase from Russia, the District Organic Act of 1870, which described the bounds of Alaska's territorial government, and in the Statehood Act of 1958.

All these years our tribal chiefs, traditional council presidents, and the heads of councils from under the IRA of 1936 have hoped that one day they could be seen by the non-tribal government in Juneau.

Now that our hopes have been fulfilled through the Millennium Agreement, there remains real work to be done as we begin a government-to-government effort with the State of Alaska to bring great words into action. The definition of dream that I prefer is not the one that says a dream is a wild fancy or hope. When Alaska's tribal leaders dream, we are thinking about a condition or achievement that is longed for, an aspiration.

Mr. Chairman, several years ago, to pass the time during the 5 hour trip from Anchorage to Minneapolis in route to this fair city, I began reading the December 1998 issue of World Traveler, Northwest Airlines in-flight magazine. Lo and behold, whose picture did I see on page 24 but yours. And I read that article with great interest because I had an appointment to see you that week. The article referred to your own life-long dream of becoming a doctor. That was before your valiant service in World War II ended that dream. But you have aspired to greatness in other areas. And for Alaska's tribes, one of your most notable achievements has been your service to America's indigenous peoples in your work on this committee. Thank you from the bottom of my heart.

As Alaska's first Nations, Mr. Chairman, it is our dream that some day there will be no more talk about Alaska Native issues. We dream of a day when we will be seen for the tribes that we are and that one day Congress will restore the status, rights, and authorities that have gradually become eroded by public policies, court rulings, and legislation.

I have submitted full written testimony that speaks about our legislative priorities in down-to-earth fashion. Now I close in a very brief summary.

We fully support full funding of contract support costs for tribes under the Indian Self-Determination Act.

We support legislation being put forth by Alaska Congressman Don Young in which he addresses a recent Alaska Supreme Court ruling that our tribes were divested of authority over our children at the time Alaska came under Public Law 280. Congressman Young's bill provides for our reassumption of that authority, and we would like the support of members of this committee when that issue comes before the full Congress.

We support Congressman Young in his introduction of legislation to amendment TEA-21, as we call ICETEA. This legislation would bring more capital projects into rural Alaska, and represents a great opportunity for our tribal members to supplement and support their hunting and fishing way of life with the dollars needed for gasoline, ammunition, and equipment.

Alaska's tribes are deeply concerned about the push to regionalize our tribal governments. In fact, this week we are bringing this issue to the attention of the National Congress of American Indians

at its mid-year session in Lediark, Connecticut. A copy of our draft resolution on this subject is enclosed for your review.

On October 4 of last year, I submitted written testimony to this committee for its hearing on alcohol control and enforcement in rural Alaska. Our position has not changed materially since that time, and I submit a copy of that detailed testimony today to refresh the committee's memory.

The perennial use of subsistence has not gone away. Now that the Federal Government has taken over management of subsistence fishing as well as hunting on Alaska's Federal public lands, I believe that more diligence than ever will be needed to respond to the cries of Alaska's tribal peoples that our hunting, fishing, and gathering rights be in the full interest and purview of this committee. These are tribal rights.

In that vein, I ask this committee also to take a special interest in the outcome of the lawsuit entitled *Katie John* v. *State of Alaska and the Secretary of Interior.* On December 20, that case was heard by the Ninth District Appellate Court at the request of the State of Alaska and we know that ruling today.

As salmon stocks continue to decline as the competition for fish continues to rise, so also will the potential for conflict between uses increase. The difference for our people is that, as Congress settled our land claims in 1971, our people were promised that our tribal way of life would be protected. We are at the point where the rubber meets the road and Alaska's tribes are looking to this committee to take leadership so the rest of Congress will establish and agenda to maintain and, if necessary, strengthen the existing protections of title VIII of ANILCA. Make no mistake, if Katie John goes to the United States Supreme Court and the State of Alaska prevails there, then Alaska's tribes will prevail upon Congress to amend Alaska Lands Act to guarantee protection of our subsistence fisheries.

There has been some criticism of Federal management of subsistence over the years. One that makes no sense to me is when critics harken back to the 1930's and say that Federal management of Alaska's salmon harvest resulted in damage to the resource. While that is true, it is also true that today the Fish and Wildlife Service, the Office of Subsistence Management, their regional advisory councils, and Federal Subsistence Board have access to modern scientific research and analysis which are of immeasurable benefit to Alaska's tribes, the great majority of which continue to support their communities with subsistence hunting, fishing, and gathering.

In my testimony on the issue of alcohol enforcement in October, I talked about the benefits of local tribal enforcement over State or Federal approaches. I want to draw your attention to my reasoning in that testimony on page 4. As long as the State alone is granted legislative powers, or even is the State works hand-in-hand with the Federal Government using both sets of their laws, as long as tribal ordinances are not in the picture, local tribal members will have their ability to point to outsider's laws and gain sympathy from their fellow tribal members. But when the tribe and its government is recognized and granted authority to adopt and enforce local ordinances to prevent alcohol abuse, then members will not

have such an argument to back them up when they break the law. Because if it is a tribal law, it is one from the heart of the village.

There is crying need for increased Federal support of tribal courts and tribal justice systems. Our tribal councils and chiefs have persevered through the years following the enactment of ANCSA when all the Federal money automatically went to other native entities. Now that people are recognizing the value of local tribal enforcement in Alaska, we tribes desperately need funding to assist us in setting up modern tribal court systems that will take away the need for justice to be served in some far away regional hut, or in Anchorage, or Fairbanks, or Juneau.

In conclusion, Mr. Chairman, I began in a somewhat unorthodox fashion and will close in a similar style by quoting from the leader of the political party that opposes your own. The Honorable President George W. Bush was seeking office in August 2000 when he wrote a campaign letter to America's tribes, including one to myself as the head of the Alaska Inter-Tribal Council. In that letter President Bush said:

> It is time for a president, together with tribal leaders, to chart a new course for Native Americans, one that recognizes the unique status of the tribes in our constitutional framework and gives tribal governments the freedom to solve their own problems instead of having solutions dictated from Washington.

I look forward to working with the tribes and Indian supporters of both parties in Congress and together I am confident that we can craft an agenda to help resolve the challenges faced by Native Americans. I wish the members of this committee to give heed to the words of President Bush and I hope for a cooperative spirit that will ultimately work to the benefit of my people. I dream of a time when this committee hears only good news.

From Alaska to Florida, from Main to Mexico, [Native language], Mr. Chairman.

[Prepared statement of Mr. Williams appears in appendix.]

Senator INOUYE. Your closing statement on the statement by the President is a very fine one. I agree with that totally. I just hope that he agrees with it too. [Laughter.]

Mr. WILLIAMS. Yes; I think he did not make a mistake on that one, Mr. Chairman.

Senator INOUYE. Is the Alaska Inter-Tribal Council part of the AFN?

Mr. WILLIAMS. No; we have a membership of 176 tribal governments which we organized in the 1980's as United Tribes of Alaska, then we became Alaska Native Coalition, and in 1993 we officially organized as the Alaska Inter-Tribal Council, only consisting of Alaska's federally-recognized tribes.

Senator INOUYE. So you do not confer with AFN?

Mr. WILLIAMS. We have a working relationship with AFN.

Senator INOUYE. The presentation made by the AFN, do you agree or disagree with that?

Mr. WILLIAMS. Well, there are two sets of organizations that I see out of the two organizations. The native corporations were organized in 1971, when I was still in high school, Mr. Chairman. My concern when I studied the land claims, I had very grave concerns at that time when I was in high school when this was passed. I

was deeply concerned with the protections of our tribal lands. So there are differences.

That 1971 Land Claims Act did not erase the powers of the tribal governments in each community. In our community in Akiak right now, we are one of the federally-recognized tribes and there are 229 in Alaska, we are providing services in Indian child welfare services, the social services, enforcement of tribal laws in our local communities. Back in 1975, with the Indian Self-Determination Act, that was when the tribes of Alaska took a look more into the effect on tribal governments and, no, the Alaska Native Claims Settlement Act did not extinguish the tribal governments in Alaska.

But we are working very closely with the Alaska Federation of Natives and we hope to see the Alaska Federation of Natives to prosper with providing dividends to their shareholders. I am a shareholder of Calista Corporation, and in my third year of being a shareholder I received only $20. That is the total benefits that I have seen of a dividend from my corporation. My five children and my two grandchildren are tribal members, but they are not corporate shareholders of my village corporation or my regional corporation.

I am thinking about leaving a will to all of my five children. It seems to me in the long run that those shares will disappear from my children and my future grandchildren and their children. So I am very concerned about the future of those children that are non-shareholders now. But I am confident that they will be Akiak Native community tribal members forever, and those members are increasing daily. As one tribal member is born, they are becoming members of that tribe and not shareholders of a corporation.

Senator INOUYE. Thank you very much, Mr. Williams.

And now may I recognize Ms. Herdman.

## STATEMENT OF VERNITA HERDMAN, ADVOCACY COORDINATOR, RURAL ALASKA COMMUNITY ACTION PROGRAM, ANCHORAGE, AK

Ms. HERDMAN. Thank you, Mr. Chairman. I address my testimony this afternoon to you, Mr. Chairman, and also to members of the committee. But I note that you are the only member present and I hope that copies of my testimony will be made available to the other members. My name is Vernita Herdman, and I am the Advocacy Coordinator for the Rural Alaska Community Action Program, also known as Rural CAP. I am testifying today on behalf of Rural CAP's executive director Jeanine Kennedy and our board president Donne Fleagle, both of whom asked me to express regrets that they could not be here to address you themselves today.

I would like to start by thanking you, Mr. Chairman, for providing this opportunity to inform and educate the committee about what Rural CAP does and what we hope to accomplish, with the help of Congress, in our future work in Alaska. It has been my long held observation that service in the United States Senate allows each member to do great good for America's people and to reap the rewards of public accolades when everything turns out all right. But being an avid watcher of C-Span, I know that each member also must be prepared to spend long hours listening during hear-

ings like today's, and it is for that dedication that I most want to thank all of you.

Rural CAP is a private, statewide, nonprofit organization with 501(c)(3) tax exempt status. We are only one of more than 900 community action agencies in the Nation which work to build self-sufficiency among low income people. Our work in Alaska is guided by our board of directors whose 24 members represent every major region of Alaska. The board is made up of a balance of target area village representatives, elected public officials, and private sector organizations, including the faith-based Alaska Conference of Churches. The retired Methodist minister, Reverend David Fison is ACC's representative on our board.

Because our major focus is the alleviation of poverty, we apply the majority of our resources to rural communities where poverty rates are statistically three times higher than in urban Alaska. Because we are the only community action agency in Alaska, however, we also have a mandate to serve people regardless of whether they reside in rural or urban communities. And as a result of that, Rural CAP also provides, for example, Head Start services to preschool children in the non-rural community of Ketchikan, home weatherization to qualifying low income residents in the capital city of Juneau, affordable housing opportunities to families in Anchorage, and support to students majoring in social work at the University of Alaska at Fairbanks through an Americorps partnership there.

It has been our practice to use Federal funds such as the Community Services block grant to leverage services for some of Alaska's most needy and disenfranchised groups. For example, our Homeward Bound program has garnered national awards for its innovative approach to assisting Anchorage's public inebriate homeless population back into healthy and productive lives.

From my perspective as an Inupiaq person who was born and raised a few miles down the coast from Nome, the most rewarding work that Rural CAP does is to support Alaska's federally-recognized tribes in their desire to maintain the status, rights, and privileges of their traditional governments. The Rural CAP board was the first of any statewide Native advocacy organization to adopt a formal policy of support for Alaska's tribes and their governments. The board took action at a time when the native community itself was divided on the question of whether our 200-plus tribes should assert tribal governing powers. Our board adopted their policy because that was the expressed wish of the communities they represented, and we have never looked back.

I strongly believe in the rightness of tribal governance for all of America's indigenous peoples as the best means we have to protect our time-honored ways of living. As the ground-breaking study by Stephen Cornell and Joseph Kalt of Harvard University described a few years back, when tribal people are allowed to make their own decisions about their future, they prosper economically, socially, and culturally. We tribal peoples of Alaska are no different. And, Mr. Chairman, I want to strongly echo and support the testimony of the AITC in that regard.

As a representative of a nonprofit agency, it is difficult in some ways for me to speak outright of legislative priorities. But it is easy

for me to summarize Rural CAP's hopes in terms of the testimony presented today by AITC and the AFN. In a word, we stand side-by-side with both organizations, as we have for going on 36 years. Today, I especially want to thank the Alaska Federation of Natives for the time they have spent in Washington over the past several years to bring our issues to the fore of Federal policy and lawmaking. The AFN, and especially Julie Kitka, has done a creditable job of enabling a cohesive Alaska Native approach to their work here, and this hearing is only the latest example of their success.

Rural CAP supports the AFN and AITC testimony regarding legislation originating from Congressman Young's office. Our board is cognizant of the concerns of regional nonprofits and tribes alike about the need for full funding of contract support costs under the Indian Self-Determination Act. We especially support the tribes in their desire to reassume full authority over the welfare of tribal children. Alaska does come under Public Law 280, Mr. Chairman, but I would remind you that act was adopted years before formal Federal recognition and, more recently, the actions taken by Alaska Governor Tony Knowles to recognize the status, rights, and authority of Alaska's federally-recognized tribes. That being the case, it would be entirely logical and right for Congress to revisit the vital question of Alaskan tribal rights in the area of Indian child welfare.

Rural CAP is currently working with tribes in Alaska on the vital issue of closing the digital divide. Mr. Chairman, I spoke with members of our staff last week about this question and I was told that they regretted that Rural CAP has embarked upon this effort. One staff member likened it to a can of worms. I asked why, and they said we have nothing but headaches in front of us. They found that in order for a villager to connect to the Internet, it sometimes takes as many as 13 separate communications connections. The signal apparently has to bounce up and down here and there, here and there before they finally get to the number where they can connect to AOL. And then when they do connect to AOL it will cost them $6 an hour to stay on-line. That is amazing to consider that when I in Anchorage connect to AOL it costs me $29.95 a month. Mr. Chairman, this is a situation that badly needs to be fixed and I hope that this committee, if it does not have direct oversight over that matter, will bring it to the attention of whatever Senate committee and House committee does.

Like AITC, Rural CAP is introducing a resolution to the National Congress of American Indians on the subject of regionalization of Alaska's tribes. In all respects, our resolution is virtually identical to AITC's. We hope this committee will take notice and respect the wishes to Alaska's tribes stated in both resolutions. We fully expect that NCAI will add its support.

Having said all that, Mr. Chairman, I have a particular request to make of this committee and of yourself as its most senior member. It is my earnest hope that all of you will pay special attention to the *Katie John* case as it makes it way almost inexorably to the U.S. Supreme Court. When Katie John made her way to the place called Batzulnetas in the 1980's she did not go as a plaintiff in a precedent-setting natural resources/States' rights lawsuit. She did not go as one of Alaska's most enduring symbols of tribal culture

and identity. She did not even go as what your committee is accustomed to call a tribal member. Sure, we can say that as Katie John went to Batzulnetas as a responsible parent and grandparent who was interested in getting enough salmon to support her extended family through the coming winter. But, Mr. Chairman, my own parents are still alive and fishing today. They have a camp below the Whaleback Mountains beyond the Unalakleet River in Northwestern Alaska.

My father is 83 and my mother is 78. They have a comfortable home, built without public funds, in the village, and they have a lovely river cabin which they built on 10-foot stilts to keep out the bears. When they spend 2 hours in an aluminum skiff driven by an outboard motor to get to their fish camp they know they are letting themselves in for two things: First, back-breaking work, and second, the peace that only comes with the knowledge that come January they will have silver salmon bellies ready to pickle, king salmon strips to eat with fresh bread and tea, dried humpback salmon to eat for lunch or supper, and salmon steaks frozen in water-filled milk cartons to offer special visitors. So I can say with a reasonable certainty, Mr. Chairman, that Katie John went to Batzulnetas, as my parents go to Whalebacks, to support a way of life without which their lives would be as nothing to them.

On Monday, the Ninth Circuit handed down a ruling that is ironically bittersweet to us as tribal peoples. On the one hand, the ruling sides with Katie John, and that vindicates our sense that the value of our tribal way of life has been made apparent to people as far away from Whalebacks and Batzulnetas as New York is from the moon. On the other hand, our hearts are heavy with the certain knowledge that this case will almost certainly arrive on the desks of certain U.S. Supreme Court Justices who, from the evidence of their previous voting, do not share this sense of value with us.

That being the case, Mr. Chairman, I want you to be on the alert that should the case of Katie John land in Washington, DC, and should a ruling come down against the interests of Alaska's tribal peoples, then we will not be before you or this committee with hat in hand as supplicants for a piece of the Federal pie. We will be here in force hammering on the doors of Congress to change the Alaska National Interest Lands Conservation Act in a way that will guarantee Federal protection of our fisheries, our fish harvest, and our tribal way of life. For our parents, yes, but also for our children and their children.

Thank you once again for this chance to address you and the rest of the members. Knowing that you need no such urging, I nonetheless encourage you, Mr. Chairman, to continue the good work you have done on behalf of America's tribes, including Alaska's Athabascan, Aleut, Yupik, Tlingit, Haida, Tshimpshoan, and Inupiaq peoples. [Native language.]

[Prepared statement of Ms. Herdman appears in appendix.]

Senator INOUYE. You can be assured that I support your sovereignty and will continue to do so. I thank you very much, Ms. Herdman, for your very moving statement.

Is your community action program the only one in Alaska?

Ms. HERDMAN. Yes; we started out as the Alaska State Community Action Program, which was called ASCAP. There was another community action program in Juneau, it was called SEACAP, Southeast Alaska. At some point we were asked to take over from SEACAP and we consolidated into the Rural Alaska Community Action Program, or Rural CAP.

Senator INOUYE. What is your budget?

Ms. HERDMAN. I am not the one to ask that. I have a feeling it probably is—well, I would hate to even hazard a guess—I would say somewhere around $15 million a year.

Senator INOUYE. Well I think you have done very well.

Ms. HERDMAN. We have had an excellent executive director. I believe when Jeanine took over we were somewhere between $2 and $5 million a year. She has done a tremendous job of using both CSBG funds, foundation funds, and of starting businesses to fund a Rural CAP foundation that also helps to support our work.

Senator INOUYE. In your opening remarks, you expressed concern that not too many members were present. Let me assure you, first, all members will be provided with copies of testimony; second, I wish to extend to you their apologies, but, as you know, that are many meetings of other committees happening at this time as well as matters being considered in the Senate chambers.

Ms. HERDMAN. I understand, Mr. Chairman.

Senator INOUYE. For example, I should be at four meetings at this moment. And we are now debating, I think it may be over now, the tax bill, for one thing, and education, for another. So, there are many members who wanted to be here but they have other responsibilities.

Ms. HERDMAN. I fully understand, and I know that many members of this committee are very active on Indian issues.

Senator INOUYE. Well, to all of you who have travelled long distances at great expense, we thank you very much. I can assure you that the committee will study your concerns very carefully and we will do our very best to address them. Thank you very much.

[Whereupon, at 5:30 p.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

# APPENDIX

## ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

### PREPARED STATEMENT OF VERNITA HERDMAN, ADVOCACY COORDINATOR RURAL ALASKA COMMUNITY ACTION PROGRAM

Good afternoon, Mr. Chairman and members of the committee.

My name is Vernita Herdman and I am the Advocacy Coordinator for the Rural Alaska Community Action Program, also known as RurAL CAP. I am testifying today on behalf of RurAL CAP's Executive Director Jeanine Kennedy; and our Board President, Donne Fleagle, both of whom asked me to express regrets that they could not be here today.

I'd like to start by thanking you for providing this opportunity to inform and educate the committee about what RurAL CAP does and what we hope to accomplish with the help of Congress in our future work in Alaska. It has been my long-held observation that service in the U.S. Senate allows each member to do great good for America's people and to reap the rewards of public accolades when everything turns out all right. But being an avid watcher of C–SPAN, I know that each member also must be prepared to spend long hours listening during hearings like today's, and it is for that dedication that I most want to thank all of you.

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Because our major focus is the alleviation of poverty, we apply the majority of our resources to rural communities where poverty rates are typically three times higher than in urban Alaska. Because we are the only community action agency in Alaska we also have a mandate to serve people statewide. As a result, RurAL CAP also provides:

- Head Start services to pre-school children in the non-rural community of Ketchikan;
- Home weatherization to qualifying low-income residents in the capitol city of Juneau;
- Affordable housing opportunities to families in Anchorage; and
- Support to students majoring in social work at the University of Alaska at Fairbanks, through an Americorps partnership there.

It has been our practice to use Federal funds such as the Community Services Block Grant to leverage services for some of Alaska's most needy and disenfranchised, For example, our Homeward Bound program has garnered national awards for its innovative approach to assisting Anchorage's public inebriate homeless population, back into healthy and productive lives.

From my perspective as an Inupiaq who was born and raised a few miles down the coast from Nome, the most rewarding work that RurAL CAP does, has been to support Alaska's federally recognized tribes in their desire to maintain the status,

rights and privileges of their traditional governments. The RurAL CAP Board was the first of any Statewide native advocacy organization to adopt a formal policy of support for Alaska's tribes and their governments. The Board took action at a time when the Native community was divided on the question of whether our 200-plus tribes should assert tribal governing powers. Our Board adopted their policy because that was the wish of the communities they represented; and we have never looked back.

I strongly believe in the rightness of tribal governance for all of America's indigenous peoples as the best means we have to protect our time-honored ways of living. As the ground-breaking study by Stephen Cornell and Joseph Kalt of Harvard University has described, when tribal people are allowed to make their own decisions about their future, they prosper economically, socially and culturally. We tribal peoples of Alaska are no different and, Mr. Chairman, I want to strongly echo and support the testimony of the Alaska Inter-Tribal Council in this regard.

As the representative of a non-profit agency, it is difficult in some ways for me to speak outright of legislative priorities. But it is easy for me to summarize RurAL CAP's hopes in terms of the testimony presented today by the Alaska Inter-Tribal Council and the Alaska Federation of Natives, In a word, we stand side-by-side with them as we have for going on 36 years. I especially want to thank the Alaska Federation of Natives for the time they have spent in Washington over the past several years to bring our issues to the fore of Federal policy- and law-making. The AFN has done a creditable job of enabling a cohesive Alaska Native approach to their work here, and this hearing is only the latest example of their success.

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Having said that, I have a particular request to make of this committee and of you, Mr. Chairman, as its most senior member. It is my earnest hope that all of you will pay special attention to the *Katie John* case as it makes its way almost inexorably to the U.S. Supreme Court.

When Katie John made her way to Batzulnetas in the 1980's, she did not go as a plaintiff in a precedent-setting natural resources/states' rights lawsuit. She did not go as one of Alaska's most enduring symbols of tribal culture and identity. She did not even go as what your committee is accustomed to call a "tribal member." Sure, we can say that Katie went to Batzulnetas as a responsible parent and grandparent who was interested in getting enough salmon to support her extended family through the coming winter.

But, Mr. Chairman, my own parents are still alive and fishing today. They have a camp below the Whaleback Mountains beyond the Unalakleet River in northwestern Alaska. My father is 83 and my mother is 78. They have a comfortable home built without public funds in the village; and they have a lovely river cabin on 10-foot stilts to keep out the bears. When they spend 2 hours in an aluminum skiff driven by an outboard motor to get to their fish camp, they know they are letting themselves in for two things: one, hard, hard work; and two, the peace that only comes with the knowing that, come January, they will have silver salmon bellies ready to pickle; king salmon strips to eat with fresh bread and tea; dried humpback salmon to eat for lunch or supper; and salmon steaks frozen in waterfilled milk cartons to offer special visitors.

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moon. On the other hand, our hearts are heavy with the certain knowledge that this case will almost certainly arrive on the desks of certain U.S. Supreme Court justices who, from the evidence of their previous voting, do not share this sense of value with us.

That being the case, Mr. Chairman, I want you to be on alert that, should the case of Katie John land in Washington, DC and should a ruling come down against the interests of Alaska's tribal peoples, then we will not be before you or this Committee with hat in hand, as supplicants for a piece of the Federal pie. We will be here in force, hammering on the doors of Congress to change the Alaska National Interest Lands Conservation Act in a way that will guarantee Federal protection of our fisheries, our fish harvest and our tribal way of life. For our parents, yes—but even more for our children and their children.

Thank you once again for this chance to address you and the honored members of the Senate Committee on Indian Affairs. Knowing that you need no such urging, I nonetheless encourage you, Mr. Chairman, to continue the good work you have done on behalf of America's tribes—including Alaska's Athabaskan, Aleut, Yupik, Tlingit, Haida, Tshimpshian and Inupiaq peoples.

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PREPARED STATEMENT OF ALFRED KETZLER, SR., CAO, TANANA CHIEFS CONFERENCE, INC.

Thank you, Mr. Chairman, members of the committee. I speak today to several issues. The first subject is subsistence and subsistence management. Two decades ago, we saw wildlife shortages within the TCC region that drove us to seek protections in Congress. We now see some of the fruits of those congressional actions in our hunting areas as a result of Federal and state co-management. Unfortunately, the salmon in western Alaska are now in similar straits as moose from years past.

The success of co-management in navigable waters is partially dependent upon the cooperation of both partners. The language in Federal law at the moment is sometimes unclear or the meaning and intent is not spelled out. The resultant confusion can easily complicate an already disastrous situation such as we have with the salmon. Climate changes and warming trends in the arctic will continue to plague our fisheries resources and you are just as likely to see a shark as a salmon.

Although the State of Alaska has enacted a Memorandum of Understanding with the Federal Office of Subsistence Management with regard to subsistence fishing, both parties are drawn in two distinctly different directions as managers. This renders solutions at the Board of Fisheries and Federal Subsistence Board level difficult or unlikely. Clear Congressional directives drawn hard and fast to protect the resource and subsistence uses becomes increasingly important.

Congress should not enact any amendments to Title VIII of ANILCA that weakens current Federal protections of subsistence, in particular, the Congress should not incorporate into Federal law: the current definition of customary and traditional (the key term in defining subsistence); nor diminish the current Federal requirement that subsistence regulations cause the least adverse impact on local customary and traditional practices; not diminish the powers of Federal courts or administrative agencies to oversee and enforce Title VIII protections; nor, require Federal judicial deference to State decision or eliminate secretarial oversight or authority when the State is in compliance with Federal law or allow State agencies discretion to define customary trade.

Congress should require that, at any time the State is out of compliance, Federal jurisdiction shall include all Federal public lands and reserved navigable waters, all selected but unconveyed lands under the Statehood Act and the Alaska Native Claims Settlement Act, Native lands considered Indian country, any conveyed ANCSA lands agreed to by the Native Corporations owning them, and Federal lands and waters in order to provide for subsistence on Federal lands and waters.

Finally, Congress should require that Federal agencies and the state contract to Native institutions, particularly to tribes and tribal consortia, as many subsistence management functions as are feasible and proper—and that such delegated functions of co-management include effective roles in the regulatory process itself and in enforcement on the ground, not just for counting fish runs, gathering soil samples, and monitoring harvests.

A quiet crisis is going on in rural Alaska and the Native people face a grave and precarious future. Although Alaska Natives constitute 15.6 percent of the statewide population, they are disproportionately represented with negative health indicators such as high rates of child abuse and neglect, sexual abuse, domestic violence, school failure, unemployment, incarceration, fetal alcohol syndrome and suicide. Though many factors may have contributed to this crisis, the cultural disruption in-

stigated by the change from subsistence to a cash economy, a greater degree of environmental and social stressors including multi-generational trauma and grief from the epidemics such as the early 1900 TB epidemic, followed more recently by the "epidemic" of alcohol abuse as well as cultural dislocation, poverty, depression and anti-social behavior are certainly among leading causes.

As pointed out in AFN's *"A Call to Action"* (1989), *"—in recent years, the pace of economic, social and cultural change in Native villages has been so rapid and the change so profound that many Natives have been overwhelmed by a world not of their making—a world of conflicting values and increasingly limited economic opportunity. For many Natives, the sense of personal, familial and cultural identity that is prerequisite to healthy and productive life is being lost in a haze of alcohol-induced despair that not infrequently results in violence perpetrated on self and family—Whatever words are chosen to depict the situation of Alaska's Native people, there can be little doubt that an entire population is at risk—of being permanently imprisoned in America's underclass, mired in physical and spiritual poverty; of leading lives, generation to generation, characterized by violence, alcohol abuse and cycles of personal and social destruction; of losing the cultural strengths essential to—social order; of permanently losing the capacity to self-govern—"* Moreover, the plight of Alaska Natives was identified over 13 years ago in a sequence of reports, beginning with the Pulitzer Prize winning Anchorage Daily News series, *"A People in Peril"* (1988).

Following on the heels of the two seminal reports sited above, Congress prompted the formation of the Alaska Native Commission (1994), a joint Federal-State commission of programs and policies affecting Alaska Natives. A few critical findings from the Commission are listed:

Poverty. Lack of income is a primary stressor of Native families. Rates of unemployment in villages are well over 50 percent. The State's executive workforce is less than 5 percent Native. 21.5 percent of Native families are below the poverty line in rural areas with high cost-of-living. Many Native families are dependent on welfare.

Suicide typically occurs when an individual experiences overwhelming pain that exceeds their coping capacities. It also can happen when there is a death or terminal illness of a relative or friend and when divorce, separation or a broken relationship occurs. Stress on the family, loss of health, job, home, money, status, or personal security can cause an individual to commit suicide. Moreover, feeling powerless and hopeless that pain will continue, get worse or never get better leads a person to suicide. Clinical depression, where a person feels worthlessness, hopeless, shame, guilt, and self-hatred, et ecetra, is highly correlated with suicide. It is also well known that prolonged alcohol abuse leads to depression and therefore can lead to suicide. Given these reasons why one may commit suicide coupled with Alaska Native Commission's findings it is more than apparent why suicide is happening in epidemic proportions among rural Alaskan Natives. That is, every possible reason for a person to commit suicide is operating in many Alaska Native communities.

At this point, there is no Federal, State or local system of trained professionals or assistance programs to rapidly respond to a suicide in the remote villages. This leaves an already decimated village to their own limited devices to deal with the terrible aftermath of a suicide. In a majority of the villages, no professional staff is immediately available to help the family and community to begin to heal and no monetary resources are available to assist with burial expenses, carry out a memorial potlatch or other social requirements.

Recruit and hire a dedicated Suicide Prevention Specialist. This person should have a bachelor's degree and specialized experience in suicide prevention and will oversee the suicide prevention program.

This Suicide Prevention Specialist will work with the existing mental health, health aide, school counselors and village groups to develop an advisory group to guide the efforts of the Suicide Prevention Specialist.

The Suicide Prevention Specialist and the Advisory Committee will develop a Suicide Rapid Response Team. This team of 5–7 reliable and available people from a variety of personal and professional backgrounds will be responsible for deploying quickly to any village within a region that has just experienced a suicide. The team will respond to a suicide at the request of the village chief or president. This team will be trained and empowered to work on behalf of the Suicide Prevention Committee. They will work with local community members in the areas of individual debriefing, community debriefing, coordinating assistance for the family as well as assisting materially with village specific issues such as grave digging and potlatch preparation. The response team will meet to debrief themselves once returning to their community to alleviate any mental/emotions associated with the response.

The over-riding principal of the Suicide Prevention Program will be to implement a community based and driven work to prevent suicides.

Raise knowledge of suicide prevention in caregivers.

The responders will be trained in Critical Incident Response Debriefing as well as Applied Suicide Intervention Skills Training. Both of these training systems focus on the need to work with individuals, families and the community to work through issues associated with a fatality due to suicide or other trauma.

The suicide prevention specialist and the suicide intervention team will function as a continuing resource to all villages statewide.

Title IV-E is a critical source of funding for foster care and adoption services in the United States. Title IV-E programs provide billions of dollars of funding which can be used to support such child welfare services. The protection of children from maltreatment in the United States is primarily under the jurisdictional authority of States, territories and tribes. However, tribal access to IV-E has been unequal to that of States. Although the IV-E program was intended by Congress to serve all eligible children, American Indian children under tribal court jurisdiction do not enjoy the same entitlement to IV-E as other children in the United States. Title IV-E does not provide funds for children placed by tribal courts or for tribal governments providing foster care and adoption services to children under their jurisdiction.

For the past 15 years, 227 tribes in Alaska (40 percent of all tribes in the country) have engaged the State of Alaska in discussions regarding pass through access to Title IV-E funding to help pay for the cost of foster care for children in tribal custody. The State of Alaska has just recently negotiated a pilot project which passes through Title IV-E reimbursements to three regional Alaska Native non-profit organizations for administrative and training costs only and even then only in regards to tribal children in State (not tribal) custody.

For over 20 years, many Alaskan tribes such as the 37 federally recognized tribes in the TCC service area, have actively asserted their jurisdictional authorities under the Indian Child Welfare Act and have been placing children into protective tribal custody to prevent the occurrence or reoccurrence of abuse and neglect.

Over the past 7 years, approximately one-half of all the tribal children in protective custody in regions like the TCC service area have been under the jurisdiction of its member tribes and one-half under the jurisdiction of the State of Alaska and other States.

Annual expenditures for foster care for children in tribal custody in the TCC region of Alaska alone averages between $650,000 and $800,000. Tribes in Alaska have been financing foster care for children in tribal custody through funding under BIA Social Services and the Temporary Assistance for Needy Families programs.

It is estimated that 75–85 percent of the children currently in tribal foster care would be eligible for maintenance reimbursements under Title IV-E.

The inability of tribes to directly access Title IV-E foster care maintenance funding creates an unfair burden on other state or tribal programs (such as the TANF program) which end up paying for these child welfare services even though the Congress intended these programs to focus on other important social issues.

This situation is further exacerbated by the fact that in Alaska the State TANF payment rate for relatives who are the primary care providers for children is one third the amount of the State foster care rate and results in direct relatives who are the priority foster care providers under ICWA receiving one-third of the amount that a non-relative (lowest placement priority under ICWA) receives for providing the same foster care.

If tribes had direct access to Title IV-E funding, relatives providing foster care for children in tribal custody would receive much needed foster care payments at the State foster care rate, an amount equal to what all other foster care providers receive. Likewise, more tribal adoptive homes would be available for tribal children needing adoption if tribes had access to Title IV-E funding.

Senators Daschle, Baucus, McCain, Inouye, Feinstein, and Cochran have submitted S. 550 which allows States to continue providing these services or allows tribes to either continue their current State-tribal agreements regarding Title IV-E programming or allow tribes with the capacity and motivation to do so to administer their own Title IV-E programming through direct funding. We recommend that this committee lend its full support of this bill.

I strongly urge this committee to work closely with tribal leaders to strengthen the self-governing powers of Alaska Native Tribes. I would like to ask this committee to work diligently with tribal leaders to endorse amendments to Title IV. Amendments that would empower tribes to extend their capacities to operate tribal governments, enabling more effective performance when battling difficult community problems such as alcohol, child welfare, education, public safety, resource man-

agement and environmental protection. Also, the BIA and the IHS have different policies implementing the ISIDEAA's provisions on contract support costs. This results in confusion and inconsistent treatment of the same statutory provisions by both agencies. We propose that the BIA be directed to work with the IHS to jointly develop rules implementing the ISDEAA's contract support provisions in a consistent and uniform manner. Passage of these amendments should also reverse the impediments and restrictions included in the Title IV Self-Governance Regulations. Many of the provisions in these regulations were strongly opposed by tribal leaders yet were promulgated in violation of the past administrations' Executive Order on Indian Consultation.

This committee must continue endorsing the past administration's Indian Consultation Policy. Any significant changes to Federal statute, regulation—or policy must be the result of "true" consultation meetings with tribal leaders using consensual mechanisms for developing these changes. It cannot be a "listen to tribes and proceed as usual" approach. This is especially true with DOI non-BIA agencies. Tribal consultation defines the government-to-government relationship between tribes and the Federal Government.

Pursuant to Public Law 93–638 Title IV., Alaskan tribes insist on better efforts from the DOI non-BIA agencies to negotiate with tribes in developing self-governance compacts and funding agreements. Agencies that are reluctant to work with tribes in developing this government-to-government relationship need to extend themselves further to learn the history, goals and purpose of self-governance. Alaskan tribes would like to also work with DHHS non-IHS agencies to negotiate and enter into compacts and funding agreements, and therefore urge this committee to endorse passage of Title VI to Public Law 93–638 that would allow tribes to negotiate self-governance compacts and funding agreements with these DHHS agencies.

We will at a later date, submit the amendments as part of our testimony. Thank you for the opportunity to testify.

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PREPARED STATEMENT OF RITA STEVENS, PRESIDENT AND CEO, KODIAK AREA NATIVE ASSOCIATION

Mr. Chairman, Members of the Senate Committee on Indian Affairs, my name is Rita Stevens, and I am a member of the Alaska Federation of Natives Human Resources Committee. I am also President and CEO for the Kodiak Area Native Association. I greatly appreciate the opportunity to be here before you today to testify on Alaska Native issues that we hope will be addressed in this 107th Congress. I will mainly be addressing Family Resource Centers, the Reauthorization of the Indian Health Care Improvement Act, Contract Support Costs, and the need for improved access to advanced telecommunications services.

The Alaska Federation of Natives Human Resources Committee requests that Congress enact legislation establishing a "Five-year Family Resource Demonstration Project" in rural regions of Alaska. Families in rural Alaska face many difficult challenges. Incidents of child abuse, neglect, drug abuse and domestic violence are common in rural Alaska. Rural Alaska suffers from high rates of criminal behavior. Fetal Alcohol Syndrome and Effect, teen pregnancy, alcohol related deaths, and suicide. We need family resource centers in the rural areas to attempt to address these issues.

There are currently some resources available to address these needs, but most of these support programs and services are not easily accessible to Alaska's rural communities, making it difficult and costly to benefit from them. The Human Resources Committee believes that more must be done to provide resources that are easily accessible to Alaska's rural families. The AFN Implementation Study recommends the establishment of a major demonstration program in Alaska to provide Family Resource Centers. These Centers would provide a focal point for all programs for children and families, including: Adult Basic Education, Before and After School Outreach, Child Care, Head Start, Healthy Families, Employment Training, General Assistance, and so forth. Consolidating programs and services in Family Resources Centers in each village would ensure that rural families have access to the kinds of support programs and services available to urban families.

The Human Resource Committee recommends a 5-year Demonstration Project that would: Establish block grant funding for the consolidation of programs and services for children and families; provide participation grants to State and local governments to encourage integration of governmental of services; and allow for development of integrated programs in rural communities. We further recommend that the Demonstration Projects be conducted with the most directly affected Native Regional Non-Profits with experience in social service programs.

The AFN Human Resources Committee also supports the reauthorization of the Indian Health Care Improvement Act, as provided for in S. 212. The Indian Health Care Improvement Act was enacted in 1976 and is now due for reauthorization to continue the Federal provision of health care services to Native people. Since its enactment, the act has reduced serious illness and resulted in a healthier Native community. Nonetheless, there is still much work to be done to raise the health status of Native people to a level equal to the general population. For instance, even with the improvements made over the years, Native people suffer a death rate from alcoholism that is 627 percent higher than the general population. Death from tuberculosis is 533 percent higher, and death from diabetes is 249 percent higher. This is not acceptable, and S. 212 goes far to addressing these needs.

AFN also supports the core principle of "self-determination" embodied in the act, an area where our Alaska regional health care providers have been national leaders. S. 212 builds upon our achievements under the Indian Self-Determination Act.

It is important to note that S. 212 was drafted with the input of tribes, tribal organizations, urban Indian organizations and health care providers, and that many Alaska Native health organizations were deeply involved in this process. S. 212 reflects this very substantial Alaska Native participation, which is why AFN strongly urges Congress to pass S. 212 this year. The future health of our Native people depends on it.

With regard to contract support costs, AFN calls upon Congress to enact legislation to make contract support cost funding a guarantee, so that tribal organizations at the forefront of self-determination and self-governance compacting are not penalized for their efforts. Alaska's Regional Non-Profit health and social service providers continue to suffer from severe contract support shortfalls. As you know, we only reserve a fixed amount of IHS and BIA funding to carryout our significantly underfunded health and social service programs. We receive only what the IHS or BIA had to run their programs. The result of the contract support shortfall is therefore a dollar-for-dollar further reduction in the funding that would otherwise provide desperately needed health and social services to Alaska's Native people. Therefore, we recommend that the Senate introduce and promptly pass legislation modeled after last year's House bill, H.R. 4148.

The AFN Human Resources Committee also requests that Congress ensure Alaska Native service providers and rural villages have affordable access to advanced telecommunications services. Alaska Native Regional Non-Profit Corporations are trying to deliver educational and social services to tribal members in rural Alaska. But, telecommunication services required to do this costs 10 times more than in urban Alaska. There is an increasing need for up-to-date technology to allow the Regional Non-Profits to deliver vocational education, adult literacy, social services, economic development, and other services to rural Alaska villages.

The Universal Service programs have significantly narrowed the "digital divide" in many places around the country, but at the same time have not yet reached all rural Alaskan communities. Schools, libraries and health clinics are able to access the Internet at reasonable rates, but community members and businesses cannot. Further, in regions where the Regional Non-Profit Health Corporation (funded by IHS) is separate from the Regional Non-Profit social service agency (funded by BIA), only the Health Corporation is eligible for improved Internet access. This limitation prevents the distribution of core educational and social service programs under existing law.

The cost of providing advanced telecommunications services in Alaska will remain high because these services must be provided via satellite, but these services are needed to revolutionize the way Alaska's Non-Profits deliver social and educational services. Therefore , the AFN Human Resources Committee urges Congress to modify the existing Universal Service programs to allow Alaska's Non-Profit Regional Corporations to more efficiently provide services to rural Alaska, and to provide reasonably priced Internet access to village residents.

We recommend one of the following steps: (1) an amendment to Section 254(h)(1)(A) of the Telecommunications Act to clearly identify Alaska Non-Profits as eligible entities for Universal Service support; (2) direct the FCC or the Joint Federal-State Board to provide Alaska Native Regional Non-Profits with Universal Service support equal to that provided to rural health providers, as called for in Section 254(b)(7) of the Telecommunications Act; or (3) amend the Telecommunications Act so that schools, health care providers, or other eligible entities in rural Alaska villages become Internet Service Providers on a not-for profit basis, at Universal Service rates.

Before closing, I wish to briefly address two additional areas of concern to our regional Native health and social service providers.

First, Congress needs to promptly close the loophole that is forcing our regional tribal organizations in Alaska, but nowhere else, to engage in collective bargaining under threat of crippling strikes against our Alaska Native-operated IHS hospitals. This action, promoted by the National Labor Relations Board, is based on a distinction that the Washington, DC Circuit Court of Appeals last December called "irrelevant": namely, that our IHS hospitals and clinics are not technically on "reservations." Let me be clear: If KANA or any other Alaska Native regional health care provider faces a strike, the result will be devastating to our people, for whom we are the only health care provider. We therefore urgently call upon Congress to close this loophole by amending the Indian Self-Determination Act as proposed last year in section 515 of S. 979.

Second, we call upon Congress to revisit and amend the 1978 Indian Child Welfare Act. Although this bold Act has greatly improved the future of our Native children, 23 years of experience has shown many areas where further improvements can be made. Alaska regional non-profits, Tribes, States and adoption attorneys have all worked together over several years to develop and refine a mutually acceptable package of amendments to be shortly introduced in the House by Congressman Young. We respectfully urge the committee to introduce parallel legislation, so that these long-awaited improvements can finally be enacted.

Mr. Chairman, I want to express my appreciation for the opportunity to testify on these important issues faced by Alaska's Native people. Thank you.

Testimony for the U.S.
Senate Indian Affairs Oversight Committee
On Energy
Issues as they relate to Alaska's Villages

May 10, 2001

By: Nels Anderson, Jr.

Thank you for you the opportunity to testify on Energy Issues as they relate to Rural and Remote Alaska.

I will touch briefly on; 1) cost of electricity, 2) cost of fuel, 3) alternative energy initiatives, 4) proposed gas pipeline and energy implications, and 5) OPEC.

1. "99 utilities provide 195 Alaska villages with electricity. Virtually all of them are totally dependent on diesel for their source of fuel. Very few villages are inter-connected with one another. They are independently operated and must provide fuel, maintenance and operations for their village. The small number of people served and the small load adds expenses to the production of power. The Rural Alaska Energy Plan, Phase I, states that "the average cost of power in Rural and Remote Alaska is 25.4 cents per kilowatt hour, 3.7 times the national average. The cost of power in the communities of less than 1,000 population is even higher at 32.5 cents per kilowatt hour, 4.7 times the national average." This compares to the national average rate of 6.85 cents a kilowatt hour." Quote from Alaska's DRAFT Energy Plan-Phase 1

I pay .19030 cents per kilo Watt hour. I used 449 KW last month. This compares with the my cost of electricity of .18 cents per KWH last year.

Diesel fuel is going up and we see no relief in sight for the foreseeable future. We will need to convert to alternative energy sources at some point in time and those alternatives must be explored and tested to be ready for our use when the cost of diesel makes its use prohibitive for electrical generation

The only meaningful action that the state of Alaska has taken to address the high cost of energy was the creation of the Power Production Cost Assistance Program (PPCA) in 1980 and the Power Cost Equalization

Program (PCE) in 1985. These program recognized high power costs in Rural and Remote Alaska "due to the cost of fuel, the geographic remoteness of the utilities, the number and classes of consumers they serve, and the relatively small size of the utilities electric load. The power production cost reduction received by the utility would be passed on to its consumers through lower electric rates."

In order to evaluate the alternative methods to provide meaningful assistance to Alaskans for lower cost electrical energy and fuel, the federal government should consider adopting the following nine criteria for developing a power production cost assistance program:

1. The program must provide immediate assistance for the severely impacted rural electric and fuel consumers.
2. The program must reduce the current disparity between national and state rural and urban electric rates.
3. The program must promote the efficient use of generating facilities and energy efficient appliances.
4. The program must promote the development and utilization of new and more economical generating facilities.
5. The program must promote conversion to renewable energy resources.
6. The program must ultimately become economically self-sustaining.
7. The program must be relatively simple to develop and administer.
8. The program must be operationally consistent with the intent of existing energy related legislation.
9. The program must conform to the cost-of-service rate making philosophy as approved by the Dept. of Energy.

The state of Alaska's Power Cost Equalization Program (PCE) has some effect and we are very glad it is helping. However, according to the Alaska Draft Energy Plan-Phase I, "despite a substantial subsidy from the state, the average residential rates is still 2.1 times the national average but that does not address the cost of heating fuel and the cost of gasoline for our outboards and snowmachines and four wheelers that are used for Subsistence purposes.

2. Cost of heating fuel in rural and Remote Alaska:

Heating fuel costs $179.00 for a 50 gallon barrel in many of our Bristol Bay villages. That is $3.58 plus a gallon.

Villagers are paying $2.75 a gallon of gasoline and have been doing so for three years. Many villages are paying more. While Anchorage is enjoying gas at the pump for $1.58 a gallon, their neighbors are struggling to keep their outboard motor gas tanks full to go hunting for

Subsistence food for their tables.

Alaska is exporting virtually all of its oil and gas and is not creating enough programs that would lower the cost of fuel for our Rural and Remote villages.

Because bulk fuel owners are able to get their diesel fuel delivered to Bristol Bay for $1.02 a gallon and we pay $2.58 a gallon at the pump, we feel that we may not be paying a fair price for our fuel.

The state and federal governments need to conduct surveys on a regular basis to make sure that our villages are getting their fuel at a fair price. Our governments also need to make sure that our villages have enough affordable fuel for our villagesd for next winter and subsequent winters.

3. Alternative energy initiatives, including gas cap and oil, and coal exploration:

There are a number of alternative energy projects that are being worked on in Alaska that would be of some use in bringing down the cost of energy in the future. There is a wind energy project in Kotzebue, Alaska that is displacing diesel. There is some hydro generated energy and some work being done on finding geothermal energy.

Finding alternative energy in Rural And Remote Alaska does not only mean displacing diesel which most of our villages use to generate their electrical power. Alternative energy development should include finding gas caps or oil reserves in Rural and Remote Alaska. Village people are saying that they want to see all state, federal and private uplands explored for small gas caps and oil reserves that could be a source of lower cost petroleum products. Villagers are advocating for sensible and orderly exploration for oil, gas and coal that is sensitive to Subsistence values.

In order for Rural and Remote Alaska to engage in viable economic development activities, we must first have a secure, low-cost, and safe source of energy other than diesel. That source would include gas cap exploration in our Rural and Remote regions of Alaska. We urge the Energy Department to begin to develop a strategy that will outline a program of identifying potential gas and oil reserves in close proximity to our villages in Alaska. We need a plan that will begin drilling for gas that could support micro-turbines for electrical generation.

Another idea would take some of our Alaska's royalty oil and have it refined into heating fuel and gasoline and have it delivered to our villages at a cost we can afford. A federally and state sanctioned Alaska Fuel Coop needs to be considered to coordinate these kinds of projects in close cooperation with our village and regional Native

organizations.

Other alternatives include tidal, geothermal, wind, solar, peat, hydro, gas and coal for our potential use for energy sources in Rural and Remote Alaska. There is no one quick fix for any one region of our state but one of these should have some practical application for bringing down the cost of electrical energy.

4. Proposed Gas Pipeline and its energy implications:

In addition, the federal government and state must negotiate into any gasline proposal that their natural gas must be diverted to Rural And Remote villages in Alaska. If a pipeline is built, then oil companies must set up an LNG plant on the banks of the Yukon River so that LNG barges can be used to deliver LNG to our villages. Micro-turbines could be ready to start generating electrical energy from that LNG. That LNG should come from our royalty gas and should be sold to our villages at a cost that we can afford.

5. OPEC:

President Bush and many congressional leaders, including our own Senators Stevens and Murkowski and Congressman Young, are deeply concerned about the United States dependence on foreign oil. Many Alaska villages are concerned as well.

Our dependence on OPEC nations for our fuel has a direct impact on our high cost of electicity and fuel in Rural and Remote Alaska. As a result, we urge our national leaders to move toward energy self-sufficiency as soon as practictible.

Alaska's Native People are in favor of orderly exploration and development for fossil fuels. But there is a concern that exploration efforts may interfere with Subsistence hunting, fishing and gathering activities. However, it is believed that with close coordination with the Native people and their respective villages, these concerns can be mitigated.

Furthermore, Alaska's Native people and other Native American Tribes are among the most patriotic people in the United States. Native Americans, including Alaska's Natives, have sent more people per capita in defense of our country and we do not want to see the United States weakened by failing to secure its energy needs. We are not only concerned about our own energy self-sufficiency but ALL Americans as well. Our national security is vulnerable if we do not solve our long term need for a source of reliable and stable source of energy for our villages, Tribes, and all Americans.

Like all Americans, we want to have a quality of life that is energy

secure in the future. As we look at how we can reduce our energy demands, I would like to suggest the following:

a) That our nation adopt a 55 mph speed limit once again to help reduce our gas consumption.
b) That our national government speed up development of fusion to provide as another source for our energy needs.
c) That our government work diligently to develop the technology needed to burn coal in an environmentally safe manner.
d) Begin an accelerated program to develop fuel cells for heating and lighting our homes in Rural and Remote Alaska.

Summary:

1) We need to make sure that our villages will have enough affordable heating fuel for their homes next winter and subsequent winters until we have found energy alternatives that will provide electricity and fuel at an affordable cost without impacting our Subsistence way of life.

2) We must embark on an immediate exploration program to find gas caps and oil reserves in close proximity to our villages in Rural and Remote regions of our state.

3) We must secure funds to develop an energy grid for those villages that could benefit from tying into the Railbelt Energy grid in Alaska.

4) We must secure funds that will allow us to develop regional energy grids that will consolidate our villages and provide interties that will connect our villages to help reduce the cost of energy.

5) We must begin the process of identifying the number of jobs that will be needed for gas pipeline construction and
develop an Alaskan work force with the jobs skills needed to handle all of the jobs that open up, including training for operating and maintaining the gas pipeline.

6) In order for us to divorce ourselves from over dependence on OPEC oil in our nation and diesel in our villages in Alaska, , we must work on immediate strategies to use our coal in an environmentally safe manner, investigate all alternative energy development, and create programs to develop fusion to generate our future electrical power needs.

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May 8, 2001
Comments of Steve Ginnis, president of Tanana Chiefs Conference, Inc.
Fairbanks, Alaska
To the United States Senate Committee on Indian Affairs
Washington, D.C.

Good morning, Senators.
My name is Steve Ginnis. I appreciate the opportunity to share my concerns with members of this committee.

I am a Gwich'in Koyukon Athabascan and was born and raised in Fort Yukon, Alaska. Today, I am president of Tanana Chiefs Conference, Inc., a non-profit consortium of 42 Interior Alaska Native tribes.

TCC provides a broad range of health, social, advocacy and development services to the member tribal governments of the region and approximately 13,000 tribal members.

The TCC region covers an area of 235,000 square miles, an area equal to about 37 percent of the state of Alaska, and just slightly smaller than the state of Texas. The temperature in the Interior of Alaska ranges from a low of 70 degrees below zero to over 100 degrees. Only nine of our villages are accessible by road, and the remainder of the villages are accessible only by air (or by river during the summer months of June through the middle of September).

The economy of TCC-member villages is predominantly subsistence. The region's land and water is our grocery store. Through hunting, fishing and gathering, we feed our families and keep our cultures alive.

However, we have not escaped the ravages of poverty and neglect. Unemployment ranges from a low of about 20 percent to a high of 90 percent or more. The annual medium family income in the TCC region is around $30,000 compared to $54,000 for the average family living in one of Alaska's urban centers. The cost of living in our villages is estimated to be 30 to 40 percent higher than the cost of living in Anchorage or Fairbanks.

If the projections of Alaska's politicians and developers are correct, a major energy pipeline will soon be on the drawing boards and headed toward construction. From the perspective of my people, a natural gas pipeline from Prudhoe Bay to the Lower 48 offers both painful memories and hopeful anticipation.

I say painful memories because of the failed promises that were made to my people when the oil pipeline was planned and built 30 years ago. Training and employment were thought as economic salvation for Alaska's Native peoples. After 30 years, training opportunities and employment rates for Natives still lag behind the targets set by Alyeska, the corporation which operates the pipeline.

Even while the oil pipeline runs through the middle of our lands, our villages pay the highest prices in the nation for heating fuel and gasoline. Fuel arrives in most of our villages either by summer barge or by airplane. In Arctic Village, for instance, gasoline costs $4 per gallon. Heating oil costs $3 per gallon and a kilowatt of electricity costs .51 cents.

We know what high energy costs mean to local economies. Enterprise creation in our region stagnates because of high energy costs.

We are hopeful, however, that with the new pipeline positive changes will result. Natural gas offers the prospect for clean, reliable and relatively inexpensive fuel for many Interior Alaska villages.

As I stated recently when testifying before Gov. Knowles" Alaska Highway Natural Gas Policy Council, "sending Prudhoe Bay natural gas to the Lower 48 has the potential to do a lot of good for a lot of people -- if it's done right."

Natural gas can heat homes and be used to generate electricity. It can be used in transportation; to make fertilizer, plastics and many other things. At the rate fuel is being burned in the Lower 48, this resource is vitally important to Alaska and the whole country.

I repeat, "...if it's done right." Doing it right this time means fully taking into account the people whose land the pipeline crosses.

Prudhoe Bay natural gas is a huge resource. There are 35 trillion cubic feet of discovered gas on the North Slope. This is the energy equivalent of more than 50 percent of the original recoverable oil reserves in Prudhoe

Bay. How this resource is moved to market will impact our people for years to come.

The construction phase is expected to last from three to five years. The project has the potential to provide an enormous economic boost to people who live in Alaska and along its route.

A project of this value can help improve community infrastructure. It's not unrealistic to think that better schools, transportation and health care can be a result of a project like the gas pipeline.

While economic opportunities presented by this project will be welcomed by many people, we want assurances that certain planning and performance criteria will be met. We want planning to be upfront so that the collection and dissemination of information is open and transparent.

We want a seat at the table.

We insist on strict environmental and safety protections so that our renewable resources and people will be treated with care and respect.

At the Yukon River crossing, we are proposing a facility that will transfer and hold gas for local consumers. Both upstream and downstream villages will benefit from this access. It will not be as convenient as piped delivery, but a natural gas transfer station will mean improved living conditions, reduced costs and increased economic activity.

We suggest that a feasibility study be funded to help determine the region's needs; formulate access to natural gas supplies for domestic use; and present best options for tribal business enterprise. We at TCC look forward to discussing this idea in more detail with your staff.

While no one denies that markets far from Alaska are the driving force behind this project, let us not forget the indigenous tribal people whose lands provide the right-of-way. The resource delivery system should be planned and designed in ways that serve these people as well as distant markets.

When it comes to resource extraction, this committee knows full well that competing values often complicate the decision-making process. The issue of whether to open the Arctic National Wildlife Refuge to oil exploration is a case in point.

I'm here to say that the potential gain is outweighed by a certain loss. Since 1987, Tanana Chiefs has consistently supported the Gwich'in in opposing development of the Arctic Refuge. Drilling in the coastal plain of the Arctic Refuge, no matter how carefully, will substantially disrupt the birthing grounds of the Porcupine River Caribou herd. This is an unacceptable loss, both to our people and the land's natural heritage.

God knows how long the caribou have been coming to this place to drop their calves, but I do know that my people have been sharing the land with this animal for at least 10,000 years.

Gwich'in people on both sides of the border share these animals as a material resource and as a vital cultural component. Along with our cousins in the Yukon Territory, we consider the birthing grounds a sacred place. It is unacceptable to consider placing industrial development in this area.

It is even more unacceptable given that 95 percent of high-value oil lands on the North Slope are already open to exploration and development. The coastal plain of the Arctic Refuge is the last remaining 5 percent that has been justifiably set aside for preservation.

Consider that the U.S. Geological Survey estimates that less than 3.2 billion barrels of oil are under the coastal plain of the Arctic Refuge. Senators, 3.2 billion barrels is the equivalent of six months of U.S. consumption. This is simply too little value for the material and cultural loss that will occur if drilling is approved.

Much is made of the fact that caribou are seen in the Prudhoe Bay oil fields. Some people use this as a pretext for suggesting that caribou are not harmed by industrial development. What you may not know is that caribou use the oil fields as a safe harbor from predators -- wolves and bears. These high-food chain animals are less likely to exist within the Prudhoe Bay industrial zone. In an ecosystem stripped of its top predators some caribou will use the area to their advantage.

If drilling proceeds in the Arctic Refuge many other animals will be at risk. The polar bear, musk oxen, arctic fox and wolverine may follow the same path as the buffalo.

The oil companies say that they'll only operate from ice roads or ice pads. But have they provided an estimate of how much water will be required and where this water will come from? Water is not an abundant resource in

the Refuge. It's entirely possible that the flow from some rivers in the Refuge will run dry in order to satisfy the demand for ice construction. Are we to sacrifice the fish as well?

We acknowledge that the operation of Prudhoe Bay is by far the best run of any major oil field. However, it's still an industrial site and subject to accidents and mishaps. In 1996, there were 427 substantial spills of either oil or other hazardous substances at Prudhoe Bay. That's more than one a day. Since the first of this year, you may have read about several additional spills.

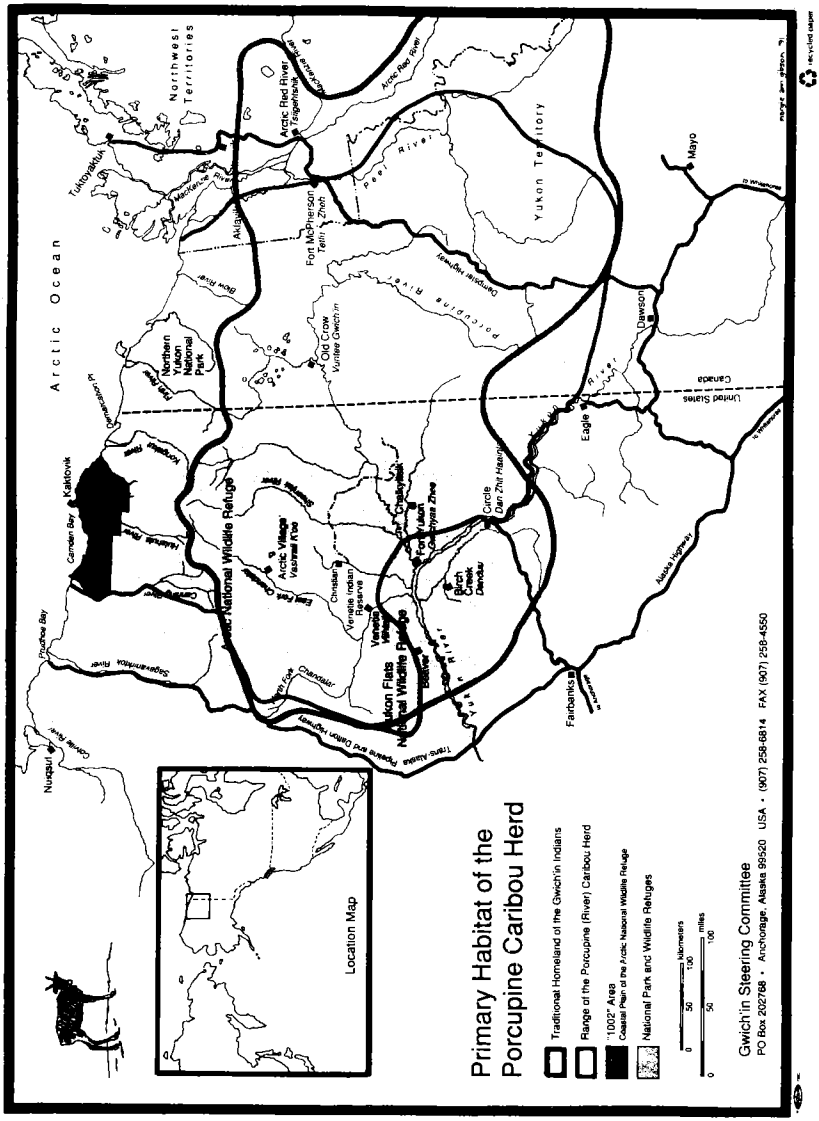
The oil field complex is so large that it produces twice as much air pollution as a city the size of Washington, D.C. Every year, 43,000 tons of nitrogen oxides foul the air along the coast of northern Alaska. Enlarging this pollution debt is unacceptable.

Of course, we are not unconcerned with energy issues here in the Lower 48. We are citizens of this country, too. But we simply feel that present and future energy needs of the nation are best served through increased conservation and efficiency. Let's build tighter homes, cars and trucks that use less gasoline and refrigerators that use less electricity while investing in renewable resources like wind, solar and tidal power.

Solar power technology has become so efficient that it's being explored for use in some villages in the TCC region. We'd like to do more. A demonstration project may offer substantial rewards in this area. High energy costs in rural Alaska need innovative and pioneering efforts.

Solving the energy question won't be easy. The issues are complex. However, simply drilling the Refuge is not the answer. I sincerely urge you and your colleagues to weigh these concerns carefully.

Thank you


Primary Habitat of the
Porcupine Caribou Herd
Traditional Homeland of the Gwich'in Indians
Range of the Porcupine (River) Caribou Herd
1002* Area
Coastal Plain of the Arctic National Wildlife Refuge
National Park and Wildlife Refuges
Kilometers
miles
Gwich'in Steering Committee
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Eagle
Fairbanks
Circle
Beaufort Sea
Porcupine River
Yukon River
Dempster Highway
Alaska Highway
recycled paper

**Statement of Senator Frank Murkowski**
**Indian Affairs Committee Hearing**
**May 10, 2001**

Mr. Chairman, I appreciate the fact that we are holding this important hearing to focus on issues of importance to Alaska Natives. I want to especially thank you for switching the time for this hearing to allow me the chance to be here.

As I examine the issues that will be discussed, it is clear that there are many needs that must be addressed. But I want to take a moment to discuss one issue that has been receiving a great deal of attention in recent months. And that is the matter of relations between Natives and non-Natives in my state.

We all abhor racial bias anywhere that it occurs, either in our own country or overseas.

We are one of the few nations that has a civil rights commission to enforce the rights of all its citizens.

The State of Alaska is not without incidents of bias and prejudice, yet I think most Alaskans would agree that we are one——Alaskans. Under our state constitution there is no special class of Alaskan. In fact, many Alaskans believe that we can and should be a model for the world in the way our many diverse cultures live and work together.

In Anchorage we have a group called "Bridge Builders" made up of over 1000 people from 60 cultures who are citizens of our state and represent all of the world's continents and major religious traditions. Their goal is to create "the first city without prejudice."

The focus of Bridge Builders is to build on the positive advantages diversity brings to the Alaska community. Through understanding and acceptance, they are working to build a community of tolerance and mutual respect instead of distrust and fear that often leads to hate and violence.

We must reflect on recent incidents of violence against Alaskans which we find unjust and unacceptable. We cannot tolerate violence or hateful actions against anyone.

Prosecution and prompt justice must be leveled at those responsible for such reprehensible acts, and we must pursue and foreclose upon other investigations on unsolved incidents against Alaskans.

But most important, we must come together as Bridge Builders in Anchorage is doing to ensure that such incidents do not occur again.

We must continue to support our federal and state officials who are responsible for justice in rural Alaska. In many of our smaller communities, rape, incest, and domestic violence are not even reported and therefore go unprosecuted—this is not a good message to send to our young people.

I am very supportive of the recent expansion of the Village Public Safety Officer Program (VPSO) passed by the Alaska state legislature on Tuesday. VPSOs will have expanded parole responsibilities allowing parolees from rural communities the option of returning to rural Alaska where they have family and cultural support. VPSOs will receive a pay increase (11%), state retirement benefits and career advancement opportunities. This was one of the recommendations of the Alaska Native Commission that I believe will improve the lives of those living in rural Alaska.

Yes, it is important to bring these matters to the forefront for discussion and to identify the adequacy of our enforcement agencies to responsibly enforce the laws.

But equally important is to reach out to rural Alaskans where the problems of alcohol, drugs and violence against women occur with intolerable frequency. I believe that improving the VPSO program will help.

I am currently working with Alaska Native Health Providers to make significant improvements to the reauthorization of the Indian Health Care Improvement Act of 2001. These changes will provide more flexibility with the current service as well as expanding the options for treatment of chemical dependency and behavioral disorders.

I believe more attention should be given in these areas, and to victims, particularly young women should have available to them, a life-line to a shelter.

These are among the immediate needs in much of rural Alaska.

But I also want to express my belief that actions which may polarize Natives and non- Natives are counterproductive. So we all must be careful as to how we proceed to address our shared concerns. I want to work to help all Alaskans and ensure that no Alaskan suffers any form of discrimination.

This is best achieved by dialogue, not confrontation.

It is my hope that when the U.S. Civil Rights Commission conducts hearings in Alaska this summer, the hearings will allow all sides to present a fair and objective view of Alaska.

And I am very, very concerned about efforts that are underway for AFN to participate in the UN Conference on Racism later this year. I fear that concerns of Alaska Natives may be used improperly by countries whose primary purpose is to undermine the credibility of the United States.

I do not suggest that the voices of Alaska Natives should be muted in any way. It is the history of these UN conferences that I question. This UN sponsored conference has little credibility except for those who will use its findings to issue anti-American propaganda.

I think all of us should take notice that last week the United States was voted off the UN Commission on Human Rights. One of the new members added was the Sudan--a country that currently engages in slavery. Yes, in Sudan, a member of the UN Commission on Human Rights, people are being bought and sold today.

This upcoming UN conference could be a sham and I urge AFN to reconsider its participation in this UN sponsored conference.

As a country faithful to the rule of law and the equality of all its citizens, and as Alaskans bound together under challenging conditions with dreams of greatness for our Great Land, I know we can seize the opportunity presented by crimes of hate and come together in a spirit of forgiveness.

Will Mayo, former President of the Tanana Chiefs Conference, spoke at a recent healing ceremony held at the Alaska Native Heritage Center in Anchorage about the need to seek forgiveness "first, from those we have hurt, and then for those who would hurt us through their words and actions, however stark or subtle."

Will went further to say, "forgiveness notwithstanding, we are not absolved from our responsibility to speak out publicly. Doing so, however, must come from a clear heart rather than from the clutter of anger and recrimination. We must offer solutions, not blame."

Well, Mr. Chairman, with those eloquent thoughts in mind, I look forward to this hearing and ask that Mr. Mayo's speech, as printed in last Sunday's edition of the Anchorage Daily News, be entered into the record following my statement.

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**HEADLINE: Forgiveness** can start the healing,
Compass

**BYLINE:** By Will Mayo

**BODY:**
I want to thank Lee Stephan of the Eklutna Tribe for welcoming us onto the traditional lands of the Eklutna people upon which this city is situated. The status of land ownership may have changed but my acknowledgment of Eklutna traditional lands has not. Thank you for your hospitality.

We are here today to seek healing for this community and its members by assembling together in ceremony and prayers. Recent heavily publicized and painful events in this city have caused many to look inward and yet others to cast about for answers to societal ills these events indicate. Still others deny that these events signify any indication of problems at all.

To the Native community at large I want to convey a message that healing must indeed occur but it must be preceded by a frank look into our own hearts. As painful as recent events are, they do present to us an opportunity. The opportunity I speak of is **forgiveness;** first, from those we have hurt, and then for those who would hurt us through their words and actions, however stark or subtle. There is not one among us who has not made mistakes that caused hurt in others. We cannot therefore demand improvement in others that we have not demanded of ourselves.

**Forgiveness** for ourselves first because we have all done something to another person for which we are dreadfully ashamed. Unresolved, such deeds create two victims, the one who received the injury, and the one who delivered it. For both, true healing comes only when **forgiveness** is sought, and when it is received. In many cases we must also forgive ourselves for the pain we have caused through our mistakes.

**Forgiveness** of others must also occur, even when it is not sought. That is because our own negative reactions to the hurt we experience from others can create a poison in our hearts to the destruction of our peace and health. Our own misdeeds have a tendency to visit our consciousness unbidden and the misdeeds of others toward us replay and live anew. Only **forgiveness** can clear out those toxic ruminations.

**Forgiveness** notwithstanding, we are not absolved from our responsibility to speak out publicly. Doing so, however, must come from a clear heart rather than from the clutter of anger and recrimination. We must offer solutions, not blame.

I wish to offer encouragement to the political leaders of all stations. Alaskans need a clear and unambiguous statement from leadership. I agree that we cannot expect our leaders to be able to change what is in the heart of the individual. Nevertheless, it is the responsibility of leadership, at all levels, to establish the boundaries of acceptable behavior for our society. It is within leadership's power to set policy, as well as the consequences for violating that policy. You will be on safe ground in denouncing hate crimes against any Alaska citizens. I am thankful for those political leaders of all stations who have taken a clear stand and set the tone for all of us. Silence is also a policy decision but is it the best one in a situation such as this?

Finally, I want to send a message to the three young men. There is not a one of us who has not made mistakes. It is what we do afterward that defines us as human beings. I ask you to learn from the lessons of this experience and become good men. Become the kind of men that I know you can be. Then I would look forward to eating with you when we are older and are able to look back with the knowledge that we have come a long ways in our journeys as human beings. I don't condemn you for mistakes. You deserve another chance as we all would like to have. I would just want to see you make the best of it and move on. It is the chance that we should all give to one another.

Will Mayo, former president of the Tanana Chiefs Conference, is senior rural policy advisor to Gov. Tony Knowles.

**LOAD-DATE:** May 10, 2001

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**Additional Comments of Senator Frank Murkowski**
**Indian Affairs Committee Hearing**
**May 10, 2001**

Mr. Chairman, on Tuesday May 8th there was some controversial testimony offered at a Round Table on Indian Energy Issues. I wish to submit the following written testimony offered by Arctic Slope Regional Corporation that clearly expresses the support of ANWR energy production by the people who know the land in question the best - the Alaska Native residents. There were comments at the round table on Tuesday made by Mr. Ginnis which Arctic Slope Regional Corporation and the Native Village of Kaktovik wanted to respond to. So I submit this on their behalf

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arctic slope regional corp.

**United States Senate Committee on Indian Affairs**
**Written testimony submitted on**
**Thursday, May 10, 2001 by**
**The Arctic Slope Regional Corporation**

Committee Members:

As Manager of Shareholder & Government Relations for the Arctic Slope Regional Corporation (ASRC), I am submitting this written testimony to the Unites States Senate Committee on Indian Affairs in response to the May 8, 2001, testimony given by Steve Ginnis, President of Tanana Chiefs Conference to the United States Senate Committee on Indian Affairs energy roundtable.

For the record, ASRC Board Member Brenda Itta-Lee represented our organization at the May 8,2001, roundtable discussion on Indian energy. Prior to Mr. Ginnis's comments Mrs. Itta-Lee addressed the ANWR issue by stating ASRC's support for the responsible development of the Coastal Plain of ANWR. In addition Mrs. Itta-Lee reiterated that the development of Coastal Plain of ANWR is a significant issue nationalty, and that the membership of the environmental industry far out number the 8,000 Inupiat Eskimos who reside within the Arctic region of Alaska.

ASRC is educating members of Congress on the simple fact that the Inupiat Eskimo village of Kaktovik is the only village that lies within the boundaries of the Arctic National Wildlife Refuge. Further, it is the Inupiat from the Arctic region of Alaska who have been most impacted by Prudhoe Bay oil development. The Inupiat are the aboriginal environmentalists of this land who have worked successfully with the oil industry to ensure that our core cultural value of protecting our environment is exercised by the oil industry. We have successfully struck a balance between responsible development and protecting the environment. Finally, Mrs. Itta-Lee addressed that ASRC and Kaktovik Inupiat Corporation hold the title to 92,000 acres of privately owned land within the Coastal Plain of ANWR. However, both organizations are prohibited from developing their private Native owned lands until an act of Congress designates the Coastal Plain of ANWR open for oil and gas exploration and development.

Based on the testimony submitted by Mr. Ginnis on May 8, 2001, ASRC is compelled to provide a response. The entire tenor of Steve Ginnis's comments is unfortunately typical of someone who is not familiar with the Coastal Plain. First and foremost, Ginnis fails to tell you that the Alaska Federation of Natives, the only statewide Native organization in Alaska, along with the Inupiat residents of the region, the Inupiat of Kaktovik, support development in ANWR.

To directly address his claim that the birthing grounds of the caribou would not be disrupted it's important to understand their calving habits. The porcupine caribou did not calve in the Coastal Plain last year. In fact, they calved on the Canadian side of the border. We know this first hand because Inupiat hunters of this terrestrial mammal (who rely on the herd) and state biologists, pay special attention to such details. Further, this is not the first time they have failed to make it to the Coastal Plain to calve.

Regarding his claim that 95% of the North Slope is available for development and we need to save ANWR, the last 5% is disingenuous. It would be fair to state the vast majority of lands on the North Slope do not possess, the geology that indicate any prospects for economically recoverable oil and gas. And only 14% of the land are actually available for development today.

His claims that the U.S. Geological Survey estimates that less than 3.2 billion barrels of oil are under the Coastal Plain of the Arctic Refuge are totally false.

A 1998 USGS study (under the Clinton Administration) concluded that ANWR contains recoverable resource volumes of 5.7 to 16 billion barrels of crude oil, with the mean of 10.4 billion barrels. The Department of Energy recently estimated that production from this region could equate to 1.5 million barrels a day for 30 years. One could argue that USGC numbers are more likely to be conservative estimates of the true recovery potential of ANWR. On the flip side, various opponents of development cite other numbers. Many are simply incorrect. An example is the 3.2 billion-barrel estimate often attributed to the 18 USGC study. This may have originated with the 1987 BLM EIS, or it may be based on a misinterpretation of data presented in the 1998 USGC report. In either case it is wrong.

Ginnis suggests that if drilling proceeds in the Arctic Refuge many animals will be at risk. Thirty, years of arctic development at Prudhoe has proven that development and wildlife can co-exist. Caribou populations at Prudhoe have increased nine-fold, wolverine are common in the ANWR wilderness area to the south of the Coastal Plain and few are ever seen on the Coastal Plain. Transplanted musk ox herds have steadily grown since their reintroduction in 1969 and limited hunting occurs today. Polar bear and arctic fox populations are

healthy. All other species common to the arctic coastal areas are thriving and have experience no negative impacts from development.

Winter exploration and development have greatly increased the need for fresh water in the construction of ice roads and ice pads. Naturally occurring water resources are limited on the Coastal Plain but numerous options exist. The total requirement can be collected from snow fences, treated seawater and by the creation of fresh water river reservoirs. To protect habitat and water quality, permit conditions provide strict criteria for water removal techniques, extraction periods, discharge limits and water-source restoration plans.

To acknowledge Mr. Ginnis's reference to 427 "substantial" spills at Prudhoe Bay, it's important to understand what he's referring to. Any spill – even a tablespoonful – of seawater, produced water, oil or chemical substances is reported, recovered by trained 24/7 spill response crews, and inspected by industry officials and/or regulators. Of all the North Slope spills during the past five years, crude and refined oil represented just nine percent of the total volume spilled. Brine, or seawater, represented 85%, while other substances six percent. All spills are cleaned up with no lasting environmental damage.

Comments that reference air pollution produced on the North Slope equaling a city the size of Washington, D.C. are simply misleading. North Slope air quality has consistently met all federal and state standards. The annual ambient nitrogen dioxide concentration for Prudhoe Bay is only 8 percent of the national ambient air quality standard. Global exploration and production of petroleum is responsible for only 2.5 % of total carbon dioxide emissions.

Conservation is an important part of our national energy plan, but you cannot solve our energy problems with conservation alone. Increased domestic production is a critical part of the equation. The Inupiat are also citizens of this country who will be impacted the most by ANWR Coastal Plain development. However, we support responsible development and our history within the industry illustrates that we can truly co-exist. The Inupiat people are great stewards of the land and animals, and we would not support development of any kind if it meant compromising our ancient cultural values and traditions that make up who we are as a race of people.

Quyanaqpak, (Inupiat for thank you very much)

ARCTIC SLOPE REGIONAL CORPORATION

Tara MacLean Sweeney
Manager of Shareholder & Government Relations

Attachment to the testimony
of Julie Kitka, President
Alaska Federation of Natives

## BRIEFING ON RECENT HATE CRIMES AGAINST ALASKA NATIVES AND OTHER ACTS OF DISCRIMINATION

THE ALASKA FEDERATION OF NATIVES HAS ASKED THE U.S. COMMISSION ON CIVIL RIGHTS TO INVESTIGATE, HOLD HEARINGS AND ISSUE A REPORT ON HATE CRIMES AND ACTS OF DISCRIMINATION AGAINST ALASKA NATIVES.

THE INCIDENT THAT PROMPTED AFN'S REQUEST OCCURRED IN LATE JANUARY, WHEN THREE WHITE TEENAGERS DROVE THROUGH DOWNTOWN ANCHORAGE SHOOTING FROZEN PAINT BALLS AT ALASKA NATIVES. THE TEENAGERS VIDEOTAPED THEIR HUNT FOR "DRUNK ESKIMOS" OR "MUIKTUKS"; AND WHEN THE TAPE WAS RELEASED TO THE PUBLIC IT SENT SHOCK WAVES THROUGH ALASKA. BUT FOR ALASKA NATIVES IT WAS ONLY THE LATEST INDICATION OF RACIAL INTOLERANCE THAT PREVADES MODERN ALASKA AND UNDERLIES DISCRIMINATORY PUBLIC POLICIES.

THIS INCIDENT PROMPTED A SERIES OF PUBLIC FORUMS IN ANCHORAGE. FOLLOWING ONE SUCH MEETING, PARTICIPANTS RETURNED TO THEIR CARS TO FIND RACIST FLIERS ON THE WINDSHIELDS. THE PAINT BALL INCIDENT ALSO PROMPTED ALASKA'S GOVERNOR TO FORM A CABINET-LEVEL TASK FORCE ON RACIAL INTOLERANCE AND TO INTRODUCE HATE CRIME LEGISLATION IN THE ALASKA LEGISLATURE. AFN DOES NOT BELIEVE THE GOVERNOR'S TASK FORCE CAN ADDRESS, IN AN IMPARTIAL MANNER, DISCRIMINATION AGAINST ALASKA NATIVES IN STATE EMPLOYMENT, OR IN THE PROVISION OF LAW ENFORCEMENT AND EDUCATION TO NATIVE COMMUNITIES.

NEITHER THE ANCHORAGE ASSEMBLY NOR THE ALASKA LEGISLATURE HAS STEPPED FORWARD TO CONFRONT THESE CRIMES. ALTHOUGH THE ALASKA HOUSE OF REPRESENTATIVES PASSED A RESOLUTION CONDEMNING "ALL HATE CRIMES, RACISM AND DISCRIMINATION IN ANY FORM," THE ALASKA SENATE INSISTED ON A WATERED-DOWN VERSION THAT CONDEMNS ONLY "UNLAWFUL" ACTS OF DISCRIMINATION, UNWITTINGLY PROVIDING A CLASSIC EXAMPLE OF WHAT NATIVES AND OTHER MINORITIES ARE UP AGAINST IN

CONTEMPORARY ALASKA. THE RESOLUTION WAS REFERRED TO A HOUSE-SENATE CONFERENCE COMMITTEE, AND IS NOT EXPECTED TO PASS.

SINCE OCTOBER 2000, AT LEAST FIVE ALASKA NATIVE WOMEN HAVE BEEN RAPED IN ANCHORAGE; AND SINCE 1999, SIX WOMEN OF COLOR (ONE AFRIAN-AMERICAN AND FIVE ALASKA NATIVES) HAVE BEEN MURDERED IN ANCHORAGE. FOUR OF THESE CRIMES REMAIN UNSOLVED. AN ANCHORAGE POLICE DEPARTMENT CRIME REPORT SHOWS THAT BETWEEN 1995-1999, 42% OF 1,412 RAPES COMMITTED IN ANCHORAGE VICTIMIZED ALASKA NATIVE WOMEN. THE RATE OF VIOLENT VICTIMIZATION AMONG AMERICAN INDIANS, INCLUDING ALASKA NATIVES, IS MORE THAN TWICE THE NATIONAL AVERAGE FOR ALL RACIAL GROUPS. FROM 1976 TO 1996, ALASKA NATIVES COMPOSED ABOUT 16% OF THE ALASKAN POPULATION, BUT AN ASTONISHING 28% OF THE STATE'S MURDER VICTIMS. MANY OF THE ACTS OF VIOLENCE AGAINST ALASKA NATIVES WERE COMMITTED BY NATIVES, REVEALING THE CULTURAL AND PERSONAL DETERIORATION RESULTING FROM POVERTY, LOSS OF CONTROL OVER THEIR OWN COMMUNITIES, AND INEQUITABLE EDUCATIONAL AND ECONOMIC OPPORTUNITIES. THIS IS ALSO REFLECTED IN THE FACT THAT 36% OF ALASKA'S INMATES ARE ALASKA NATIVES.

THESE TERRIBLE STATISTICS ARE ROOTED IN A LONG HISTORY OF DISCRIMINATION. HISTORICALLY, ALASKA NATIVES WERE DENIED ACCESS TO THE COURTS, DEPRIVED OF RESOURCES ON WHICH THEIR LIVES DEPENDED, SUBJECTED TO A SEGREGATED AND UNEQUAL SYSTEM OF EDUCATION, AND DENIED THE RIGHT TO VOTE. THERE WAS WIDESPREAD SEGREGATION IN PUBLIC ACCOMMODATIONS, WITH MANY BARS, RESTAURANTS AND THREATRES IN THE 1940'S WARNING "NO DOGS OR INDIANS ALLOWED." AFTER TOURING THE TERRITORY IN 1944, A BIA SOCIAL WORKER DESCRIBED ALASKA AS "A TERRITORY WHERE RACE PREJUDICE IS MORE SHOCKING THAN IN THE SOUTH."

TODAY, THE SIGNS ARE GONE, AND THE THEATRES ARE INTEGRATED; BUT DISCRIMINATION AGAINST ALASKA NATIVES REMAINS. THEY ARE DISPROPORTIONATELY UNEMPLOYED AND OVER-INCARCERATED. THEIR HUNTING AND FISHING RIGHTS ARE CONTINUALLY COMPROMISED OR DENIED,

AND THEIR BASIC RIGHT TO GOVERN THEMSELVES IN THEIR VILLAGES REMAINS UNDER CHALLENGE. WHILE THE DISCRIMINATION MAY NOT BE AS OVERT AS BEFORE STATEHOOD, RACIAL INTOLERANCE UNDERLIES MANY DISCRIMINATORY PUBLIC POLICIES OF RECENT YEARS. A DECADE OF RACIALLY MOTIVATED ACTIONS BY ALASKA'S STATE GOVERNMENT HAS ACTUALLY CREATED AN ENVIRONMENT IN WHICH INDIVIDUAL ACTS OF PRIVATE HATRED OCCUR WITH INCREASING FREQUENCY.

DURING THE PAST DECADE, STATE PUBLIC POLICY, CONTROLLED BY AN URBAN, MOSTLY NON-NATIVE MAJORITY IN ALASKA'S LEGISLATURE, HAS SET ABOUT REDUCING PUBLIC EXPENDITURES AT ANY SOCIAL COST. THE RESULTING POLICY DECISIONS HAVE DIMINISHED THE QUALITY OF LIFE FOR ALL ALASKANS, BUT HAVE FALLEN MOST HEAVILY ON RURAL ALASKA'S NATIVE VILLAGES.

- THE STATE KNOWINGLY RISKS THE SAFETY OF RURAL RESIDENTS AND INVITES ENVIRONMENTAL DAMAGE TO ITS OWN LANDS AND WATERS BY REFUSING TO UPGRADE OR REPLACE DETERIORATING BULK FUEL STORAGE FACILITIES IN NATIVE COMMUNITIES.

- THE LEGISLATURE HAS ENACTED LEGISLATION THAT FORCES THE CLOSURE OF VILLAGE SCHOOLS IN DEFIANCE OF A CONSTITUTIONAL MANDATE TO EDUCATE ALL OF THE STATE'S CHILDREN. AS OF THIS DATE, AT LEAST 20 LOCAL SCHOOLS HAVE BEEN FORCED TO CLOSE.

- THE LEGISLATURE HAS FAILED TO ADDRESS THE CONSTRUCTION AND MAINTENANCE NEEDS OF RURAL SCHOOLS SERVING NATIVE STUDENTS ON AN EQUAL BASIS WITH URBAN SCHOOLS, A PRACTICE RECENTLY RULED UNCONSTITUTIONAL BY THE STATE SUPERIOR COURT.

- THE STATE RUNS THE RISK OF A CONSTITUTIONAL VIOLATION FOR ITS REFUSAL TO PROVIDE EVEN MINIMAL LEVELS OF PUBLIC SAFETY AND

LAW ENFORCEMENT IN THE VILLAGES. THE PAY FOR VILLAGE PUBLIC SAFETY OFFICERS IS SO LOW THAT SOME QUALIFY FOR AND RECEIVE FOOD STAMPS IN ORDER TO FEED THEIR FAMILIES. EIGHTY-EIGHT OFF-ROAD VILLAGES HAVE NO LOCAL POLICE WHATSOEVER. YET THE STATE HOUSE REJECTED THE GOVERNOR'S REQUEST TO INCLUDE A 15% SALARY INCREASE AND 20 NEW VILLAGE PUBLIC SAFETY OFFICERS.

- THE LEGISLATURE HAS BLOCKED FEDERAL DISASTER AID TO WESTERN ALASKA VILLAGES HIT HARD BY FISHERIES COLLAPSES, AS WELL AS OTHER FEDERAL INITIATIVES TO THE VILLAGES THAT REQUIRE STATE CONTRIBUTIONS.

AT THE SAME TIME, STATE LEGISLATIVE MAJORITIES HAVE HAD NO TROUBLE FINDING MILLIONS OF DOLLARS TO FIGHT TRIBAL GOVERNMENTS IN THE VILLAGES, MOUNT JUDICIAL ASSAULTS AGAINST FEDERAL SUBSISTENCE PROTECTIONS, AND SUPPORT THE IMPOSITION OF ENGLISH AS THE ONLY LANGUAGE OF ALASKA'S PUBLIC INSTITUTIONS.

THE MOST FUNDAMENTAL DANGER TO THE SURVIVAL OF ALASKA NATIVE PEOPLES IS THE DECADE-LONG POLITICAL ATTACK BY THE STATE OF ALASKA ON THE TRADITIONAL SUBSISTENCE HUNTING AND FISHING RIGHTS OF NATIVE VILLAGES. THE LEGISLATIVE MAJORITIES VIEW SUBSISTENCE AS NOTHING MORE THAN THE TAKING OF A NATURAL RESOURCE, SOMETHING ALL CITIZENS SHOULD BE ENTITLED TO DO ON AN EQUAL BASIS. THESE LEGISLATORS FAIL TO UNDERSTAND THAT REQUIRING ALASKA'S INDIGENOUS POPULATIONS TO CHANGE THEIR TRADITIONAL VALUES AND WAYS OF LIFE IN ORDER TO BE ASSIMILATED INTO THE MAINSTREAM SOCIETY, IN SHORT TO DISAPPEAR, IS A POLICY OF DISCRIMINATION. DESPITE THE GOOD WILL OF MANY INDIVIDUAL ALASKANS, MUCH OF THE PUBLIC DEBATE OVER SUBSISTENCE REMAINS A THINLY VEILED EXERCISE IN RACIAL INTOLERANCE.

THE LEGISLATURE CLAIMS THAT ALASKA NATIVE VILLAGES SHOULD NOT DEPEND UPON STATE RESOURCES TO FINANCE LOCAL OPERATIONS BUT SHOULD PAY THEIR OWN WAY. THAT CONVENIENTLY IGNORES THE FACT THAT ALL OF ALASKA, ESPECIALLY ANCHORAGE, DEPENDS ON THE STATE'S OIL WEALTH TO MEET EXTRAORDINARILY HIGH COSTS OF LIVING. LEGISLATORS HAVE CALLED TRIBAL GOVERNMENTS "ABSOLUTE EVIL, TO BE FEARED." THEY HAVE PUBLICLY DENIGRATED VILLAGERS AS "FREE LOADERS." IN THE NAME OF A FALSE "EQUALITY," THEY TRAMPLE UPON CONSTITUTIONALLY PROTECTED TRIBAL RIGHTS. IN SHORT, THE STATE LEGISLATURE HAS TARGETED RURAL ALASKA FOR DISCRIMINATORY TREATMENT. THIS INEQUITY AT THE HIGHEST LEVELS OF GOVERNMENT ENCOURAGES RACISM AT THE COMMUNITY AND INDIVIDUAL LEVELS, EVEN TO THE POINT OF TEACHING THE YOUNG THAT RACISM IS ACCEPTABLE.

THE LEGISLATIVE ASSAULT ON THE NATIVE PEOPLE OF RURAL ALASKA, DESCRIBED BY SOME AS THE "URBAN/RURAL DIVIDE," GAVE RISE IN 1998 TO ONE OF THE LARGEST CIVIL RIGHTS MARCHES IN THE HISTORY OF ALASKA, ATTRACTING OVER 4000 PEOPLE IN ANCHORAGE. SIMILAR PROTESTS WERE HELD IN 1999 AND AGAIN IN 2000.

NATIVE AMERICAN PEOPLE, LIKE OTHER MINORITIES, HAVE TRADITIONALLY LOOKED TO THE UNITED STATES FOR PROTECTION FROM DISCRIMINATORY PRACTICES OF STATE GOVERNMENTS. THE CURRENT SITUATION FACING ALASKA NATIVES IS NO DIFFERENT. AFN HAS JOINED FORCES WITH THE NATIONAL CIVIL RIGHTS COMMUNITY, RELIGIOUS CONGREGATIONS AND OTHER ORGANIZATIONS OF CONSCIENCE TO HALT THE DESTRUCTION OF THE INDIGENOUS PEOPLES WHO HAVE LIVED IN ALASKA FOR MORE THAN TEN THOUSAND YEARS. AT THE URGING OF THE UNTIED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (THE HONORABLE MARY ROBINSON), AFN WILL TAKE ITS CASE TO THE UN WORLD CONFERENCE AGAINST RACISM IN DURBAN, SOUTH AFRICA IN AUGUST. IN THIS SPIRIT, AFN IS APPEALING FOR HELP FROM THE UNITED STATES COMMISSION ON CIVIL RIGHTS.

## RECENT HATE CRIMES IN ANCHORAGE

THE INCIDENT THAT HAS GIVEN RISE TO THE CURRENT FOCUS ON DISCRIMINATION AGAINST ALASKA NATIVES OCCURRED IN LATE JANUARY, WHEN THREE WHITE TEENAGERS DROVE AROUND DOWNTOWN ANCHORAGE WITH THE EXPRESS PURPOSE OF SHOOTING FROZEN PAINT BALLS AT ALASKA NATIVES. THE INCIDENT WAS VIDEOTAPED BY THE TEENAGERS, AND SHOWN ON THE NIGHTLY NEWS IN LATE FEBRUARY. IT SENT SHOCK WAVES THROUGH NON-NATIVES ACROSS THE STATE AND EVEN GAINED NATIONAL MEDIA ATTENTION. BUT FOR THE NATIVE COMMUNITY, IT WAS ONLY THE LATEST INDICATION OF RACIAL INTOLERANCE THAT PERMEATES MODERN ALASKA AND ALSO UNDERLIES DISCRIMINATORY PUBLIC POLICIES.

THE ELDEST OF THE THREE YOUNG MEN INVOLVED IN THE PAINT-BALL INCIDENT WAS SET FREE ON BAIL AFTER BEING CHARGED WITH SEVEN COUNTS OF MISDEMEANOR ASSAULT IN THE FOURTH DEGREE, THE LOWEST CHARGE THAT CAN BE BROUGHT AGAINST A DEFENDANT FOR AN ASSAULT. TWO JUVENILES, THE DRIVER OF THE CAR AND THE SHOOTER, WERE SUSPENDED FROM SCHOOL FOR THE REMAINDER OF THE YEAR. AT THE SAME TIME, ONE OF THE NATIVE VICTIMS WAS ARRESTED FOR DISORDERLY CONDUCT WHEN HE TRIED TO TELL AN ANCHORAGE POLICE OFFICER THAT HE HAD BEEN SHOT BY THE OCCUPANTS OF THE CAR LEAVING THE SCENE OF THE CRIME. HE WAS GIVEN A 60-DAY SENTENCE AND A $1,000 FINE. HE SERVED 10 DAYS IN JAIL; THE FINE WAS LATER DISMISSED. THIS IS AN EXAMPLE OF "BLAME THE VICTIM SYNDROME" AND THE SENTENCING OF THE NATIVE VICTIM IN THIS INSTANCE

MAY ALSO HELP EXPLAIN THE OVERREPRESENTATION OF ALASKA NATIVES IN THE CORRECTIONAL SYSTEM.

SINCE THIS INCIDENT SO VIVIDLY EXPOSED RACIST ATTITUDES, IT PROMPTED THE MAYOR OF ANCHORAGE AND THE LOCAL MEDIA TO HOLD FORUMS AND TOWN MEETINGS TO EXPLORE THE ISSUE OF RACISM. SADLY, FOLLOWING ONE SUCH TOWN MEETING IN LATE MARCH, PARTICIPANTS RETURNED TO THEIR CARS ONLY TO FIND RACIST FLIERS UNDER THEIR WINDSHIELD WIPERS, PROCLAIMING, "NO MULTI-RACIAL SOCIETY IS A HEALTHY SOCIETY."[1] THE PAINT BALL INCIDENT ALSO PROMPTED THE GOVERNOR OF ALASKA TO FORM A CABINET LEVEL TASK FORCE TO LOOK AT RACIAL INTOLERANCE IN ALASKA AND JUST LAST WEEK THE GOVERNOR ANNOUNCED AN ACTION PLAN THAT CALLED FOR AN END TO INTOLERANCE AND THE INTRODUCTION OF HATE CRIME LEGISLATION.[2] WHILE A POSITIVE STEP, NO ONE CAN EXPECT THE GOVERNOR'S TASK FORCE TO DO AN IMPARTIAL ANALYSIS OF DISCRIMINATION IN STATE EMPLOYMENT, LAW ENFORCEMENT OR EDUCATION.

BY CONTRAST, THE ANCHORAGE ASSEMBLY HAS NOT STEPPED FORWARD TO CONDEMN THESE HATE CRIMES, NOR HAS IT CALLED FOR HEARINGS TO EXAMINE THE ROOT CAUSE OF SUCH CRIMES. THE ALASKA LEGISLATURE'S RESPONSE IS BEST DESCRIBED IN AN OPINION COLUMN ENTITLED "SENATE 13 DEFEND THE RIGHTS OF ALASKA'S BIGOTS," THAT APPEARED IN THE

[1] *See* Flyer entitled "Double Standard" (Exhibit 1).

[2] *See* Governor Knowles Press Release, April 17, 2001 (Exhibit 2).

ANCHORAGE DAILY NEWS ON APRIL 22, 2001.[3] WHILE THE ALASKA HOUSE OF REPRESENTATIVES UNANIMOUSLY PASSED A RESOLUTION CONDEMNING THE PAINT BALL SHOOTINGS AND "ALL HATE CRIMES, RACISM AND DISCRIMINATION IN ANY FORM,"[4] THE ALASKA SENATE INSISTED ON PASSING A WATERED-DOWN VERSION THAT CONDEMNS ONLY "UNLAWFUL" ACTS OF DISCRIMINATION. AS THE COLUMNIST POINTED OUT, THIS DEBATE ONLY SERVED TO "TRIVIALIZE RACISM AND DISCRIMINATION." IT ALSO SHOWED THE DEGREE TO WHICH INTOLERANCE HAS BECOME ENTRENCHED IN SOME INSTITUTIONS OF OUR STATE GOVERNMENT. ALL THE MORE REASON, THEN, FOR THE ATTENTION OF THE U.S. COMMISSION ON CIVIL RIGHTS.

THE PAINTBALL INCIDENT HAS ALSO GIVEN WAY TO DISCUSSIONS ABOUT MORE SERIOUS CRIMES AGAINST PEOPLE OF COLOR THAT HAVE NOT BEEN ADEQUATELY INVESTIGATED OR REMAIN UNSOLVED. SINCE OCTOBER 2000, AT LEAST FIVE ALASKA NATIVE WOMEN WERE PICKED UP IN DOWNTOWN ANCHORAGE AND TAKEN TO THE EDGES OF THE CITY AND RAPED.[5] SINCE 1999, SIX WOMEN OF COLOR (ONE BLACK AND FIVE ALASKA NATIVE) HAVE BEEN KILLED IN ANCHORAGE. FOUR OF THE MURDERS REMAIN UNSOLVED.[6] WHILE THESE INCIDENTS MAY APPEAR ISOLATED, THEY ARE NOT. ALASKA NATIVES

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[3] The Anchorage Daily News April 22, 2001, column is attached as Exhibit 3.

[4] *See* Exhibit 4. The resolution also endorses AFN's call for a formal investigation by the U.S. Commission on Civil Rights. Meanwhile, a Hate Crimes bill introduced by Senator Georgianna Lincoln in mid-March has not moved out of Committee. *See "Hate Crimes Resolution offered in Alaska State Legislature"*, THE AFN REPORT at 3 (April 6, 2001) (Exhibit 5).

[5] Ruskin, "Police Find Links Among 5 Rapes," *Anchorage Daily News* (Feb. 10, 2001). Exhibit 6.

[6] *See* Anchorage Police Department Flyer and Newspaper Articles concerning the investigations, attached as Exhibit 7.

ARE THE FREQUENT VICTIMS OF RACISM AND VIOLENCE, BUT MOST OF THE INCIDENTS RARELY MAKE HEADLINES AND ARE OFTEN IGNORED OR NOT AGGRESSIVELY INVESTIGATED.[7] THEY ARE ALSO SYMPTOMATIC OF A MUCH GREATER PROBLEM, REFLECTED IN THE HIGH RATE OF ASSAULT AGAINST ALASKA NATIVE WOMEN,[8] THE HIGH MURDER RATE AMONGST ALASKA NATIVES,[9] THE DISPROPORTIONATELY HIGH NUMBER OF ALASKA NATIVES IN PRISON,[10] THE DISPROPORTIONATELY LOW NUMBER OF ALASKA NATIVES IN STATE GOVERNMENT JOBS,[11] THE LACK OF ADEQUATE STATE FUNDING FOR RURAL SCHOOLS,[12] AND THE LACK OF ADEQUATE LAW ENFORCEMENT IN NATIVE VILLAGES.[13]

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[7] *See* "Hate Crimes and Discrimination", a sampling of other hate crimes and incidents of discrimination that have occurred in Alaska during the last decade attached as Exhibit 8.

[8] According to the 1999 Anchorage Police Department Crime Report, there were a total of 1,412 rapes between 1995-1999 (Exhibit 9). Former police chief Duane Udland has indicated that in 42% of the reported rapes in Anchorage, Alaska Native women were the victims.

[9] The Bureau of Justice reports that between 1976-1996, roughly 30% of all homicide victims in Alaska were Alaska Natives. "Victimization Among American Native Peoples," ALASKA JUSTICE FORUM, p.4 (Winter 2000) (Exhibit 10).

[10] According to the Alaska Department of Corrections, 1999 Offender Profile, Alaska Natives represented 36.3% of those incarcerated in in-state and out-of-state institutions and also 42% of the total number of inmates in Community Residential Centers. Exhibit 11. Alaska Natives are "over represented among those who are arrested, convicted, and incarcerated." Riley, J., "Obstacles to Minority Employment in Criminal Justice: Recruiting Alaska Natives," 16 Alaska Justice Forum at 1 (Winter 2000). Exhibit 10. *See, also, "Victims, Defendants and the Justice System"*, Alaska Native Justice Center (April 2001) (Exhibit 12)

[11] Of 13,317 state agency employees (excluding the University of Alaska, Alaska Railroad, Alaska Housing Finance Corporation, the legislature, and the court system), only 847 (6.4%) are Alaska Natives. Most state agency jobs held by Alaska Natives tend to be lower paying than the average. "Roughly 60 percent of state government Native employment is in the lowest third of the job pay ranges (ranges 6 to 13), compared to 31 percent and 49 percent for White men and women respectively." G. Williamson McDiarmid, et al., *Expanding Job Opportunities for Alaska Natives* (Interim Report), prepared for Alaska Federation of Natives (November 1998) at I-26 and 27.

[12] *See* Exhibit 13.

[13] *See* Exhibit 14.

ACCORDING TO THE MOST RECENT AND RELIABLE FIGURES ASSEMBLED, THE RATE OF VIOLENT VICTIMIZATION AMONG AMERICAN INDIANS, INCLUDING ALASKA NATIVES, IS MORE THAN TWICE AS HIGH AS THE NATIONAL AVERAGE FOR ALL RACIAL GROUPS. AMERICAN INDIANS ACCOUNTED FOR 0.7% OF ALL MURDER VICTIMS NATIONWIDE, WHICH IS ABOUT THE SAME AS THEIR 0.8% SHARE OF THE POPULATION.[14] HOWEVER, ALASKA, WHICH ACCOUNTED FOR JUST OVER 4% OF THE AMERICAN INDIAN POPULATION NATIONWIDE, ACCOUNTED FOR ABOUT 10% OF AMERICAN INDIAN MURDER VICTIMS FROM 1976 TO 1996. OVER THE SAME TIME PERIOD, ALASKA NATIVES COMPOSED ABOUT 16% OF THE ALASKAN POPULATION, BUT AN ASTONISHING 28% OF THE STATE'S MURDER VICTIMS, A PERCENTAGE MUCH HIGHER THAN IN ANY OTHER STATE IN THE UNION.[15] MANY OF THE ACTS OF VIOLENCE WERE COMMITTED BY NATIVES, REVEALING THE SOCIAL DISINTEGRATION AND PATHOLOGIES RESULTING FROM POVERTY, LOSS OF CONTROL OVER THEIR LIVES AND COMMUNITIES, INEQUITBLE EDUCATIONAL AND ECONOMIC OPPORTUNITIES. ALASKA NATIVES MAKE UP 32% OF ALASKA'S INMATE POPULATION.

THESE TERRIBLE STATISTICS, COMBINED WITH RECENT INCIDENTS OF RACIAL VIOLENCE PERPETRATED AGAINST ALASKA'S MINORITIES SUGGEST AN UNDERCURRENT OF RACISM HERE THAT WILL BE ADDRESSED ONLY IF IT IS BROUGHT TO THE FULL LIGHT OF DAY. IT IS FOR THIS REASON THAT AFN RENEWS ITS REQUEST TO THE UNITED STATES COMMISSION ON CIVIL RIGHTS TO

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[14] American Indians and Crime, Bureau of Justice Statistics 19 (Feb. 1999).

[15] *See* "Alaska Native Demographics", attached as Exhibit 15.

CONDUCT AN INVESTIGATIVE FIELD HEARING ON THIS AND SIMILAR INCIDENTS AND AS PART OF THAT INVESTIGATION, TO HOLD AT LEAST FOUR PUBLIC HEARINGS IN ALASKA FOCUSING ON CIVIL RIGHTS VIOLATIONS AGAINST ALASKA'S MINORITY POPULATIONS, INCLUDING ALASKA NATIVES.

## HISTORICAL PERSPECTIVE (RACE RELATIONS IN ALASKA)

ALASKA HAS A LONG HISTORY OF DISCRIMINATION AGAINST NATIVE PEOPLE. IT BEGAN WITH THE RUSSIAN OCCUPATION, WHEN ALEUTS AND TLINGITS WERE IMPRESSED INTO SLAVE LABOR, AND RESTRICTIONS WERE PLACED ON WHERE THEY COULD LIVE OR TRAVEL.[16] FOLLOWING THE AMERICAN PURCHASE OF ALASKA, THE UNITED STATES MILITARY ADMINISTERED JUSTICE ACCORDING TO THE PRINCIPLE THAT, SHOULD A TLINGIT "MALTREAT A CITIZEN OF THE UNITED STATES THE WHOLE TRIBE AND ESPECIALLY ITS CHIEF WILL BE HELD RESPONSIBLE FOR THE OFFENSE." AT THE SAME TIME WHITE CITIZENS WERE PERMITTED TO KILL TLINGITS WITH IMPUNITY.[17]

IN A SERIES OF DECISIONS IN THE LATE 1800S, JUDGE MATTHEW DEADY REJECTED NATIVE ABORIGINAL CLAIMS AND THE EXISTENCE OF INDIAN

[16] Claus-M. Naske & Herman Slotnick, *Alaska: A History of the 49th State*, 54-55 (2nd Ed. 1987).

[17] Donald Craig Mitchell, *Sold American: the Story of Alaska Natives and Their Land*, 43-48 (quoting National Archives, Instructions to General Jefferson Davis from General Halleck, the Commander of the Military Division of the Pacific upon assuming jurisdiction of Alaska, September 6, 1867)

COUNTRY ON THE EXPLICITLY RACIAL GROUND THAT THEY WOULD BE "AGAINST THE TRUE INTERESTS OF A WHITE POPULATION."[18]

DESPITE GUARANTEES PROTECTING NATIVE LANDS IN THE TREATY OF CESSION AND ORGANIC ACT, NON-NATIVES TOOK ADVANTAGE OF OTHER FEDERAL LAWS TO ACQUIRE TITLE TO NATIVE LANDS WHILE NATIVES WERE DENIED ACCESS TO TERRITORIAL COURTS AND THUS PRECLUDED FROM DEFENDING THEIR ABORIGINAL LAND TITLE.

EARLY FISH AND GAME LAWS BARRED NATIVES FROM THE WILDLIFE RESOURCES ON WHICH THEIR LIVES DEPENDED. IN 1904, THE SENATE COMMITTEE ON TERRITORIES FOUND THAT "THROUGH THE GAME LAWS," ALASKA NATIVES HAVE BEEN "WHOLLY DEPRIVED OF THEIR CHIEF MEANS OF MAINTENANCE."[19] IN 1905 PRESIDENT ROOSEVELT REPORTED TO THE UNTIED STATES CONGRESS THAT GAME LAWS IN ALASKA DISCRIMINATE AGAINST NATIVES "IN FAVOR OF THE STRANGER," PERMITTING "THE UNRESTRICTED KILLING AT ALL SEASONS BY THE ARMY OF PROSPECTORS, EXPLORERS, AND TRAVELERS WHO OVERRUN THE TERRITORY FOR SELF GAIN OR PLEASURE." [20] ACCORDING TO TEDDY ROOSEVELT, THE ALASKA NATIVE OF 1905 "HAS PRACTICALLY NO LEGAL RIGHTS THAT THE STRANGER HAS TO RESPECT . . . ."[21]

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[18] *United States v. Bridleman*, 7 F. 894, 896 (D. Or. 1881); D. Niedermeyer, Note, *"The True Interests of a White Population", the Alaska Indian Country Decisions of Judge Matthew P. Deady*, 21 NYU J. INT'L L. AND POL. 195 (1988).

[19] S. Rep. No. 282, 58th Cong. 2nd Sess. at 28.

[20] S. Doc. 106, 58th Cong. 3rd Sess. At 18 (1905).

[21] *Id.* at 3.

SHELDON JACKSON, THE BUREAU OF EDUCATION'S ALASKA AGENT, ESTABLISHED A SEGREGATED SCHOOL SYSTEM FOR THE TERRITORY. LATER LEGISLATION FORMALIZED THIS ARRANGEMENT, UNDER WHICH THE TERRITORY ADMINISTERED SCHOOLS FOR WHITE STUDENTS, WHILE THE DEPARTMENT OF THE INTERIOR RAN NATIVE SCHOOLS. BECAUSE NATIVE SCHOOLS WERE BOARDING SCHOOLS, THIS DUAL SYSTEM FORCED NATIVE STUDENTS TO SACRIFICE FAMILY, HOME, AND CULTURAL TIES IN ORDER TO GET AN EDUCATION. THIS SYSTEM BECAME THE PRINCIPAL METHOD OF FORCED ACCULTURATION – THE MECHANISM BY WHICH WHITE PEOPLE SOUGHT TO CHRISTIANIZE, CIVILIZE AND EDUCATE THE NATIVE PEOPLE OF ALASKA.

THE TERRITORY OF ALASKA DENIED NATIVES THE RIGHT TO VOTE, BY MEANS OF CHALLENGING THEIR CITIZENSHIP. THE CHALLENGERS CLAIMED THAT NATIVES WHO HAD NOT SEVERED THEIR TRIBAL TIES WERE NOT "CIVILIZED" ENOUGH TO BE CITIZENS AND ACCORDINGLY LACKED THE FRANCHISE. THE TERRITORIAL LEGISLATURE EVEN IMPOSED A REQUIREMENT THAT THOSE ALASKA NATIVES SEEKING CITIZENSHIP MUST SECURE THE ENDORSEMENTS OF "AT LEAST FIVE WHITE CITIZENS."[22]

AFTER CITIZENSHIP WAS EXTENDED TO ALL NATIVE AMERICANS IN 1924, WHITE SUPREMACISTS CONTINUED TO KEEP ALASKA NATIVES FROM THE POLLS THROUGH THE ADOPTION OF IMPOSSIBLE LITERACY REQUIREMENTS.[23] LITERACY TESTS REMAINED A VOTING PREREQUISITE IN ALASKA UNTIL 1959,

[22] 1915 Alaska Sess. Laws 52, 53.

[23] 1925 Alaska Sess. Laws 51, 51-52; Act of March 3, 1927, 44 Stat. 1392, 1392-93.

WHEN THE ALASKA CONSTITUTION REPLACED THEM WITH AN ENGLISH-SPEAKING REQUIREMENT.[24] THIS HURDLE CONTINUED TO DISENFRANCHISE THOUSANDS OF ALASKA NATIVES UNTIL 1970, WHEN IT WAS FINALLY DROPPED FROM THE ALASKA CONSTITUTION.[25]

WHILE DISCRIMINATION IN VARIOUS FORMS WAS CODIFIED IN LAW, THE RACIST POLICIES WERE ROOTED IN THE WHITE CITIZENRY ITSELF. IN 1924, A JUNEAU PAPER WARNED THAT "[A] PLAN IS ON FOOT TO EXTEND TO THE INDIANS OF ALASKA ALL OF THE PRIVILEGES OF WHITES, INCLUDING THE RIGHT TO SIT ON JURIES, TO VOTE IRRESPECTIVE OF MENTAL QUALIFICATIONS, AND TO SEND THEIR CHILDREN TO WHITE SCHOOLS TO MINGLE, REGARDLESS OF PHYSICAL CONDITION, WITH WHITE CHILDREN," AND THAT "[U]NLESS THOSE WHO ARE OPPOSED TO HAVING INDIANS IN THE LEGISLATURES AND ON JURIES ALSO ORGANIZE, THE INDIANS ARE CERTAIN TO HAVE THE BALANCE OF POWER."[26]

WIDESPREAD SEGREGATION IN PUBLIC ACCOMMODATIONS CONTINUED INTO THE MID-1940S. IN 1944, JUNEAU WAS A JIM CROW TOWN WHERE THE WINDOWS OF MANY BARS AND RESTAURANTS WARNED "NO DOGS OR INDIANS ALLOWED." WINDOWS IN ANCHORAGE AND FAIRBANKS HAD SIMILAR SIGNS. "IN NOME, SEATING IN THE LOCAL MOVIE THEATER WAS SEGREGATED. AFTER TOURING THE TERRITORY THE PREVIOUS WINTER, A BIA SOCIAL WORKER

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[24] *See Alaska Constitutional Convention Proceedings* (Juneau: Alaska Legislative Council, March 1965) 737-44.

[25] AK. CONST. ART. V, § 1; 6th Legislature's HJR 51 am S (1970). *See* 1970 Alaska House Journal, Sixth Legislature, 2nd Sess. 131.

[26] "Attention Republicans," *Daily Alaska Empire*, March 17, 1924, *quoted in* Mitchell, *supra* note 17, at 216.

DESCRIBED ALASKA TO THE COMMISSIONER OF INDIAN AFFAIRS, JOHN COLLIER, AS "A TERRITORY WHERE RACE PREJUDICE IS MORE SHOCKING THAN IN THE SOUTH.'" [27] THIS OVERT SEGREGATION FINALLY INSPIRED RELUCTANT PASSAGE OF THE TERRITORY'S FIRST ANTI-DISCRIMINATION LAW IN 1945, [28] AFTER PREVIOUS EFFORTS HAD FAILED IN THE TERRITORIAL HOUSE IN 1943.

IN 1972, ALASKA NATIVES WERE FORCED TO FILE A LAWSUIT IN THE STATE COURTS CHALLENGING THE SEPARATE AND UNEQUAL SYSTEM OF EDUCATION IN ORDER TO SECURE THEIR CHILDRENS' RIGHT TO A HIGH SCHOOL EDUCATION IN THEIR OWN COMMUNITIES.[29]

TODAY THE SIGNS ARE GONE AND THE MOVIE THEATRES ARE INTEGRATED, BUT DISCRIMINATION AGAINST ALASKA NATIVES REMAINS. ALASKA NATIVES ARE DISPROPORTIONATELY UNEMPLOYED AND OVER-INCARCERATED. ALASKA NATIVES MAKE UP 32% OF ALASKA'S INMATE POPULATION. THEIR HUNTING AND FISHING RIGHTS ARE CONTINUALLY COMPROMISED OR DENIED, AND THEIR BASIC RIGHT TO GOVERN THEMSELVES IN THEIR VILLAGES REMAINS UNDER CHALLENGE. WHILE THE DISCRIMINATION MAY NOT BE AS OVERT AS IT WAS PRIOR TO STATEHOOD, THE FACT REMAINS THAT RACIAL INTOLERANCE UNDERLIES MANY DISCRIMINATORY PUBLIC POLICIES IN RECENT YEARS. A DECADE OF RACIALLY MOTIVATED ACTIONS BY ALASKA'S STATE GOVERNMENT HAS ACTUALLY CREATED AN ENVIRONMENT IN

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[27] *See* Mitchell, supra, note 17 at 332-33 (quoting National Archives, Ruth Gruber to John Collier, January 26, 1944, RG 48).

[28] 1945 Alaska Sess. Laws 35, 35-36

[29] *See Molly Hootch et al., v. Alaska State-Operated School System,* 536 P.2d 793 (Alaska 1975).

WHICH INDIVIDUAL ACTS OF PRIVATE HATRED OCCUR WITH INCREASING FREQUENCY.

## STATE PUBLIC POLICY AND ITS IMPACT ON ALASKA NATIVES

WHILE A MAJORITY OF ALASKANS ARE DECENT PEOPLE WHO RECOGNIZE THE VALUE OF HAVING ALASKA NATIVES AS FULL PARTNERS IN THE STATE'S FUTURE, THEY HAVE REMAINED LARGELY SILENT. DURING THE PAST DECADE, STATE PUBLIC POLICY, CONTROLLED BY AN URBAN, MOSTLY NON-NATIVE MAJORITY IN ALASKA'S LEGISLATURE, HAS SET ABOUT TO REDUCE BUDGETS AT THE EXPENSE OF NATIVE VILLAGES. DESPITE ALASKA'S ENORMOUS OIL WEALTH, THE DOMINANT POLITICAL MOTIF IN ITS PUBLIC LIFE IS A COMPULSION TO ATTACK GOVERNMENT AND TO REDUCE PUBLIC EXPENDITURES AT ANY SOCIAL COST. THE RESULTING POLICY DECISIONS HAVE DIMINISHED THE QUALITY OF LIFE FOR ALL ALASKANS, BUT HAVE FALLEN MOST HEAVILY ON RURAL ALASKA'S NATIVE VILLAGES.

- STATE AID TO LOCAL GOVERNMENTS HAS BEEN CUT BY ALMOST 60% IN THE PAST SEVEN YEARS – A SITUATION THAT HAS HARMED ALL COMMUNITIES BUT HAS RENDERED MANY RURAL VILLAGES INCAPABLE OF PROVIDING EVEN THE MOST BASIC OF GOVERNMENTAL OPERATIONS.

- DURING THE CURRENT LEGISLATIVE SESSION, THE MAJORITY-LED SENATE PASSED SB 48, A BILL THAT FORCES SMALL, RURAL COMMUNITIES TO INCORPORATE INTO BOROUGHS FOR TAXATION PURPOSES. THE BILL DENIES THE COMMUNITIES THE RIGHT TO VOTE TO DECIDE THEIR FATE, AND IGNORES THE FACT THAT MOST OF THESE COMMUNITIES SIMPLY LACK ANY ECONOMIC BASE TO SUPPORT A BOROUGH GOVERNMENT.

- IN 1997, THE MAJORITY-LED LEGISLATURE STOPPED PROVIDING DEVELOPMENT GRANTS TO IMPROVE THE QUALITY OF RURAL LIFE – A PROGRAM IT HAD FUNDED EVERY YEAR SINCE STATEHOOD

- THE LEGISLATURE USES FEDERAL APPROPRIATIONS TO REDUCE ITS OWN EXPENDITURES IN THE VILLAGES AND REFUSES TO SUPPORT RURAL ECONOMIC DEVELOPMENT TO CREATE LOCAL TAX BASES IN THE "BUSH."

- THE STATE KNOWINGLY RISKS THE SAFETY OF RURAL RESIDENTS AND INVITES ENVIRONMENTAL DAMAGE TO ITS OWN LANDS AND WATERS BY REFUSING TO UPGRADE OR REPLACE DETERIORATING BULK FUEL STORAGE FACILITIES IN NATIVE COMMUNITIES.

- IN 1999, THE STATE ABOLISHED THE ONLY CABINET-LEVEL DEPARTMENT IN JUNEAU, WHOSE PRIMARY MISSION WAS TO SERVE RURAL COMMUNITIES, CLAIMING THAT THIS WAS DONE AS A COST-SAVING MEASURE. DURING THE 1999 LEGISLATIVE SESSION, THE GOVERNOR'S COMMISSION ON RURAL GOVERNANCE AND EMPOWERMENT REQUESTED THAT THIS EXECUTIVE BRANCH REORGANIZATION BE DELAYED FOR ONE YEAR TO ALLOW RURAL RESIDENTS TIME TO REVIEW AND COMMENT. THE REQUEST WAS DENIED.

- THE LEGISLATURE ENACTED LEGISLATION THAT FORCES THE CLOSURE OF VILLAGE SCHOOLS IN DEFIANCE OF A CONSTITUTIONAL MANDATE TO EDUCATE ALL OF THE STATE'S CHILDREN. AS OF THIS DATE, AT LEAST 20 LOCAL SCHOOLS HAVE BEEN FORCED TO CLOSE. THE LEGISLATURE HAS FAILED TO ADDRESS THE CONSTRUCTION AND MAINTENANCE NEEDS OF RURAL SCHOOLS SERVING NATIVE STUDENTS ON AN EQUAL BASIS WITH URBAN SCHOOLS, A PRACTICE RECENTLY RULED UNCONSTITUTIONAL BY THE STATE SUPERIOR COURT.[30]

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[30] The State's failure to address school construction needs in rural Alaska was ruled unconstitutional in *Kasayulie et al. v. State of Alaska*, Case NO. 3AN-97-3782 CIV. On September 11, 1999, Superior Court Judge Reese entered an Order Granting Plaintiffs' Motion for Partial Summary Judgment on Facilities Funding, which held in part:

> The facilities funding scheme has a disparate impact on racial minorities. Alaska Natives make up the vast majority of rural school enrollment, up to 99% in some REAAs. At the same time, schools receiving the most funding, Anchorage and Fairbanks, have only a 10% Alaska native population. All total, Native enrollment is 15.4% and 37.7% in organized boroughs and city school districts respectively. REAAs' populations are 82% Native. The State's denial of funding to the rural schools has a racially discriminatory effect, as those are the same schools that enroll an overwhelming majority of Native students.
>
> The State's actions are not adequately justified. The State argues that the Title VI claim is about residence, not race. That is incorrect. Title VI is about the different treatment afforded certain populations of people in Alaska. It is about the fact that school districts with predominately Native enrollment receive lower funding that others. The State has shown no substantial legitimate justification for disparate treatment.

- IN THE FINAL SCHOOL-FUNDING PACKAGE THAT PASSED THE 2000 LEGISLATURE ONLY SIX RURAL SCHOOLS WERE FUNDED, OUT OF A DEPARTMENT OF EDUCATION LIST OF CERTIFIED AND PRIORITIZED NEEDS OF 69 PROJECTS. ONLY ONE RURAL MAJOR MAINTENANCE PROJECT WAS FUNDED. URBAN SCHOOLS, ON THE OTHER HAND, WERE AUTHORIZED GENEROUS REIMBURSEMENT OF THEIR OWN BONDED INDEBTEDNESS TO COVER NEW SCHOOLS AND MAINTENANCE PROJECTS, SOME OF WHICH WERE NOT EVEN ON THE ALASKA DEPARTMENT OF EDUCATION'S PRIORITY LIST.

- THE STATE RUNS THE RISK OF A CONSTITUTIONAL VIOLATION FOR ITS REFUSAL TO PROVIDE EVEN MINIMAL LEVELS OF PUBLIC SAFETY AND LAW ENFORCEMENT IN THE VILLAGES.[31] THE NUMBER OF VILLAGE PUBLIC SAFETY OFFICERS (VPSOS) HAS DROPPED OVER THE LAST 15 YEARS FROM 400 TROOPERS, VPSOS AND CONSTABLES TO JUST 300 TODAY. THE PAY FOR VPSOS IS SO LOW THAT SOME QUALIFY FOR AND RECEIVE FOOD STAMPS IN ORDER TO FEED THEIR FAMILIES. EIGHTY-EIGHT OFF-ROAD VILLAGES HAVE NO LOCAL POLICE WHATSOEVER. YET THE HOUSE REJECTED THE GOVERNOR'S REQUEST TO INCLUDE A 15% SALARY INCREASE AND 20 NEW VPSOS.

- THE LEGISLATURE HAS BLOCKED FEDERAL DISASTER AID TO WESTERN ALASKA VILLAGES HIT HARD BY FISHERIES COLLAPSES, AS WELL AS OTHER FEDERAL INITIATIVES TO THE VILLAGES THAT REQUIRE STATE CONTRIBUTIONS.[32]

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Order at 11. *See* Exhibit 13.

[31] The State maintains a racially based, dual system of law enforcement, the result of which is to provide inadequate police protection to Alaska Natives living in rural areas. The State's failure to provide minimally adequate police protection to off-road Native villages and for discriminating against them in the provision of State law enforcement is the basis of another equal protection challenge filed in superior court. *AITC et al v. State of Alaska*, No. 3DI-99-113 CI. Exhibit 16.

[32] In 1997, the Governor declared a disaster in Western Alaska due to the extremely poor salmon returns, and requested federal assistance. The Federal Government responded, just as it would to massive crop failures caused by unusual and extreme weather conditions in the lower-48 states. In response, the Alaska Legislature passed S.B.101, redefining the characteristics of a qualifying disaster so as to exclude the Western Alaska fisheries crisis. It also changed how such funds could be accessed, making it harder for Western Alaska families to get assistance even for a qualifying disaster. This came on the heels of a disastrous forest fire in 1997 in the Matanuska-Susitna Valley, a residential area on the outskirts of Anchorage. This area is statistically the least Native, most Caucasian, census district in Alaska. In that case, federal and state assistance were shoveled into local communities, and funds were made available to people who were behind in their rents or utilities, even if unrelated to the fire. Following the third straight year of salmon shortages, the Governor declared a disaster again in 1999. The House cut $1.6 million from the Governor's disaster relief package.

AT THE SAME TIME, THE STATE LEGISLATIVE MAJORITY HAS HAD NO TROUBLE FINDING MILLIONS OF DOLLARS TO FIGHT NATIVE TRIBAL GOVERNMENTS IN THE VILLAGES, TO MOUNT EXPENSIVE JUDICIAL ASSAULTS AGAINST FEDERAL SUBSISTENCE PROTECTIONS, AND TO SUPPORT A VOTER INIATIVE THAT IMPOSED ENGLISH AS THE ONLY LANGUAGE OF ALASKA'S PUBLIC INSTITUTIONS. [33]

PERHAPS THE MOST FUNDAMENTAL DANGER TO THE SURVIVAL OF ALASKA NATIVE PEOPLES IS THE DECADE-LONG POLITICAL ATTACK BY THE STATE OF ALASKA ON THE TRADITIONAL HUNTING AND FISHING RIGHTS OF NATIVE VILLAGES. FOR MORE THAN 10,000 YEARS, ALASKA NATIVES HAVE FED, CLOTHED AND HOUSED THEIR FAMILIES BY HUNTING, FISHING AND GATHERING FROM THE LANDS AND WATERS OF ALASKA. THIS SUBSISTENCE ECONOMY REMAINS A PHYSICAL, CULTURAL AND ECONOMIC NECESSITY FOR THE SURVIVAL OF ALASKA'S NATIVE VILLAGES. SUBSISTENCE IS NOT A RELIC FROM THE PAST, IT HAS AND CONTINUES TO BE THE FOUNDATION OF ALASKA NATIVE SOCIETIES. IF, BECAUSE OF COMPETITION FROM THE URBAN MAJORITY FOR LIMITED FISH AND GAME RESOURCES, THE TRADITIONAL PROTEIN BASE SHOULD DISAPPEAR, SO WILL THE VILLAGES. THE LEGISLATIVE MAJORITY HAS REFUSED TO RECOGNIZE THE IMPORTANCE OF THE SUBSISTENCE WAY OF LIFE. IT VIEWS SUBSISTENCE AS NOTHING MORE THAN THE TAKING OF A NATURAL

[33] The 1990 U.S. Census data indicates that approximately 11% of the Alaska population speak a language other than English at home. The State's "English-Only" law would restrict government business from being conducted in any language other than English, with limited exceptions. It would apply not only to written government documents, but to oral communications as well. This law would deny Alaska Natives the right to govern themselves through structures that allow the use of their Native languages.

RESOURCE, AND AS SOMETHING ALL ITS CITIZENS SHOULD BE ENTITLED TO ENGAGE IN ON AN EQUAL BASIS. THESE LEGISLATORS FAIL TO UNDERSTAND THAT TREATING EVERYONE EXACTLY THE SAME, (I.E., REQUIRING ALASKA'S INDIGENOUS POPULATIONS TO CHANGE THEIR TRADITIONAL VALUES AND WAYS OF LIFE IN ORDER TO BE ASSIMILATED INTO THE MAINSTREAM SOCIETY, AND THUS DISAPPEAR – IS A POLICY OF RACE DISCRIMINATION. DESPITE THE GOOD WILL OF MANY INDIVIDUAL ALASKANS, MUCH OF THE PUBLIC DEBATE OVER THIS ISSUE REMAINS A THINLY VEILED EXERCISE IN RACIAL AND CULTURAL INTOLERANCE.

THE LEGISLATIVE ASSAULT ON THE NATIVE PEOPLE OF RURAL ALASKA, DESCRIBED BY SOME AS THE "URBAN/RURAL DIVIDE,"[34] GAVE RISE IN 1998 TO ONE OF THE LARGEST CIVIL RIGHTS MARCHES IN THE HISTORY OF ALASKA, ATTRACTING OVER 4000 PEOPLE IN ANCHORAGE, WITH SMALLER MARCHES IN OTHER LOCATIONS AROUND THE STATE. SIMILAR PROTESTS WERE HELD IN 1999 AND AGAIN IN 2000. [35]

THE URBAN/RURAL DIVIDE IS ROOTED IN THE UNEQUAL TREATMENT ACCORDED NATIVE VILLAGES IN TERMS OF EDUCATION, LAW ENFORCEMENT, CLEAN WATER AND SANITATION AND THE DOUBLE-DIGIT UNEMPLOYMENT IN RURAL COMMUNITIES. IT IS ALSO REFLECTED IN THE LEGISLATURE'S SYSTEMATIC EFFORT TO UNDERMINE FEDERAL PROTECTIONS FOR HUNTING AND FISHING RIGHTS OF RURAL ALASKANS AND ITS REFUSAL TO ALLOW

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[34] *"Urban-Rural Divide Widens in Juneau,"* ANCHORAGE DAILY NEWS, A1 (May 3, 1998) (Exhibit 17).

[35] *See* Miller, *"Native Rights Demonstration Born Out of Frustration"*, ANCHORAGE DAILY NEWS, B-12 (May 7, 1998) (Exhibit 18).

ALASKANS TO VOTE ON A CONSTITUTIONAL AMENDMENT ON SUBSISTENCE. IT IGNORES THE HUGE SUBSIDIES THE URBAN AREAS ENJOY AS A RESULT OF THE WEALTH OF RESOURCES LOCATED IN RURAL ALASKA. THE URBAN AND RURAL DIFFERENCES REACHED UNPRECEDENTED LEVELS IN 1998, WHEN REP. RICHARD FOSTER, D-NOME, QUIT THE REPUBLICAN-DOMINATED MAJORITY, SAYING URBAN LEGISLATORS HAD SHOWN "PURE HOSTILITY AND ANIMOSITY" TOWARD THE BUSH ON BUDGET ISSUES AND HIS EFFORTS TO WORK WITH THEM BEHIND CLOSED DOORS HAD FAILED.[36]

THE MAJORITY-LED LEGISLATURE HAS DEFENDED ITS ACTIONS BY CLAIMING THAT ALASKA NATIVE VILLAGES SHOULD NOT DEPEND UPON STATE RESOURCES TO FINANCE LOCAL OPERATIONS. THEY CONVENIENTLY IGNORE THAT ALL OF ALASKA'S COMMUNITIES, INCLUDING ANCHORAGE, DEPEND ON THE STATE'S OIL WEALTH TO MEET ALASKA'S EXTRAORDINARILY HIGH COST OF LIVING. LEGISLATORS HAVE CALLED TRIBAL GOVERNMENTS "ABSOLUTE EVIL, TO BE FEARED."[37] THEY HAVE PUBLICLY DENIGRATED VILLAGERS AS "FREE LOADERS."[38] THEY WARP THE NOTION OF "EQUAL RIGHTS" TO TRAMPLE UPON CONSTITUTIONALLY PROTECTED TRIBAL HUMAN RIGHTS. IN SHORT, MAJORITIES OF BOTH HOUSES OF THE STATE LEGISLATURE HAVE TARGETED RURAL ALASKA FOR DISCRIMINATORY TREATMENT. THIS INEQUITY AT THE HIGHEST LEVEL IN OUR STATE SERVES TO JUSTIFY THE PERMEATION OF RACISM AT THE COMMUNITY AND INDIVIDUAL LEVELS EVEN TO THE POINT OF

[36] *See "Urban-Rural Divide Widens in Juneau,"* Anchorage Daily News, A1 (May 3, 1998).

[37] *See* Exhibit 18.

TEACHING THE YOUNG THAT RACISM IN ALASKA IS ACCEPTABLE, CONDONED AND ENCOURAGED.

NATIVE AMERICAN PEOPLE, LIKE OTHER MINORITIES, HAVE TRADITIONALLY LOOKED TO THE UNITED STATES FOR PROTECTION FROM DISCRIMINATORY PRACTICES OF STATE GOVERNMENTS; AND THE CURRENT SITUATION FACING ALASKA NATIVES IS NO DIFFERENT. LITTLE WONDER, THEN, THAT THE ALASKA FEDERATION OF NATIVES HAS MADE SUCH AN EFFORT TO BRING THIS NATIONAL DISGRACE TO THE ATTENTION OF CONGRESS, FEDERAL AGENCIES, FEDERAL COURTS AND THE AMERICAN PUBLIC – OR THAT WE HAVE JOINED FORCES WITH THE NATIONAL CIVIL RIGHTS COMMUNITY, RELIGIOUS CONGREGATIONS AND OTHER ORGANIZATIONS OF CONSCIENCE TO HALT THE DESTRUCTION OF INDIGENOUS PEOPLES WHO HAVE LIVED HERE FOR MORE THAN TEN THOUSAND YEARS – OR THAT, AT THE URGING OF THE UNTIED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (THE HONORABLE MARY ROBINSON), WE WILL TAKE OUR CASE TO THE UN WORLD CONFERENCE AGAINST RACISM IN DURBAN, SOUTH AFRICA IN AUGUST OF THIS YEAR. FINALLY, THERE CAN BE LITTLE WONDER WHY WE ARE NOW APPEALING FOR HELP TO THE UNITED STATES COMMISSION ON CIVIL RIGHTS. WITHOUT ANY REMEDY IN STATE POLITICS, WE HAVE NOWHERE ELSE TO TURN BUT TO OUR NATION AND TO THE CONSCIENCE OF THE WORLD.

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[38] *Id.*

# Human Resources Committee
# Federal Issues Packet

## ALASKA NATIVE CONTRACTING OF DEPARTMENT OF INTERIOR PROGRAMS AND CO-MANAGEMENT OF FISH AND WILDLIFE

**The AFN Board of Directors requests Alaska's Congressional Delegation to support legislation expanding the authority of Native organizations to contract programs of non-BIA Interior Department agencies in Alaska and to co-manage fish and wildlife resources by amending PL 106-488 during the 107th Congress.**

**Background/Basis for Request:** On November 9, 2000, S.748, a bill to improve Native hiring and contracting by the Federal Government within the State of Alaska, and for other purposes became Public Law No. 106-488. This statute allows, on a pilot project basis, the National Park System within the NANA Regional Corporation and Bering Straits Native Corporation boundaries to give preference to residents of the local communities for jobs within the National Parks and Preserves. This statute also requires the Secretary of Interior to report to Congress on its plan to implement sections 1307 and 1308 of the Alaska National Interest Lands Conservation Act and the provisions of the Indian Self-determination and Education Assistance Act. The report must identify laws, rules, regulations and policies which act as a deterrent to hiring Alaska Natives or contracting with Alaska Natives to perform and conduct activities and programs of those agencies and bureaus under the jurisdiction of the Department of Interior.

**Problem:** PL No. 106-488 was a step in the right direction insofar as partial implementation of Sections 1306 and 1307 of the Alaska National Interest Lands Conservation Act (ANILCA) is concerned. However, existing laws providing for Alaska Native involvement in the operation of federal land management agencies, and for cooperative management of fish and wildlife have failed to achieve their goals.

- ANILCA: Sections 1306 and 1307 of ANILCA gives preference to Native corporations in the siting of agency facilities and in obtaining concessions for visitor services. Section 1308 makes special provision for the federal management agencies to employ local residents. With the limited experience of the siting of some agency facilities on Native lands, these promises have gone unfulfilled. National federal policy to "mirror America" in employment, for example, effectively limits the employment of Alaska Natives in the state to the percentage of Native Americans in the National population, even though the Native population percentage in Alaska, and particularly rural Alaska, is much higher.

- PL 93-638: Title IV of PL 93-638, enacted in 1994, was intended to expand the ability of tribal organizations with self-governance compacts to include non-BIA Interior Department activities in their compacts when there is a close relationship between the federal activity and the Native Community. A glance at the map suggests that in Alaska, Title IV should be a vehicle for at least *some* expansion of Native compacting to the administration of federal land units and management of fish and wildlife. The Department of the Interior has concluded that compacting non-BIA functions is completely discretionary except for explicit "Native" programs, and both the National Park Service and the U. S. Fish and Wildlife have conveniently concluded they have no such programs.

  The non-profits have approached the federal land agencies numerous times with proposals for 638 contracts with virtually no success for any program which isn't considered specifically "Native" by the Interior Department. The Interior Department's resistance to 638 contracting non-BIA programs has progressively hardened over the last few years.

- Cooperative Management: Section 119 of the Marine Mammals Protection Act authorizes the Secretary of the Interior to enter into cooperative agreements with Native organizations regarding conservation and subsistence. ANILCA Section 806 also authorizes cooperative

agreements among federal agencies, the state, Native corporations and other parties. Although there are several examples in Alaska of successful cooperative agreements, Native groups are still not an equal player in federal decisions that affect their subsistence-based way of life. Both statutory provisions are discretionary. The inability to contract any of the underlying federal functions has hindered Native efforts to fully take advantage of these sections. In general, the federal agencies only support cooperative agreements when they want something specific from the Native Community or in circumstances where federal agency does not otherwise have opportunity to regulate.

- §2(b), ANCSA: §2(b) of the Alaska Native Claims Settlement Act mandates the participation of the Alaska Natives on decisions affecting their rights and property. Amending PL 106-488 in the manner proposed by AFN is a step toward the fulfillment of this congressional mandate.

**Proposal:** P.L No. 106-488 was a step in the right direction insofar as partial implementation of Sections 1306 and 1307 of the Alaska National Interest Lands Conservation Act (ANILCA) is concerned. However, AFN proposes amending the law to make its application statewide in nature, and to strengthen Alaska Native contracting authority in regard to federal resource and conservation unit management. This can be achieved by the reintroduction of what was HR 2804 in the 106th Congress. A copy of H.R. 2804, which was introduced by Congressman Don Young during the 106th Congress, is attached. This bill is designed to do the following:

- Expand Alaska Native contracting authority in regard to federal resources and conservation unit management in Alaska;
- Expand authorization for co-management of fish and wildlife resources;
- Apply only within Alaska; and
- Make at least some of the existing contracting provisions mandatory rather than discretionary.

**Justifications for Proposal:** Broadened Native contracting and co-management authority will make federal land management and fish and wildlife management more responsive to the local needs and concerns, without sacrificing national interests. It will help bridge the gap between local communities and the federal bureaucracies and increase local support of the conservation system units in Alaska. Native contracting will also keep more of the economic benefit of these vast federal enclaves in rural Alaska, much of which has high unemployment and is in "economic disaster" because of declining fisheries.

Alaska Natives own 44 million acres or 12% of lands in Alaska, the State of Alaska owns 104 million acres or 28%, and the federal governments holds title to 207 million acres or 59% of the lands in Alaska. The fact that Alaska Natives collectively are the largest private landowners in the State makes cooperative and collaborative efforts essential for the long-term conservation and enhancement of fish and wildlife populations. Contracting will not only keep money in rural Alaska but will help rural workers acquire new skills and encourage Native youth to study related academic disciplines with some hope there will be a job for them when they come home.

**Conclusion:** AFN's proposal furthers Congress' policies of devolving federal activity to local control and of encouraging local innovation in the delivery of services. While this proposal is not the solution to the subsistence impasse in Alaska, nor is it primarily directed at subsistence, in light of the federal takeover of subsistence fisheries in Alaska, Native contracting and co-management will provide an effective and efficient means of keeping on-the-ground control in the hands of Alaskans.

HR 2804 IH

106th CONGRESS

1st Session

**H. R. 2804**

To expand Alaska Native contracting of Federal land management functions and activities and promote hiring of Alaska Natives by the Federal Government within the State of Alaska, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

**August 5, 1999**

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Resources

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**A BILL**

To expand Alaska Native contracting of Federal land management functions and activities and promote hiring of Alaska Natives by the Federal Government within the State of Alaska, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE.

This Act may be cited as the `Alaska Federal Lands Management Demonstration Project'.

## SEC. 2. CONGRESSIONAL FINDINGS; PURPOSES.

(a) FINDINGS- Congress finds and declares the following:

(1) The Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) established new and expanded units of the National Park System and the National Wildlife System in many areas of Alaska. The purposes of these conservation system units were, among other purposes, to protect habitat for fish and wildlife, to conserve fish and wildlife populations in their natural state, to provide continued opportunity for subsistence uses by local residents, and to protect archaeological sites associated with Native cultures.

(2) Many rural Alaskan communities are in close proximity to conservation system lands, and the purposes of these units are uniquely relevant to the culture and ways of Native

Alaskans and other residents of rural Alaskan communities. Congress recognized this close relationship in sections 1306, 1307 and 1308 of the Alaska National Interest Lands Conservation Act, which directed the Secretary of Interior to establish programs whereby Native lands were given preference for the siting of conservation service unit facilities, Native corporations and local residents were given preference for the provision of visitor services, and local residents were given preferences for employment. Despite these provisions, little progress has been made in increasing related employment opportunities for Native Alaskan and other local residents.

(3) In much of rural Alaska, Indian tribes and tribal organizations have a long history of contracting to operate Federal programs and provide Federal services to resident Alaskan Natives and have demonstrated the capacity to provide other kinds of Federal programs and services.

(b) PURPOSES- The purposes of this demonstration project are to design innovative management strategies that will lead to greater efficiency in conservation system unit management, expand Native contracting opportunities, increase local employment, and further the unique purposes of these units as they relate to subsistence practices, Alaska Native cultures, and the preservation of fish and wildlife habitat and populations.

## SEC. 3. AUTHORIZATION OF DEMONSTRATION PROJECT.

The Secretary of the Interior shall, for a period not to exceed 5 years following the date of the enactment of this Act, conduct an Alaska Federal Lands Management Demonstration Project.

## SEC. 4. ALASKA FEDERAL LANDS MANAGEMENT DEMONSTRATION PROJECT.

(a) PARTICIPATION- The Secretary shall select, upon request and in a manner to achieve geographic representation, not less than 6 eligible Alaska Native tribes or tribal organizations per year to participate in the Demonstration Project in fiscal years 2000 and 2001.

(b) ELIGIBILITY- To be eligible to participate in the Demonstration Project, each Indian tribe or tribal organization shall--

(1) request participation by resolution or other official action of the governing body of the tribal organization;

(2) demonstrate financial and management stability and capability;

(3) demonstrate significant use of or dependency upon the relevant conservation system unit or other public land unit for which programs, functions, services, and activities are requested to be placed under contract;

(4) where the Secretary receives a request to contract specific conservation system unit programs, services, functions, and activities, or portions thereof, from more than 1 Indian tribe or tribal organization meeting the criteria set forth in paragraphs (1) through (3), the Secretary shall apply the priority selection criteria applied by the Juneau Area Bureau of Indian Affairs for contracting pursuant to the Indian Self-Determination and Education

Assistance Act. If, after applying such criteria, there remains more than one eligible participant and such participants have overlapping requests to negotiate and contract for the same programs, services, functions, and activities, or portions thereof, the Secretary may require such Indian tribes or organizations to agree which entity shall have the ability to contract, or to submit a joint request prior to entering into negotiations.

(c) CONTRACTS-

(1) IN GENERAL- Upon request, the Secretary shall negotiate and enter into a contract with each participating Indian tribe or tribal organization to plan, conduct and administer requested programs, services, functions and activities, or portions thereof, related to the administration of a conservation system unit or other public land unit that is substantially located within the geographic region of the respective Indian tribe or tribal organization.

(2) TECHNICAL SUPPORT- Contracts authorized by this Act shall include, at the request of the Indian tribe or tribal organization, the operation and

support of the regional advisory councils, biological research, harvest monitoring, and other technical research related to conservation and allocation actions by the regional councils, and such other programs, functions, services, and activities reasonably necessary to carry out title VIII of the Alaska National Interests Lands Conservation Act.

(3) TIME LIMITATION FOR NEGOTIATION OF CONTRACTS- Not later than 90 days after selection by the Secretary of participating Indian tribes or tribal organizations, the Secretary shall initiate and conclude negotiations, unless an alternative negotiation and implementation schedule is otherwise mutually agreed to by the parties. The declination and appeals provisions of the Indian Self-Determination and Education Assistance Act, including section 110 of such Act, shall apply to contracts and agreements requested and negotiated under this Act.

(d) CONTRACT ADMINISTRATION-

(1) INCLUSION OF CERTAIN TERMS- At the request of the contracting Indian tribe or tribal organization, the benefits, privileges, terms, and conditions of agreements entered into pursuant to titles I and IV of the Indian Self-Determination and Education Assistance Act shall be available for inclusion in a contract entered into under this Act. If any provisions of the Indian Self-Determination and Education Assistance Act are incorporated they shall have the same force and effect as if set out in full in this Act and shall apply notwithstanding any other provision of law. The parties may include such other terms and conditions as are mutually agreed to and not otherwise contrary to law.

(2) AUDIT- Contracts entered into under this Act shall provide for a single-agency audit report to be filed as required by chapter 75 of title 31, United States Code.

(3) TRANSFER OF EMPLOYEES- Any career Federal employee employed at the time of the transfer of an operation or program to an Indian tribe or tribal organization shall not be separated from Federal service by such transfer. Intergovernmental Personnel Actions may be used to transfer supervision of such employees to the contracting Indian tribe or tribal organization. Such transferred employees shall be given priority placement

for any available position within their respective agency, notwithstanding any priority reemployment lists, directives, rules, regulations or other orders from the Department of the Interior, the Office of Management and Budget, or other Federal agencies.

(e) AVAILABLE FUNDING; PAYMENT- Under the terms of a contract negotiated pursuant to subsection (a), the Secretary shall provide each Indian tribe or tribal organization funds in an amount not less than the Secretary would have otherwise provided for the operation of the requested programs, services, functions, and activities. Contracts entered into under this Act shall provide for advance payments to the tribal organizations in the form of annual or semiannual installments.

(f) TIMING- Indian tribes and tribal organizations selected to participate shall be entitled to begin implementation of any requested contracts no later than the first fiscal year following the year in which the Indian tribe or tribal organization is selected for participation, unless the Indian tribe or tribal organization and the Secretary, by mutual agreement, shall agree to an alternate implementation schedule.

(g) REPORT- Not later than 90 days after the close of fiscal years 2000 and 2001 and the end of this Demonstration Project, the Secretary shall present to the Congress detailed reports, including a narrative, findings, and conclusions on the costs and benefits of the Demonstration Project. The reports shall identify remaining institutional and legal barriers to the contracting of conservation system unit management to Alaska Native entities and shall contain suggestions for improving, continuing, and expanding the Demonstration Project. The reports shall be authored jointly with, and shall include the separate views of, all participating Alaska Native tribes and tribal organizations.

(h) Limitations-

(1) REVENUE PRODUCING VISITOR SERVICES- Contracts authorized under this Act shall not include revenue producing visitor services unless an agreement is reached with the most directly affected Alaskan Native corporations to allow such services to be included in the contract. Such contracts shall not otherwise repeal, alter, or otherwise modify the any other existing provision of sections 1307 and 1308 of the Alaska National Interests Lands Conservation Act.

(2) DENALI NATIONAL PARK- The Denali National Park shall not be subject to any of the provisions of this Act.

(i) GRANTS-

(1) IN GENERAL- Upon application, the Secretary shall award a planning grant in the amount of $100,000 to any participating Alaska Native tribe

or tribal organization to plan for the contracting of programs, functions, services, and activities authorized under this Act.

(2) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated $600,000 in each of the 2 fiscal years immediately following the date of the enactment of this Act to fund planning grants authorized under this subsection.

## SEC. 5. ANILCA SECTION 1307 AND 1308 IMPLEMENTATION PROGRESS REPORT.

(a) REPORT REQUIRED- Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives a report detailing the progress that the Department of the Interior has made in the implementation of the provisions of sections 1307 and 1308 of the Alaska National Interests Lands Conservation Act. The report shall--

(1) include a detailed action plan on the future implementation of the provisions of sections 1307 and 1308 of that Act;

(2) describe in detail the measures and actions that will be taken to implement such sections, along with a description of the anticipated results to be achieved during the 3 fiscal years following the submission of the report;

(3) address any laws, rules, regulations, and policies which limit or deter the goal of Alaska Native hiring or contracting to perform and conduct activities and programs of Department agencies and bureaus other than those currently available through the Bureau of Indian Affairs.

(b) FUNDING- The report required under subsection (a) shall be completed within existing appropriations.

## SEC. 6. DEFINITIONS-

For the purposes of this Act:

(1) CONSERVATION SYSTEM UNIT- The term `conservation system unit' shall have the meaning given that term in section 102(4) of the Alaska National Interest Lands Conservation Act.

(2) INDIAN TRIBE- The term `Indian tribe' shall have the meaning given that term in subsection 4(e) of the Indian Self-Determination and Education Assistance Act.

(3) SECRETARY- The term `Secretary' means the Secretary of the Interior.

(4) TRIBAL ORGANIZATION- The term `tribal organization' shall have the meaning given that term in subsection 4(l) of the Indian Self-Determination and Education Assistance Act.

*END*

ALASKA FEDERATION OF NATIVES, INC.

2000 ANNUAL CONVENTION

RESOLUTION 00-9

TITLE: A RESOLUTION FOR MORE CO-MANAGEMENT AGREEMENT PROJECTS WITH THE USF&W SERVICE FOR FISHERIES AND WILDLIFE MANAGEMENT

WHEREAS: The President of the United States of America mandated the USF&W Service to enter into co-management agreements with the Tribes; and

WHEREAS: Non-profit Native organizations are already entered into co-management agreements with the federal and state agencies; and

WHEREAS: More long-term agreements need to be established, so that the local governments could foster new agreements after they develop a better capacity for wildlife management; and

WHEREAS: Co-management agreements are being done with fisheries studies, it is equally as important to conduct studies on migratory birds and big game animals; and

WHEREAS: It has been recorded in most of the rural Alaska villages that 70% to 90% of their subsistence needs come from fishing. Due to the poor return of salmon, the villages will rely more on the migratory birds and big game animals to fill their freezers for the long winter; and

NOW THEREFORE BE IT RESOLVED by the Delegates to the 2000 Annual Convention of the Alaska Federation of Natives, Inc. request from the federal and state agencies to further actively pursue co-management of the wildlife resources with the Tribes of AFN. So, that the Tribal villages of AFN could develop a clear capacity to manage the wildlife resource they depend on for their subsistence needs. To be true stewards and conservationists of their land.

SUBMITTED BY: Tanana Chiefs Conference, Inc.

COMMITTEE ACTION: DO PASS

CONVENTION ACTION: PASSED

# REAUTHORIZATION OF THE MARINE MAMMAL PROTECTION ACT

**THE ALASKA FEDERATION OF NATIVES AND THE INDIGENOUS PEOPLES' COUNCIL FOR MARINE MAMMALS REQUEST THAT THE ALASKA CONGRESSIONAL DELEGATION SUPPORT INTRODUCTION AND PASSAGE OF IMPORTANT AMENDMENTS TO THE MMPA WHICH HAVE BEEN NEGOTIATED BETWEEN IPCOMM AND COGNIZANT FEDERAL AGENCIES AND WHICH STRENGTHEN THE CO-MANAGEMENT PROVISIONS OF THE ACT.**

**Background and Basis for this Request:** The Marine Mammal Protection Act of 1972 (MMPA) imposed a general ban on the taking and importation of marine mammals or their parts, and it conferred jurisdictional authority on the U.S. Fish and Wildlife Service (USFWS - U.S. Department of the Interior) and the National Marine Fisheries Service (NMFS - U.S. Department of Commerce) for managing all marine mammals in waters under U.S. jurisdiction. In recognition of the fact that Alaska Natives have relied on marine mammals for food, clothing and culture for centuries, Congress exempted from the ban those takings by Alaska Natives who dwell on Alaska's coast, provided that such takings are for subsistence or handicraft uses and are non-wasteful.

The Indigenous Peoples' Council for Marine Mammals (IPCOMM) was organized in 1991 as a statewide body to coordinate Native marine mammal organizations and to deal effectively with marine mammal issues of common concern. IPCOMM took an active role in the reauthorization of the MMPA in 1994. Today, IPCOMM's membership includes fifteen Alaska Native commissions, tribes and organizations, all of which are devoted to the conservation and protection of marine mammal populations and of Alaska Native uses of same for subsistence and the making of handicrafts and clothing. In December 2000, IPCOMM became a subcommittee of the AFN Board's Subsistence Committee.

Congress is scheduled to consider reauthorization of the MMPA during 2001; and AFN, through IPCOMM, fully supports reauthorization of the Act with the amendments described below.

The Native-take exemption contained in section 101(b) of the MMPA allows such takings to be regulated only by Alaska Natives unless a species becomes depleted. The Native-take exemption has worked, and AFN does not support any amendment to the MMPA that would weaken the exemption. Section 101(b) gives Alaska Natives sole responsibility for regulating their own take so long as it is not wasteful and the species is not depleted; and this helps to preserve traditional Native knowledge and customs free of inappropriate federal regulation. Working with their own tribes, Alaska Natives have created marine mammal organizations to protect subsistence uses and to formalize Native management of such species.

During the 1994 MMPA reauthorization, IPCOMM was successful in persuading Congress to add Section 119. It authorizes the Department of the Interior and the Department of Commerce to enter into cooperative agreements with Alaska Native organizations in order to conserve marine mammals and provide for co-management of their subsistence uses by Alaska Natives. This provision has resulted in a number of effective partnerships between federal agencies and

Alaska Native organizations to achieve their common goals of conservation and sustainable subsistence uses by Natives.

Recognizing the important role that section 119 has played in marine mammal management since 1994, USFWS and NMFS agreed to work with IPCOMM in crafting new MMPA amendments that would enhance section 119's cooperative agreements and provide for true co-management agreements on marine mammals in Alaska. This effort began in September 1999, with an agreement to develop a joint proposal to Congress that would enhance the Act's co-management provisions. It culminated in a package of amendments, which was submitted by IPCOMM to the House Committee on Resources in late May 2000. They were incorporated in the Administration's proposed MMPA amendments and forwarded to the Resources Committee in early September 2000.

These negotiated amendments expand the language of section 119 by adding a new section to authorize co-management agreements between Alaska Native Organizations and tribes, on the one hand, and the federal agencies, on the other. While the current section 119 enables Alaska Natives to participate in research and monitoring, its major shortcoming is that it does not allow for enforcement of harvest management plans. A co-management agreement entered into under the proposed new section would include a management plan that could restrict the harvest of marine mammals for subsistence purposes, both before and after a depletion finding. Such restrictions would be enforceable by either the Native or federal partner to the agreement.

This negotiated package of amendments will provide more effective means of regulating and enforcing subsistence harvests by co-management agreements prior to a finding of depletion. They will lead to better management decisions and prevent recurrence of problems like those that arose in the subsistence management of Cook Inlet beluga whales.

**Proposal:** Therefore, AFN recommends that the Alaska Congressional Delegation support reauthorization of the MMPA, including the negotiated amendments attached hereto - and that Congress appropriate sufficient funding to implement the new co-management provisions of the Act.

**A BILL**

To amend the Marine Mammal Protection Act of 1972, as amended, to authorize the Act for a period of five [5] years, and for other purposes.

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Marine Mammal Protection Act Amendments of 2000".

**TITLE I: NATIVE ALASKAN CO-MANAGEMENT AGREEMENTS**

**SEC. 101. MARINE MAMMAL CO-MANAGEMENT AGREEMENTS IN ALASKA.**

A new section is inserted after section 119 to read as follows:

"Section 119A. MARINE MAMMAL CO-MANAGEMENT AGREEMENTS IN ALASKA

"(a) IN GENERAL.- Notwithstanding the provisions of Section 101(b), the Secretary may enter into co-management agreements with Alaska Native Tribes or Tribally Authorized Organizations to conserve and manage non-depleted stocks of marine mammals through the regulation of subsistence use by Alaska Natives. Such agreements may also apply to depleted stocks. Agreements shall include, at a minimum, a management plan that-

"(1) identifies the signatories to, and the stock or species and areas covered by the plan;

"(2) is based on biological information and traditional ecological knowledge;

"(3) provides for a sustainable harvest and is designed to prevent populations from becoming depleted;

"(4) has a clearly defined process and authority for enforcement and implementation of any management prescriptions; and

"(5) specifies the duration of the agreement and sets forth procedures for periodic review and termination of the agreement.

"(b) PROCEDURAL REQUIREMENTS.- In formulating and implementing agreements under this section, Alaska Native Tribes and Tribally Authorized Organizations shall comply with the provisions of 25 U.S.C. § 1302; except that the penalties set forth in section 105 of this Act (16 U.S.C. § 1375) shall be applicable to violations of Tribal regulations or ordinances promulgated to enforce agreements entered into under this section.

"(c) PROHIBITION.- It is unlawful for any person, within the geographic area to which a co-management agreement adopted pursuant to this section applies, to take, transport, sell, or possess, a marine mammal in violation of any regulation or

ordinance adopted by an Alaska Native Tribe or Tribally Authorized Organization that is a signatory to the agreement for that stock or for a specific portion of the geographic range of that stock or species. For depleted stocks, any such regulation or ordinance shall be consistent with regulations adopted by the Secretary pursuant to Sections 101(b) and 103.

"(d) GRANTS.- Agreements entered into under this section may include grants to Alaska Native Tribes or Tribally Authorized Organizations for, among other purposes-

"(1) collecting and analyzing data on marine mammal populations;

"(2) monitoring the harvest of marine mammals for subsistence use;

"(3) participating in marine mammal research conducted by the Federal Government, State, academic institutions and private organizations; and

"(4) developing, implementing, and enforcing marine mammal co-management agreements and plans.

"(e) EFFECT OF A DEPLETION FINDING.- In the event the Secretary determines that regulation of Native harvest may be necessary in order to protect a depleted stock, the Secretary shall solicit recommendations for such regulation from Alaska Native Tribes and Tribally Authorized Organizations engaged in co-management

of the species or stock pursuant to this section. The Secretary shall provide to such Alaska Native Tribes and Tribally Authorized Organizations draft proposed regulations, an analysis of how the dual goals of being the least restrictive measures upon subsistence use and the conservation goals of the Act would be achieved and an opportunity to comment prior to publication of any proposed regulations in the Federal Register.

"(f) PUBLIC NOTICE AND REVIEW.- The Secretary shall, prior to approval and signature of a co-management agreement under this section, provide public notice and an opportunity for public review and comment on the draft agreement.

"(g) AUTHORIZATION OF APPROPRIATIONS.- There are authorized to be appropriated for the purposes of carrying out this section-

"(1) To the Secretary of the Interior such sums as may be necessary for fiscal years 2001-05; and

"(2) To the Secretary of Commerce such sums as may be necessary for fiscal years 2001-05.".

**SEC. 102. CONSULTATION WITH TRIBES AND TRIBALLY AUTHORIZED ORGANIZATIONS ON DEPLETION DETERMINATIONS.**

Section 3(1)(A)(16 U.S.C. § 1362(1)(A)) is amended to read as follows: "(A) the Secretary, after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under title II of this Act and, for

any stock subject to a co-management agreement entered into under Section 119A, those Alaska Native Tribes and Tribally Authorized Organizations that are signatories to such an agreement, determines that a species or population stock is below its optimum sustainable population;".

**SEC. 103. COOPERATIVE ENFORCEMENT AUTHORITY.**

Section 107(a) (16 U.S.C. § 1377(a)) is amended to read as follows: "Except as otherwise provided in this title, the Secretary shall enforce the provisions of this title. The Secretary may utilize, by agreement, the personnel, services, and facilities of any other Federal agency or of Alaska Native Tribes or Tribally Authorized Organizations for purposes of enforcing this title.".

**SEC. 104. CONFORMING AMENDMENTS.**

(a) Section 101(b) (16 U.S.C. § 1371(b)) is amended by striking "section 109" and inserting "sections 109 and 119A".

(b) Section 109(f) is amended-

(1) by amending paragraph (1) to read as follows: "(1) The Secretary may not transfer management authority to the State of Alaska under subsection (b)(1) for any species of marine mammal if the taking of that species for subsistence uses is governed by the terms of a co-management agreement adopted under section 119A. If no co-management agreement

governs the subsistence taking of a species of marine mammal for which transfer of management authority is sought by the State of Alaska, the Secretary may not transfer management authority to the State of Alaska under subsection (b)(1) for that species of marine mammal unless-";  and

(2) by redesignating paragraph (2) as paragraph (3); and by inserting as a new paragraph (2) as follows: "If, subsequent to the transfer of management authority to the State of Alaska under subsection (b)(1) for any species of marine mammal, a co-management agreement is adopted under section 119A that governs the take of that species by Alaska Natives for subsistence uses, then the authority of the State of Alaska to regulate taking of that species for the subsistence uses of Alaska Natives shall terminate as of the effective date of the co-management agreement, and, further, the transfer of management authority to the State of Alaska for that species shall terminate at the conclusion of the period one year after the effective date of the co-management agreement unless the State of Alaska enters into a cooperative allocation agreement with the Alaska Native Tribe or Tribally Authorized Organization that establishes procedures for allocating, on a timely

basis, such of the number of animals as determined under paragraph (1)(C)(i)(II) of subsection (b) as may be appropriate with priority of allocation being given to taking for subsistence uses.".

(c) Section 119 (16 U.S.C. § 1388) is amended-

(1) in subsection (a) by deleting the phrase "Alaska Native organizations" and inserting in its place the phrase "Alaska Native Tribes or Tribally Authorized Organizations"; and

(2) in subsection (b) by deleting the phrase "Alaska Native organizations" and inserting in its place the phrase "Alaska Native Tribes or Tribally Authorized Organizations".

**SEC. 105. AUTHORIZATIONS OF APPROPRIATIONS FOR COOPERATIVE AGREEMENTS UNDER SECTION 119.**

Section 119 (16 U.S.C. § 1388) is amended-

(a) in subsection (d)(1) by striking the phrase "fiscal years 1994, 1995, 1996, 1997, 1998, and 1999" and inserting "fiscal years 2001, 2002, 2003, 2004, and 2005"; and

(b) in subsection (d)(2) by striking "fiscal years 1994, 1995, 1996, 1997, 1998, and 1999" and inserting "fiscal years 2001, 2002, 2003, 2004, and 2005".

## Native Allotments for Alaska Native Veterans

**The Alaska Federation of Natives requests the support of Alaska's Congressional Delegation to amend PL 105-276, to allow all Alaska Natives who served in active duty in the U.S. Armed Forces during the Vietnam Era to become eligible to apply for Native Allotments**

**Background and Basis for Request:** Historically, Alaska Natives, on a per capita basis, have one of the highest, if not the highest, record of service of their membership in active duty in the United States Armed Forces since the founding of this Nation. The July 10, 1999, issue of the Houston Chronicle Parade states that nearly 190,000 (American) Indians are military veterans. According to this article by Lyric Wallwork Winik, "American Indians have the highest record of service per capita of any ethnic group in the U. S."[1]

The Native Allotment Act of February 8, 1887, as amended and supplemented, by the Act of May 17, 1906, as amended, and the Act of June 25, 1910, authorized Alaska Natives in general to apply for Native allotments from unappropriated lands in Alaska.[2] This statute was not widely publicized within the Alaska Native community until 1968; and thus, it was not widely used in the beginning.

The Alaska Native Claims Settlement Act (ANCSA) was enacted into law on December 18, 1971. Section 18 of this statute revoked the Indian Allotment Authority in Alaska, beginning on the date of the enactment of ANCSA.[3]

The Alaska Native community, and in particular, the Alaska Native veterans of the Vietnam Era (August 5, 1964 to May 7, 1975), felt that a grave injustice was done to the young Alaska Native men and women who served in active duty in the U. S. Armed Forces during this era. Because of this, in 1993, the Alaska Federation of Natives approached Congress to reopen the Native Allotment Act of 1906 as it applies to the Alaska Native veterans of the Vietnam Era.

In 1998, under the able leadership of Alaska's Congressional Delegation, Congress passed PL 105-276. Section 41 of this statute authorized Alaska Natives who served in active duty in the U. S. Armed Forces between January 1, 1969 to December 31, 1979 to apply for Native Allotments from lands located within the State of Alaska. These service men and women had to serve in active duty for a period of at least six months between these dates. This statute authorized approximately 1,110 Alaska Native Veterans, including the personal estates of the Alaska Natives who died in the battlefield, or from battlefield related wounds as determined by the U. S. Department of Veterans' Affairs, or died as POWs, to file for Native Allotments within 18 months from the date of the filing of regulations that would be used to implement this statute.[4]

According to the study that was done by Bureau of Indian Affairs, in conjunction the U. S. Department of Veterans' Affairs between 1996 to 1997, the enactment of this statute excluded approximately 1,174 Alaska Native veterans from being eligible to apply for Native Allotments.

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[1] Lyric Wallwork Winik, "Attitude," Houston Chronicle Parade, July 10, 1999, p. 7.
[2] §18(a), PL 92-203, December 18, 1971.
[3] Ibid.
[4] Section 41, PL 105-276, October 28, 1998.

The AFN Board of Directors directed its management to pursue amending section 41 of PL 105-276 in such a manner that all the Alaska Native veterans of the Vietnam Era would become eligible to apply for Native Allotments. On April 13, 2000, Congressman Don Young, Chairman of the U. S. House Resources, introduced HR 4345, a bill that would have accomplished this. A public hearing was held on the bill on June 14, 2000.

The Honorable Frank Murkowski, Chairman, U. S. Senate Energy and Natural Resources Committee introduced its Senate version and also held a public hearing on it during the same session. In both instances, AFN submitted a statement supporting the enactment of these bills into a statute.

On December 21, 2000, President Clinton signed a modified version of this bill and it became P. L. 106-559. Title III of this statute reopened the Native Allotment Act so that the personal representatives of Alaska Natives who were killed in action, died of battlefield related wounds as determined by the Department of Veterans Affairs, or as Prisoners-of-War (POWs) from August 5, 1964 to December 31, 1971 may apply for Native Allotments on behalf of such decedents.[5]

**Proposal:** The Alaska Federation of Natives seeks the support of Alaska's Congressional Delegation in its efforts to amend PL 105-276 such that all the Alaska Natives who served in active duty in the U. S. Armed Forces during the Vietnam Era are eligible to apply for the Native Allotments they so rightly deserve.

[5] Title III, PL P. L. 106-559, December 21, 2000.

## TRIBAL CONTRACT SUPPORT COST AMENDMENTS

**Alaska Federation of Natives requests re-introduction of HR 4148, a bill that passed the House last year, and that as reported from the House Resources Committee, would have made desperately needed improvements in the "contract support cost" system that sustains all the tribal organizations in Alaska operating BIA and IHS programs.**

For 25 years now the single greatest impediment to full realization of Congress' goals in the 1975 Indian Self-Determination Act has been the failure to fully calculate and fully pay "contract support costs." A bill modeled on HR 4148 as reported would finally put an end to this recurring problem by amending the ISDA in several technical, but critical, ways. In so doing it will keep faith with the hundreds of tribes and tribal organizations across the country that so ably carry out the Federal Government's health care and social service programs.

One quarter of a century ago Congress firmly launched the Nation into the Indian Self-Determination era by enacting the Indian Self-Determination and Education Assistance Act of 1975. One goal of the Act was to break the cycle of paternalism and despair in our Native American communities. A second goal of the Act was to foster self-reliance and independence. And a third goal was to begin dismantling part of our highly inefficient and distant federal bureaucracy, by turning over the daily operation of Native American programs from the Federal Government to the tribes and tribal organizations themselves.

Twenty-five years later the Indian Self-Determination Act experiment has proven to be a resounding success, especially in Alaska. As in many other states, tribes and tribal organizations in Alaska are administering contracts to operate the Federal Government's hospitals, clinics, social welfare programs, education programs and a raft of other initiatives serving some of the neediest people of our State. They operate virtually the entire BIA system and the IHS system, including 7 large hospital facilities (including the largest IHS inpatient hospital in the country). And they are doing this with greater efficiency and more services than was ever possible under federal administration controlled out of Washington. No other area of the country is as advanced in these respects.

Despite its successes, the policy of self-determination in Alaska, like elsewhere, has been consistently plagued by the failure of the IHS and the BIA to fully calculate and pay contract support costs associated with carrying out these Federal Government programs. As Congressman Young put it, "This failure has amounted to a cruel hoax on the Native American people being served under these contracts."

The root of the problem is this: IHS and the BIA have forced tribes and tribal organizations here and elsewhere to absorb much of the administrative costs of operating the Federal Government's own programs. The net effect is that there is even less available in these woefully underfunded programs to meet local needs.

The situation for tribes is unique, but it shouldn't be. In any other area where the Federal Government negotiates contracts with the private sector, the Federal Government fully pays the contractor's audited general and administrative overhead costs. Indeed if the government fails to pay, it can be held liable in a court of law. But in the case of tribal contractors under the ISDA, the agencies simply refuse to pay. In effect, tribal contractors are second-class contractors.

A bill like HR 4148, as reported, would change this. It would guarantee full funding by changing from an annual appropriation process to the same guaranteed process used to pay certain housing programs and used to pay court judgments against the government. In addition, it would address many technical problems that have plagued this system.

For instance, it would require that all federal agencies respect the federally negotiated indirect cost rate that is set by the government, usually by the Interior Department's Office of Inspector General (unless some other statute otherwise provides). This would largely fix the "Ramah" problem that led to an 85 million-court judgment two years ago against the BIA.

It would also clarify the rules governing the expenditure of contract funds; initiate a new measure to maximize efficiency in tribal program operations; improve Federal administration of the ISDA; clarify the rules governing the computation of contract support costs; provide the Federal agencies more time to plan for the transfer of Federal programs to tribal operation; and strengthen the ISDA's enforcement measures.

Last year Congressman Young summarized the need for this bill well:

> Mr. Speaker, in recent years I and many of my colleagues have worked very hard to correct the inequities in the contract support cost system. We have done this because that system is integral to the success of our country's overall Indian Self-Determination Policy. I believe firmly in reducing the size of the Federal bureaucracy. I believe firmly in maximizing local control. I believe firmly in the sanctity of our Government's private contracts with Indian and Alaska Native contractors. And I believe firmly that the Nation's Indian Self-Determination Policy must be corrected so that there is no longer an unfunded mandate that is paid for out of the very same trust programs that serve the neediest of the needs of our First Americans. I therefore urge that my colleagues on both sides of the aisle join me in seeing that this important legislation is enacted as swiftly as possible.

**Conclusion:** AFN fully concurs with Congressman Young's remarks and urges Congress to swiftly reintroduce contract support cost reform legislation in the 107th Congress. A copy of the bill and a section-by-section analysis is attached

Section-by-Section

**Section 1.** This section gives the enactment the short title "Tribal Contract Support Cost Technical Amendments of 2000."

**Section 2.** This paragraph adds a new Section 106A to the Indian Self-Determination Act. This section is devoted exclusively to contract support cost matters.

**Subsection 106A(a)** requires that all federal agencies abide by the government-wide negotiated indirect cost agreement established by each tribal contractor's cognizant federal agency under OMB Circular A-87 (typically, the Department of the Interior's Office of Inspector General). The bill makes clear that the cost recovery accounting provisions do not in and of themselves entitle tribes to additional funds from other federal agencies. The mark-up also limits the subsection to situations where Congress has not directly spoken to the issue in other legislation.

**Subsection 106A(b)** addresses the fact that the indirect costs paid to a tribe under the Indian Self-Determination Act are pooled with other federal funds administered by a tribal contractor, and thus are spent together out of a single account. Subsection (b) clarifies that the self-determination rules regarding expenditure of funds set forth in subsections 106(i) and (j) of the Indian Self-Determination Act apply to the tribal expenditure of all other pooled federal indirect cost funds administered by a tribe under any other federal statute.

**Subsection 106A(c)** of the bill establishes a new initiative under which the Secretary is directed to consolidate all program funds and contract support cost funds into a single amount, as suggested by the General Accounting Office in its June 1999 report entitled "Indian Self-Determination Act: Shortfalls in Indian Contract Support Costs Need to be Addressed." Under subparagraph (1), the Secretary will be required to pay tribes and tribal organizations a consolidated amount if (A) the tribe or tribal organization operates a mature contract under Title I of the Act (regardless of whether the tribe or tribal organization has requested such designation), or is operating a self-governance agreement under Titles IV or V of the Act; (B) the tribe or tribal organization's indirect cost rate has remained stable for a period of three years; and (C) at the time of the consolidation the tribe or tribal organization is receiving its full contract support cost entitlement as determined pursuant to Section 106(a)(2) of the Act.

Subparagraphs (2) and (3) would require annual adjustments in the contract support cost component of the consolidated amount, based upon the medical inflation rate

(for IHS-paid contract support costs) or the consumer price index (for BIA-paid contract support costs).

Subparagraph (4) would require additional contract support cost adjustments from time to time as positions under federal employment at the initial time of consolidation thereafter transfer to tribal employment. Once added, such additional amounts become a part of the recurring consolidated contract amount.

Under subparagraph (5) tribes and tribal organizations would not be entitled to any additional sums for contract support costs under other provisions of the Act, regardless of changes in a tribe's or tribal organization's base or its indirect cost rate (except for the inflationary and direct contract support cost adjustments noted in subsections (2) through (4)).

Subparagraph (6) reiterates that the existing tribal rebudgeting authority, including the authority to spend "contract support funds" for "program" purposes and vice versa, remains unaffected during the period of consolidation.

Subparagraph (7) provides that in the event a tribe or tribal organization's total indirect cost base increases or decreases by more than twenty percent over the amount paid to the tribe or tribal organization during the preceding year, the Secretary is required to de-consolidate the funds. In such event, the parties must renegotiate the tribe's or tribal organization's contract support cost requirements based upon the changed circumstances. Deconsolidation is also triggerred in the event a tribe's direct cost base cumulatively increases or decreases more than 40 percent over three years. Finally, the Secretary, for "good cause" shown, is authorized to deconsolidate funds for any other reason such as a fire or other catastrophe.

Subparagraph (8) makes clear that the consolidation of contract funds does not affect the continuing right of a tribe or tribal organization to contract or compact for the operation of new or expanded agency programs and to be paid full contract support costs associated with such programs. Subparagraph (8) provides that the program and contract support amounts associated with the expanded operations are to be added to the consolidated amount.

Subparagraph (9), clarifies that although contract amounts will be consolidated, a tribe may still retain separate contracts for different programs, if that is its choice.

**Subsection 106A(d)** requires IHS to transfer the responsibility for the negotiation, review and approval of tribal contract support costs from the Division of Financial Management to the Office of Tribal Programs (OTP). The bill also makes clear that OTP is not authorized to depart from a tribe's or tribal organization's indirect cost agreement with its cognizant federal agency.

**Subsection 106A(e)** clarifies that direct contract support cost entitlements are to be calculated on all federal positions transferred to tribal operation at the time a contract, compact, or funding agreement is executed

**Section 3** of the bill clarifies in subsections (1) through (3) that contract support costs are an entitlement, and specifically removes three provisions from the Act relied upon by the agencies to argue otherwise. Section 3 also provides that necessary amounts are appropriated to pay contract support costs. This is similar to the mechanism for funding certain housing programs and for funding court judgments.

Subsection (4) clarifies that under Section 106(a)(6) of the Act, "start-up" contract support costs that are or have been incurred in a year prior to the contract year shall be paid on the same basis as other contract support costs, including costs paid by a tribe or tribal organization prior to enactment of the bill. The final clause is intended to require IHS to pay all start-up costs identified on the last IHS "Queue" list, since these costs were never fully paid (and some not paid at all) due to an IHS contract support cost policy change made in FY 1999.

**Section 4** of the bill enlarges from ninety days to one hundred eighty days the period during which the Secretary may review and either approve or decline a contracting proposal.

**Section 5** of the bill adds a new subsection 110(f) to the Act, eliminating the net worth and work-force limitations which currently prevent many tribes and tribal organizations from recovering their litigation costs against the agencies when otherwise authorized by the Equal Access to Justice Act (EAJA). Section 5 of the bill also amends section 110(d) of the Act to clarify that any IHS or BIA reimbursement of judgments is subject to additional appropriations made for that purpose. Section 5 also amends Section 110(c) of the Act to clarify that administrative law judges may set EAJA rates within the same parameters as district courts.

**Section 6** sets forth the effective date of the measure.

**Bill**

107th CONGRESS
2d Session
H. R. ____

To make technical amendments to the provisions of the Indian Self-Determination and Education Assistance Act relating to contract support costs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES
March __, 2001

Mr. Hansen of Utah (for himself and Mr. Young and Mr. Hayworth), introduced the following bill; which was referred to the Committee on Resources.

A BILL

To make technical amendments to the provisions of the Indian Self-Determination and Education Assistance Act relating to contract support costs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribal Contract Support Cost Technical Amendments of 2000".

SEC. 2. AMENDMENT DETAILING CALCULATION AND PAYMENT OF CONTRACT SUPPORT COSTS.

The Indian Self-Determination and Education Assistance Act is amended by adding after section 106 the following new section:

"SEC. 106A. CONTRACT SUPPORT COSTS.

"(a) Other Federal Agencies." Except as otherwise provided by statute, an Indian tribe or tribal organization administering a contract or compact under this Act shall be entitled to

recover its full indirect costs associated with any other Federal funding received by such tribe or tribal organization, consistent with the tribe's or tribal organization's indirect cost rate agreement with its cognizant Federal agency, provided that such right to recover shall not independently entitle such tribe or tribal organization to be paid additional amounts associated with such other Federal funding.

"(b) Allowable Uses of Funds.--Notwithstanding any other provision of law (including regulation or circular), an Indian tribe or tribal organization (1) administering a contract or compact under this Act and (2) employing an indirect cost pool that includes both funds paid under this Act and other Federal funds, shall be entitled to use or expend all Federal funds in such tribe's or tribal organization's indirect cost pool in the same manner as permitted in subsection 106(j) (relating to allowable uses of funds without approval of the Secretary), and for such purposes only the term `Secretary' shall mean the Secretary of any Federal agency providing funds to such tribe or tribal organization.

"(c) Consolidated Contract Amount.--
"(1) Conditions for consolidation.--Commencing in fiscal year 2004, the Secretary shall consolidate all funds paid to a tribe or tribal organization pursuant to subsections 106(a)(1) and (2) into a single consolidated contract or compact amount, provided that the following conditions have been met:

"(A) The tribe or tribal organization qualifies to carry out a mature contract under title I or is operating a self-governance agreement under any other title of this Act.

"(B) The tribe's or tribal organization's indirect cost rate has not varied more than 10 percent over the prior year's rate for the preceding 3 years (for tribes or tribal organizations that have no indirect rate, this criterion shall be satisfied if the ratio of the tribe's or tribal organizations's contract support requirement to its direct cost base has not varied more than 10 percent over the ratio for the preceding 3 years).

"(C) At the time of the consolidation the tribe or tribal organization is receiving its full contract support cost requirement as determined under section 106(a)(2).

"(2) Medical inflation rate adjustments.--Each year following the consolidation required by paragraph (1), the Secretary of Health and Human Services shall increase the amount of contract support costs paid as part of the consolidated amount by an amount equal to (i) the adjustment in the medical care component of the national consumer price index over the preceding year multiplied by (ii) the contract support cost amount paid in the preceding year as part of the consolidated amount.

"(3) Consumer price index adjustments.--Each year following the consolidation required by paragraph (1), the Secretary of the Interior shall increase the amount of contract support costs paid as part of the consolidated amount by an amount equal to (i) the adjustment in the national consumer price index over the preceding year multiplied by (ii) the contract support cost amount paid in the preceding year as part of the consolidated amount.

"(4) Employment adjustments.--A tribe or tribal organization shall be entitled to receive additional contract support costs associated with the transfer of employees from Federal employment to tribal employment. Such additional contract support costs shall be added to the consolidated amount determined and adjusted under paragraphs (1), (2), and (3), and shall thereafter become a part of the consolidated amount.

"(5) Additional contract support costs.--Notwithstanding any other provision of this Act, and except as provided in paragraphs (4) and (9), the tribe or tribal organization shall not be entitled to receive any contract support costs additional to those contained within the consolidated amount determined and adjusted under paragraphs (1), (2), and (3).

"(6) Rebudgeting authority unaffected.--The tribe or tribal organization may rebudget all contract or compact funds as specified in section 106(n).

"(7) Deconsolidation.--Except as provided in paragraph (9), in the event -

"(A) the amount of program funds paid under section 106(a)(1) as part of the consolidated amount, when combined with other program funds paid to the tribe or tribal organization from other funding sources, increases or decreases by more than (ii) 20 percent over the amount paid in the preceding year, or (ii) 40 percent over the amount paid in the preceding three years, or

"(B) the Secretary for good cause shown agrees,

"the amounts paid by the Secretary under this section shall be deconsolidated, and such amounts shall be recalculated and paid as specified elsewhere in this Act. Upon such recalculation, the recalculated amounts shall be reconsolidated into a single amount as otherwise described in this subsection.

"(8) Contracting additional programs.--Nothing in this subsection shall affect the right of a tribe or tribal organization to contract or compact for the operation of new or expanded programs, services, functions or activities not included in the consolidated amount paid under paragraph (1), or to be paid the full amount of contract support costs associated

with such additional contracted or compacted programs, as provided in section 106(a)(1) and other provisions of this Act. Any such additional programs and associated contract support costs shall be added to the consolidated amount determined and adjusted under paragraphs (1), (2), and (3).

"(9) Separate contracts and compacts.--Nothing in this subsection shall require a tribe or tribal organization to consolidate separate contracts or compacts administered under this Act into a single contract or compact.

"(d) Negotiation of Contract Support Cost Amounts.--Within the Indian Health Service of the Department of Health and Human Services, the negotiation, review, and approval of tribal contract support cost entitlements shall be the responsibility of the Office of Tribal Programs, subject to the tribe's or tribal organization's indirect cost rate agreement with the tribe's or tribal organization's cognizant Federal agency.

"(e) Direct Contract Support Costs and Federal Employees.--The contract support costs that are eligible costs for the purposes of receiving funding under this Act shall include direct contract support costs associated with all Federal employees employed in connection with the program, service, function, or activity that is the subject of the contract.".

SEC. 3. AMENDMENTS CLARIFYING CONTRACT SUPPORT COST ENTITLEMENT.

The Indian Self-Determination and Education Assistance Act is amended--
(1) in section 105(c)(1), by striking the last flush sentence;
(2) in section 106(b)--
(A) by striking "the provision of funds under this Act is subject to the availability of appropriations and"; and
(B) by adding at the end thereof the following flush sentence:
"Necessary amounts are appropriated to pay contract support costs when not otherwise provided for.";
(3) in section 1(b)(4) of the model contract set forth in section 108(c), by striking "Subject to the availability of appropriations, the" and inserting "The"; and
(4) in section 106(a)(5) by adding at the end thereof the following flush sentence:
"Notwithstanding any other provision of law, the Secretary shall fully pay preaward and startup costs without regard to the year in which such costs were incurred or will be incurred, including such costs payable to tribes and tribal organizations identified by the Indian Health Service as "ISD Queue Tribes" in its September 17, 1999 report entitled

"FY 1999 IHS CSC Shortfall Data" to the extent such costs have not been previously paid.";

SEC. 4. AMENDMENT ENLARGING CONTRACT PROPOSAL REVIEW PERIOD.

Section 102(a)(2) of the Indian Self-Determination and Education Assistance Act is amended–

(1) by striking "ninety" in the second sentence and inserting "180"; and
(2) by striking "90-day" in the third sentence and inserting "180-day".

SEC. 5. AMENDMENTS REGARDING JUDICIAL REMEDIES.

(a) Section 110 of the Indian Self-Determination and Education Assistance Act is amended (1) by inserting in subsection (c) after "administrative appeals" the following: ", and 28 U.S.C. 2412(d)(2)(A) shall apply to appeals filed with administrative appeals boards, in appeals";
(2) by striking the period in subsection (d) and inserting in lieu thereof the following: ", provided further that any reimbursement of awards or judgments shall be subject to specific appropriation by Congress for such purpose."; and
(3) by adding at the end the following new subsection:
"(f) Equal Access to Justice Act.--In applying the Equal Access to Justice Act to proceedings instituted pursuant to this Act, a tribe or tribal organization shall be a 'party' regardless of the net worth or the size of the workforce of such tribe or tribal organization.

SEC. 5. EFFECTIVE DATE AND SUPERSEDURE.

The amendments made by this Act shall be effective on the date of enactment of this Act, and the provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of this Act.

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## SMALL AND NEEDY TRIBES

**THE ALASKA FEDERATION OF NATIVES, HUMAN RESOURCES COMMITTEE REQUESTS OUR ALASKA CONGRESSIONAL DELEGATION TO ALLOCATE FUNDS IN THE INTERIOR APPROPRIATIONS BILL TO FUND ALASKA TRIBES AT THE RECOMMENDED $200,000 BASE FUNDING LEVEL.**

**BACKGROUND/BASIS FOR REQUEST**

In August of 1994, after four years of meetings, the Joint Tribal/BIA/DOI Advisory Task Force on the Reorganization of the Bureau of Indian Affairs presented their report to the Secretary of the Interior and the Appropriations committees of the United States Congress. A series of very concrete recommendations were made in the report, many of which have since been implemented.

One recommendation in the report deals with minimum base funding for small tribes, and if fully implemented would substantially increase BIA funding to Alaska. We request the assistance of our Alaska Congressional Delegation in addressing this important funding issue.

The 1994 BIA Reorganization Task Force Report, Chapter 4, Budget Reform Section VI, Minimum Base Funding for Small Tribes reads in part:

> "The Task Force determined that special consideration should be given to small Tribes (population 1,500 or less) and established, within the Budget Reform Work Group, a subcommittee to develop information. A necessary component of the change in the BIA's mission is the responsibility to address and support the needs of nearly 447 small Tribes. There are many small tribes lacking basic budgets to permit them to operate as local governmental units. The Task Force adopted a position recommending minimum base funding of $160,000 for each small tribe ($200,000 in Alaska). The Task Force reported that 264 and 447 small tribes lacked the minimum base of funding. It estimated that approximately $23 Million was needed to ensure that each small tribe had the minimum funding base."

The Task Force's recommendation of a $200,000 base funding level for Alaska Tribes was made in recognition of the higher cost of living, transportation, utilities, wages, etc. in Alaska. Attached to this narrative is basic information on the cost of living experienced in the Bering Straits Region. Other areas of the state experience similar or perhaps even higher expenses in conducting business.

Since this report was issued in 1994, more funds have been directed to small and needy tribes. In the 1998 and 1999 BIA appropriations, small and needy tribes nationally were brought to the national base of $160,000. The additional amount for Alaskan tribes has not been funded.

Increasing the base TPA funding to $160,000 brought $6 Million in new funding to Alaska in 1998. This partially, but by no means completely alleviated some of the funding inequity in BIA services, which has existed historically. Congress should not lose sight of the fact that the cost of doing business in rural Alaska is much higher than in the Lower 48 states.

The AFN Human Resource Committee understands that Congress is concerned about "zero" and very small population tribes in Alaska. This is a by-product of faulty data used by the BIA for service population. There are no "zero population" tribes in Alaska, only tribes whose service population has been misallocated in the BIA data set. The BIA uses federal census numbers even though the census units do not reflect tribal service areas or service populations. When two or more tribes are within the same census area, all of the Native population is listed under the census area's place name. For example, the Nome census area includes most of the service population of four tribes. The Native population is listed under "Nome" by the census, which means the other three tribes are undercounted if the Bureau uses straight census figures. The BIA will correct the service population figures when it has the data to do so, and the regional non-profits are continuing to work with the Bureau on this problem.

The Alaska Federation of Natives would like to thank Alaska's Congressional Delegation for their efforts in increasing the Small and Needy Tribes funding to Alaska. We respectfully request that you take the final step, and fund the recommended $200,000 base amount for Alaska Tribes. We estimate it would cost approximately $4 Million to bring all Alaskan tribes to a $200,000 base.

ALASKA FEDERATION OF NATIVES, INC.

2000 ANNUAL CONVENTION

RESOLUTION 00-54

TITLE: URGING SENATOR STEVENS TO CONTINUE TRIBAL PRIORITY ALLOCATION FUNDING TO SMALL AND NEEDY TRIBES

WHEREAS: Small and Needy Tribes, regardless of size, all have basic needs that need to be funded; and,

WHEREAS: Small tribes have used the funding to improve their tribes' living conditions; and,

WHEREAS: Small tribes have educational, economical and social issues that need to be addressed; and,

WHEREAS: Each tribe that has been funded in the past has deep roots and long traditions of existence in Alaska.

NOW THEREFORE BE IT RESOLVED by the Delegates to the 2000 Annual Convention of the Alaska Federation of Natives that they urge Senator Stevens to continue disbursing tribal priority funding allocations directly to the Small and Needy Tribes.

SUBMITTED BY: Bristol Bay Native Association

COMMITTEE ACTION: DO PASS

CONVENTION ACTION: PASSED

## Funding of Small Assisted Living Facilities in Rural Alaska

**THE ALASKA FEDERATION OF NATIVES, HUMAN RESOURCES COMMITTEE, REQUESTS THE ALASKA CONGRESSIONAL DELEGATION'S ASSISTANCE IN OBTAINING CAPITOL AND OPERATIONAL FUNDS TO DEVELOP SMALL ASSISTED LIVING FACILITIES IN RURAL ALASKA**

**BACKGROUND AND BASIS FOR REQUEST**: Elders in rural Alaska have limited choices when they can no longer live independently and their families are unable to provide the level of in-home assistance needed. Those who need long term care have to leave their community to be institutionalized in urban Alaska. Many are non-English speakers from communities where economic resources will not allow relatives or other members of the community to make even occasional visits. These displaced elders are forced into a world of cultural and familial isolation, cutoff from the communities and family members who might otherwise be able to accommodate their traditional food needs, help maintain cultural identity and provide socialization during twilight years.

In 1995, the AHFC Senior Housing Office conducted a statewide needs assessment for senior housing and found that hundreds of new units for senior assisted living were needed. The Alaska Commission on Aging has identified an existing need for approximately 393 units of assisted living throughout Alaska (excluding Anchorage). This demand is estimated to grow to 524 units by the year 2005. Estimates also show that among this increased need over 424 seniors with current incomes ranging from $15,000 to $35,000 would not be able to afford the cost of such assisted living.

The AFN Human Resources Committee believes that Alaska's rural seniors deserve the opportunity to remain close to their families and traditional way of life. Seniors in rural Alaska should have access to assisted living homes, case management, home delivered meals, senior transportation, personal care and chore services, in-home skilled nursing care, in-home respite care and adult day care without having to relocate hundreds of miles from their own communities.

The AFN Human Resources Committee therefore believes that Congress should provide capitol and operational funds to develop enough small assisted living facilities in the rural Alaska communities to meet projected demand.

**PROPOSAL:** The AFN Human Resources Committee recommends that Congress take the following steps:

1. Create opportunities to obtain capital construction support for 3-5 unit assisted living facilities in rural Alaska by providing greater funding and direction to agencies administering the; Senior Citizens Housing Development Grant Fund; HUD Indian Housing Program; Community Development Block Grants; HUD 202 Capital Advance Program; and the Alaska Housing Finance Corporation's – Special Needs Loan Program.

2. Provide increased support for operational costs by amending the CHOICE Medicaid waiver program authorized under section 1915 (c) of the Social Security Act to allow expenditures more in line with increased operational and service costs in rural communities.

ALASKA FEDERATION OF NATIVES, INC.

2000 ANNUAL CONVENTION

RESOLUTION 00-25

TITLE: FUNDING OF 5-BED ASSISTED LIVING FACILITIES IN RURAL ALASKA

WHEREAS: Elders in rural Alaska have limited choices when they can no longer live independently and their families are unable to provide in-home assistance; and

WHEREAS: Those who need long-term care have to leave their communities to be institutionalized in urban Alaska; and

WHEREAS: Many are non-English speakers from communities where economic resources will not allow relatives or other members of the community to make even occasional visits; and

WHEREAS: These displaced elders forced into a world of cultural and familial isolation, cut off from the communities and family members who might otherwise be able to accommodate their traditional food needs, help maintain cultural identity and provide socialization during twilight years; and

WHEREAS: The Alaska Commission on Aging has identified an existing need for 393 units of assisted living throughout Alaska (excluding Anchorage), and this demand will grow to 524 units by the year 2005; and

WHEREAS: Estimates also show that among this increased need over 424 seniors with current incomes ranging from $15,000 to $35,000 would not be able to afford the cost of such assisted living; and

WHEREAS: Alaska's rural seniors deserve the opportunity to remain close to their families and traditional way of life; and

WHEREAS: Seniors in rural Alaska should have access to assisted living homes, case management, home delivered meals, senior transportation, personal care and chore services, in-home skilled nursing care, in-home respite care and adult day care without having to relocate hundreds of miles from their own communities; and

NOW THEREFORE BE IT RESOLVED by the Delegates to the 2000 Annual Convention of the Alaska Federation of Natives, Inc., that Congress should provide capitol and operational funds to develop enough 5-unit assisted living facilities in the sub-regional centers of rural Alaska to meet projected demand; and

BE IT FURTHER RESOLVED that Congress take the following steps:

1. Create opportunities to obtain capital construction support for 3-5 unit assisted living facilities in rural Alaska by providing greater funding and direction to agencies administering the Senior Citizens Housing Development Grant Fund; HUD Indian Housing Program; Community Development Block Grants; HUD 202 Capital Advance Program; and the Alaska Housing Finance Corporation's Special Needs Loan Program.

2. Provide increased support for operational costs by amending the CHOICE Medicaid waiver program authorized under section 1915 (c) of the Social Security Act to allow expenditures more in line with increased operational and service costs in rural communities.

SUBMITTED BY: Bristol Bay Native Association

COMMITTEE ACTION: DO PASS

CONVENTION ACTION PASSED

## Five-year Family Resource Center Demonstration Project

**THE ALASKA FEDERATION OF NATIVES, HUMAN RESOURCES COMMITTEE REQUESTS THE ALASKA CONGRESSIONAL DELEGATION TO INTRODUCE LEGISLATION ESTABLISHING A FIVE-YEAR FAMILY RESOURCE DEMONSTRATION PROJECT IN RURAL REGIONS OF ALASKA**

**BACKGROUND AND BASIS FOR REQUEST:** Families in rural Alaska face many difficult challenges. Incidents of child abuse, neglect, drug abuse and domestic violence are common place in rural Alaska. Rates of criminal behavior in these communities rank among the worst in the nation, as do rates of Fetal Alcohol Syndrome, Fetal Alcohol Effect and teen pregnancy. Families in rural Alaska also face higher risks of being torn apart by alcohol related deaths at a rate 7 times higher than the national average. Similarly, rural families suffer from adult and child suicide rates 4 and 9 times higher than the national averages.

There are resources available to rural families to help confront these challenges. Unfortunately, most of these support programs and services are located far away from the majority of Alaska's rural communities making access extremely difficult and costly. Long distance is generally not the way to address these issues.

The AFN Human Resource Committee believes more must be done to provide resources that are accessible to Alaska's rural families. In the AFN Implementation Study (requested by Congress as a supplement to the Alaska Native Commission Report), members recommended the establishment and appropriation of funds for a major demonstration program in Alaska to set up Family Resource Centers that would be open to all members of the community and that would provide a focus for all programs for children and families. Consolidating programs and services in Family Resource Centers in each village would ensure that rural families have access to the same kinds of support programs and services readily available to urban families. The Family Resource Centers would house under one physical or programmatic roof, programs and services such as: Adult Basic Education, Before and After School Outreach, Child Care, Early Childhood Education, Employment and Training, Head Start, Healthy Families, Infant Learning Program, Health Services, Higher Education, General Assistance, Special Needs Preschooling, Workforce Development, Welfare to Work and Vocational Rehabilitation.

**PROPOSAL:** The Human Resources Committee strongly believes in the above recommendation and requests Congress to legislate a five-year Family Resource Demonstration Project in the rural regions of Alaska. The legislation will:

1. Establish block grant funding in a manner similar to PL 102-477 for consolidation of the programs and services to be administered, and

2. Make available participation grants to state and municipal governmental bodies affected by each project to encourage integration of governmental services.

3. Allow for the development of various integrated programs in rural communities to accommodate their varied needs.

The AFN Human Resources Committee further recommends that the demonstration projects be conducted by the most directly affected Native Regional Non-profits with experience in administering social services programs and PL 93-638 compacting.

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ALASKA FEDERATION OF NATIVES, INC.

2000 ANNUAL CONVENTION

RESOLUTION 00-23

TITLE: FAMILY RESOURCE CENTERS

WHEREAS: Health and Social Services problems among circumpolar Natives have been recognized for decades; and

WHEREAS: Alaska is a vast regional area with distinct geographical cultures; and

WHEREAS: The empowerment process includes building a sense of community; and

WHEREAS: Current family support services are often geographically separated and most are available only in urban areas with in central access point; and

WHEREAS: Current infrastructures can not accommodate either the expansion of existing services nor the introduction if new programs; and

WHEREAS: the Federal Government in addressing the needs of military families has used the concept of "Family Resource Centers"; and

WHEREAS: The importance of "Family Resource Centers" has been well documented during congressional appropriations; and

WHEREAS: The enhancement of service to Native families is a necessary step in the "Empowerment" process; and

WHEREAS: The establishment of "Native Family Resource Centers" is consistent with the Federal mandates the establish "Self Governance" as a priority need for all tribes; and

NOW THEREFORE BE IT RESOLVED by the Delegates to the 2000 Annual Convention of the Alaska Federation of Natives, Inc., that we support the consolidation of service, "under one roof" to be locally administered, reflecting holistic and community based family principles; and

BE IT FURTHER RESOLVED the Alaska Federation of Natives, Inc., request our Alaska Congressional Delegation to secure funding in the Interior Appropriation Bill for construction of Native Family Resource Centers for the purpose of housing consolidated service under one roof.

SUBMITTED BY: Copper River Native Association

COMMITTEE ACTION: DO PASS

CONVENTION ACTION: AMENDED/PASSED

## AFTERCARE, SUBSTANCE ABUSE TREATMENT FOR WOMEN, CHILD CARE FOR WOMEN IN TREATMENT

**The Alaska Federation of Natives requests the Alaska Congressional Delegation to support new federal grant programs and expanded and additional initiatives to address the acute need for alcohol and substance abuse aftercare services and treatment for women and children in rural Alaska villages**

**Background and Basis for Request:** We are all aware of the problems of alcoholism and the negative impacts affecting Alaska Natives. The problem has been studied and documented. Statistics are significant and alarmingly high. The immensity of the problem is so great that current existing facilities are inadequate to meet the numerous needs.

Alcohol treatment policies by State and federal agencies placed facilities in urban centers where there are professional treatment staff. The growing need for treatment has put a strain on those existing facilities. Few treatment facilities have been placed in rural areas of the state, and they are inadequate to meet the growing needs.

Ernie Turner, State Division Director of Alcoholism and Drug Abuse stated in his testimony to an oversight hearing on Alcohol and Law Enforcement in Alaska on October 4, 2000, before the Senate Committee on Indian Affairs, that a great deal has been learned about what works to prevent alcohol abuse and addiction, and what works in terms of treatment. He said that what is needed are 1) prevention strategies 2) treatment, and 3) aftercare services in every village in Alaska. As he pointed out,

> We have nowhere near enough treatment capacity to meet the need. The inpatient treatment programs are constantly operating at capacity. Data shows that many of the clients have to wait up to 90 days for a treatment bed. This is especially true for women waiting to get specialized treatment programs.

According to Mr. Turner, "culturally relevant treatment as close to home as possible seems critical. Village-based counselors offer early intervention and aftercare programs. Such programs are critical in getting people into treatment and supporting their recovery after they leave formal treatment programs. A counselor in every village is needed."

"Kinds of treatment programs that are culturally based, programs that are in and near the rural communities in which people live are needed. A mix of inpatient programs, outpatient programs, women's' programs, family programs and recovery camp programs are needed. Resources are needed to put what we know into practice all over Alaska."

In her doctoral thesis, "Barrier to Alcoholism and Other Drug Abuse Treatment for Women: Comparing Alaska Native women and Non-Native Women," Cheryl Mann reports that Alaska Native women are more likely to identify "family relationships" and "reluctance to interact with men" as barriers to treatment. Older women were more likely to report that "addiction affiliation" and "reluctance to interact with men" were barriers to treatment entry. This report

indicates the strong need for increasing programs that provide separate treatment for Alaska Native women.

The strategies listed below, if implemented, would close the gaps that exist in today's programs. The list represents ideas and concepts that Alaska Native groups and organizations have offered in taking responsibility for alcohol and drug abuse in their communities. The Advisory Board on Alcoholism and Drug Abuse, in its report entitled "Analysis of Funding and Service Delivery Gaps for FY 02 and FY 03," point out that these recommendations are the result of an 18-month process, that included broad-based representation, including knowledgeable representatives from the Native community and Rural Alaska. This is a menu from which rural organizations can choose.

- **Family Recovery and Wellness/Spirit Camps.** EXAMPLE: Old Minto Recovery Camp located in Old Minto operated by the Tanana Chiefs Conference for a number of years is a 35 day program which is family oriented and is culture-based. It is widely known for its program effectiveness. Wellness and spirit camps also provide strong prevention and intervention programs for a community-wide approach to recovery.

- **Substance Abuse Treatment for Women with Children.** The Advisory Board on Alcoholism and Drug Abuse (ABADA) feels strongly that there is a critical need for substance abuse treatment for women with children particularly in rural Alaska where such resources are extremely scarce. This would allow women with children to remain together while the mother receives treatment.

- **Transitional or Supported Housing.** Housing for recovering substance abusers, who have completed treatment and need further support before they can fully integrate into their home communities as a part of aftercare/continuing care, which provides a sober environment upon completion of inpatient treatment, a key ingredient to successful recovery.

- **Aftercare Capacity Statewide.** Counselors must be provided for aftercare in communities where those in recovery live. Telepsychiatry projects, with long distance support groups may also supplement services when local counselors are not available. Resources are needed to develop a comprehensive and effective system of aftercare that is appropriate to the villages. This will mean program development, training and staff. Such aftercare programs need to have a strong cultural component which emphasizes traditional activities, i.e., subsistence hunting, fishing, Native dancing, sewing, etc.

- **Detoxification Facilities in Villages.** While "de-tox" facilities exist in urban and some hub communities, none seem to exist in the villages. This is an important need.

- **Expansion of Village Based Counselors.** There is a need to have a counselor in every village in Alaska. Currently, 82 villages have counselors who were trained through the Rural Human Services System Project, which began in 1992. Thorough training and ongoing education for village based counselors would be very helpful.

**Conclusion: These proposals are strategies that would address serious gaps and barriers that currently exist in treatment and also provide increased accessibility to treatment. They will assist in creating healthier individuals, families and communities throughout rural Alaska. In time, one would see dramatic reversals in the statistical affects of alcohol abuse in Alaska's rural communities. In effect, these are the AFN implementation steps to a healthier rural Alaska without the ravages of alcoholism and substance abuse.**

## REAUTHORIZATION OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITIES RECONCILIATION ACT

**THE ALASKA FEDERATION OF NATIVES, HUMAN RESOURCES COMMITTEE REQUESTS THAT THE ALASKA CONGRESSIONAL DELEGATION SUPPORT REAUTHORIZATION OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITIES RECONCILIATION ACT AND AMEND THE ACT TO EXCLUDE THE "ALASKA SPECIFIC" PROVISIONS.**

**BACKGROUND/BASIS FOR REQUEST:** The Personal Responsibility Work Opportunity Reconciliation Act (PRWORA) redefined Federal Welfare policy and acknowledged the authority of tribes to administer welfare programming to meet the needs of their constituents. PRWORA is up for reauthorization by the Congress in 2002.

The Act includes two "Alaska specific" provisions which are redundant and do not support the long standing national policy for tribal self-determination. The "Alaska specific" portions of the PRWORA authorize only regional Native nonprofit organizations and the Community of Metlakatla to design and administer tribal welfare programs and require such programs to be comparable to the state's program. Tribes in every state have no such restrictions.

The rationale often sited by both the State and the Congressional staff who jointly crafted these provisions, include the following; it would be unreasonable to require the state to coordinate with such a large number (226) of relatively small tribes; small tribes generally lack the capacity to administer such complex programming; and all benefits provided under either state or tribal welfare programs should be similar for Native and non-Native families. Other states have large numbers of very small tribes (i.e., California has over 100 mostly small tribes). In other states, small tribes have entered into consortia to design and operate tribal Temporary Assistance for Needy Families (TANF) programming under PRWORA. The "Alaska specific" provisions of PRWORA are redundant as the economy of scale needed to operate tribal TANF programming already encourages small tribes to enter into consortium much like what has occurred with small tribes in California and other states.

Tribes and tribal consortia in Alaska and throughout the country have demonstrated their capacity to design and administer more and more programs locally, and in many cases, more effectively than some states. Tribes have the capacity and should have the authority to establish their own programming. The "Alaska specific" provisions of PRWORA diminish tribal authority in Alaska and should be repealed in the reauthorization of the act.

Likewise, the "Alaska specific" provisions of PRWORA which indicate that in Alaska, tribal TANF programs must be comparable to the state's TANF program are not within the spirit of national policy regarding welfare reform. Tribes in all other states as well as all states and territories are not restricted as to the design of welfare programming which they feel would best meet their constituent's needs. The practical reality is that most tribal TANF programs currently in operation are similar to their state's program. Fiscal realities and the need for tribes to negotiate with states regarding state matching funds both have resulted in tribal and state TANF programs with substantial similarities. The "Alaska specific" provisions requiring tribal programs to be comparable to state TANF programming serves little purpose other than to impose additional federal mandates on tribes in Alaska and should be deleted when the Act is reauthorized.

**Conclusion:** The AFN Human Resources Committee requests the support of the Alaska Congressional Delegation on reauthorization of the Personal Responsibility and Work Opportunities Reconciliation Act. AFN also requests that the delegation support amendments to the Act which would remove the "Alaska specific" provisions, which define tribes in Alaska and require tribal Temporary Assistance for Needy Families programming to be comparable to that of the state.

## Department of Education/
## Rehabilitation Services Administration/
## Alaskan Regional Non-Profit Organizations/
## American Indian Vocational Rehabilitation Programs in Alaska

**THE ALASKA FEDERATION OF NATIVES REQUESTS THE ALASKA CONGRESSIONAL DELEGATION TO ENSURE THAT THE UNITED STATES DEPARTMENT OF EDUCATION AND ITS SUBORDINATE AGENCY, REHABILITATION SERVICES ADMINISTRATION, EXPAND THE NUMBER OF AMERICAN INDIAN VOCATIONAL REHABILITATION PROGRAMS IN ALASKA; AND TO FULLY FUND THE EXISTING PROGRAMS IN ALASKA.**

BACKGROUND/BASIS FOR REQUEST:

The Rehabilitation act of 1973, as amended (part C) provides for the creation of American Indian Vocational Rehabilitation services. These programs are federally funded through grants from a yearly reserve derived from state allocations of 1% to 1.5% (part B, section 100, 3-B). Presently only 1% is being reserved for American Indian programs.

There are three nonprofit regional corporations and one reservation in Alaska that do not receive American Indian Vocational Rehabilitation grants. An administrative decision of the Rehabilitation Services Administration (RSA) jeopardizes efforts to fund future American Indian Vocational Rehabilitation programs in Alaska by limiting the yearly reserve to only 1%. For FY 2000 the total reserve was obligated for existing programs, thereby leaving no funding for future American Indian Vocational Rehabilitation programs. The Commissioner of RSA has the legal authority to increase the reserve to 1.5%, thereby providing additional funds for future programs. Hopefully, the additional funds would allow all regional corporations to have Vocational Rehabilitation programs in Alaska.

Currently, nine of the 12 nonprofit regional corporations in Alaska receive grants with an average of $350,000 per year, to provide Vocational Rehabilitation services to their Tribal communities. However, each of these programs is sorely underfunded. The primary reason for this underfunding is that the RSA funds all American Indian Rehabilitation programs at approximately the same annual level of $350,000. The RSA, by administrative decision, has determined this funding level in Washington, D.C. without having adequate knowledge of Alaska's unique tribal relationships with the federal government as established by Alaska's Native Land Claims Settlement Act. The major problem in setting an average amount for all programs in the United States is that it assumes that all American Indian Vocational programs exist on reservations, as is the case in the contiguous 48 states. In Alaska, the 12 nonprofit regional organizations created by the Alaska Native Land Claims Settlement Act represent consortiums of tribes, each recognized by the Federal Government, but they are not based on reservations. These nonprofit regional corporations serve multiple tribes that own large landmasses, larger in square miles than many states and which are not on reservations. Most of Alaska's Native population lives in the most remote regions of Alaska. The combination of remoteness, costly transportation, severe weather, and limited health and human services programs mean that it is very costly to provide these services; –much more costly than similar programs on tribal reservations in the contiguous 48 states. The need for additional programs, and expanded programs, is also due to high rates of disabilities due to the above same factors.

**CONCLUSION: To resolve the twin problems of the need for new and expanded programs, noted above, AFN requests the Alaska Congressional Delegation to support legislation requiring the RSA to (1) increase the reserve withheld from funds budgeted for states' vocational rehabilitation services, and (2) increase the minimum funding level for Alaska programs from $350,000 to $500,000, thereby recognizing the significantly higher cost of service delivery in Alaska.**

## NATIVE AMERICAN LANGUAGE SURVIVAL SCHOOLS

**THE ALASKA FEDERATION OF NATIVES REQUESTS THE ALASKA CONGRESSIONAL DELEGATION TO SUPPORT PASSAGE OF S.91, WHICH AMENDS THE NATIVE AMERICAN LANGUAGES ACT TO PROVIDE FOR THE SUPPORT OF NATIVE AMERICAN LANGUAGE SURVIVAL SCHOOLS**

**BACKGROUND/BASIS FOR REQUEST:**

The United States and its Native peoples are facing the catastrophic loss of every single one of the indigenous languages of this country. Under the 1990 Native American Languages Act, the federal government recognized a special responsibility regarding these languages and schooling through these languages. It was through earlier repressive federal policy that these languages became endangered. Now Congress is considering S.91, Native American Language Act Amendments Act of 2001, to provide funds to support innovative schools that teach using Native American languages.

To date the only schools that have been successful in actually revitalizing Native American languages are those that immerse children in the languages beginning in preschool "Native American language nests," and continuing in "Native American language survival schools" that are run outside the standard public school programs and approaches. These schools have also shown impressive English language and academic results, outperforming the standard public schools attended by Native Americans. They have also enriched education in standard schools through materials production and teacher training.

The most developed Native American language schools are in Hawai'i where it is now possible to attend school in Hawaiian from a language nest preschool through grade 12. At the core of the effort in Hawai'i is a consortium between the non-profit 'Aha Punana Leo and Ka Haka 'Ula O Ke'elikolani College at the University of Hawai'i at Hilo. Outside Hawai'i, the program that has progressed the furthest is the Blackfeet program of the non-profit Piegan Institute of Browning, Montana. Alaska is another center of activity where language nests or language survival schools have begun in at least four languages (Inupiaq, Central Yup'ik, Gwich'in, and Tlingit) under strong Alaska Native control. These Alaska programs have benefited from the existence of extensive dictionaries and archival materials in their languages that they can draw upon from the Alaska Native Language Center at the University of Alaska at Fairbanks.

S.91 provides a means for the support of Native American language nests and Native American language survival schools, including the ancillary activities essential to their success such as curriculum and teacher development, reference resource development and archiving, expansion of the use of the language in the community, technology and partnering. Funding would be through a grant program with additional support from three demonstration centers in Hawaiÿi, Alaska and Montana to assist on a national level. Grants would be available to Native American language organizations, tribal and village governments, public schools (when controlled by speakers of Native American languages), and tribal and similar colleges (e.g., Ilisagvik College in Barrow, AK.) There would also be special consideration for languages with very few speakers (e.g., many of the Athabaskan languages of Alaska.)

**CONCLUSION:** AFN requests the Alaska Congressional Delegation to support the passage of S.91, which includes funding for a demonstration program that will provide assistance to schools and Native American language immersion programs in Alaska.

## ALASKA SET-ASIDE OF INDIAN RESERVATION ROADS FUNDS

**THE ALASKA FEDERATION OF NATIVES URGES CONGRESS TO ALLOCATE $50 MILLION ANNUALLY FOR THE INDIAN RESERVATION ROADS PROGRAM IN ALASKA**

**BACKGROUND/BASIS FOR REQUEST:**

Alaska Native villages have always been statutorily eligible to participate in the Indian Reservation Roads (IRR) program, but they have never received an allocation from the Bureau of Indian Affairs (BIA), which fairly reflects the high costs of construction in Alaska or the fact that Alaska Native villages are starting from virtually a zero base of ground transportation infrastructure. AFN believes it unlikely that the BIA will ever treat Alaska equitably in funding this program, unless Alaska funding is earmarked by Congress.

Virtually every development project in rural, Alaska Native villages requires at least some road construction. Roads are needed for new housing projects, for landfills, for sewage treatment facilities, and for virtually any expansion undertaken by a community not already on the road system. Further, there is huge unmet need for boardwalks, winter trail staking, winter road maintenance, and similar projects which are eligible for IRR funds, but which are not funded by the BIA allocation system.

The BIA's existing "relative need" formula simply does not take Alaska's needs into account. Although Congress required the BIA to count planned roads in the Juneau Area Transportation Plan in the national inventory for funding purposes, and the Bureau does so, in virtually every other respect the national funding methodology appears tailored to keep Alaska's share artificially low. Some of the flaws of the exiting system are:

- Fully 80% of the funding is allocated based on an inventory of existing BIA-owned roads. For Native villages that have no roads, this appears to be the opposite of a true needs-based formula. The BIA treats the program as a deferred maintenance program for BIA-owned roads in the Lower 48 states, rather than as a new construction program.

- Alaska's planned roads are not given credit for "vehicle miles traveled," which is 30% of the formula.

- In Alaska, the BIA normally will not take ownership of the new roads it builds, and thus its new roads are not added to the inventory for funding purposes.

- The BIA excludes the Native population in Anchorage and Fairbanks from its population data, which constitutes 20% of the formula, even though the entire state is considered a BIA service area for all other BIA programs.

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- In determining construction costs, which account for 50% of the formula, the BIA data takes no account of the costs of project mobilization in remote areas or of the particular costs of building roads on permafrost or on muskeg. In short, cost components that are particularly high in Alaska are not even included as components when the BIA runs the data.

- The funding formula depends on a massively complex inventory and cost reporting system which requires annual updating, is subject to manipulation at many levels, and is not verifiable by outside parties.

To all appearances, the BIA funding system is designed to protect tribes that are already in the IRR system and allow them to expand their road programs, while effectively locking out tribes that are not in the system. The planning and reporting requirements necessary to make the inventory system and funding formula work are un-funded mandates for tribes that do not already have an annual road construction program. Alaska villages have historically received only about $1300 per year in IRR planning funds[1]. They are competing against tribes that have construction projects every year, and fully staffed tribal transportation departments.

Representatives from Kawerak, the Tanana Chiefs Conference, the Native Village of Venetie, BBNA/Curyang (Dillingham), and the Sitka Community Association participated in the IRR negotiated rule-making, which began in March of 1999 and concluded its work on proposed regulations in December of 2000. Although progress was made, particularly in regard to program regulations, no permanent formula was agreed upon. The Negotiated Rule-Making Committee decided to publish two proposed funding formulas for public comment. One option, the "Modified Relative Need Formula," is essentially a "no change" option. It would make some improvements in the BIA's calculation of road construction costs but would otherwise leave the old relative need formula in place. By imposing restrictions to additions to the BIA road inventory, this option would make the situation worse for Alaska Native villages.

Alaska representatives at the IRR Rule Making helped develop the other formula option, called the "New Relative Need Formula," which would provide a small minimum allocation for all tribes to meet un-funded mandates for participating in the program, expand the inventory so that all tribes' ground transportation needs are counted, and otherwise make improvements to the formula.

However, the "no change" formula is clearly preferred by BIA Central Office. It was drafted by representatives of tribes that receive the most funding and by BIA staff. Unless the composition of the BIA administration changes, there is virtually no chance that the BIA will use the New Relative Need Formula supported by Alaska as the basis for the permanent formula.

Alaska's lack of roads makes our villages unique compared to Lower 48 tribes. It is in fact very difficult to develop a national formula. Most of Alaska's needs are for new construction, not for improvement of an existing highway system. We often need improved trails or single lane roads rather than roads built to FHWA standards. The remoteness of our villages, our environmental extremes, and the cost of mobilizing construction projects off the existing road system make it difficult to develop one formula that fits Alaska Native villages and also tribes in the Lower 48 states.

**CONCLUSION:** For the reasons enumerated above, AFN believes an Alaska set-aside of $50 million is appropriate and not unreasonable, given the costs of construction in rural Alaska and the number of eligible villages.

[1] Interim funding allocations resulting from the IRR Negotiated Rule-Making in FY 2000 and FY 2001 made additional transportation planning funds available for those years.

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## TITLE IV-E FUNDING FOR TRIBES

**THE ALASKA FEDERATION OF NATIVES, HUMAN RESOURCES COMMITTEE REQUESTS THAT THE ALASKA CONGRESSIONAL DELEGATION ACTIVELY SUPPORT LEGISLATION AMENDING TITLE IV-E OF THE SOCIAL SECURITY ACT TO ALLOW TRIBES DIRECT ACCESS TO FEDERAL FUNDING FOR ADMINISTRATION, TRAINING AND MAINTENANCE COSTS FOR FOSTER CARE PROGRAMMING.**

**BACKGROUND/BASIS FOR REQUEST:**

Title IV-E of the Social Security Act allows states access to federal funding to reimburse up to 50% of the costs associated with the administration of certain foster care programming for income eligible children in foster care, 50% of the associated foster care costs, and 75% of associated training costs. While states can, and some have entered into agreements with tribes to allow tribal foster care programs to receive similar federal reimbursements, the majority of tribes have limited or no access to this entitlement program.

Under the Indian Child Welfare Act, federally recognized tribes have the same authorities to protect children as states, yet under the current federal statute, only states are afforded direct access to this important funding stream to develop and maintain foster care programming for income eligible families.

Congressional representatives who have introduced proposed legislation in the past have indicated that the exclusion of tribes from the initial Title IV-E statute was an oversight. Tribes throughout the country have been advocating to correct this oversight and have been working with congressional representatives to introduce legislation enabling tribes direct access to this funding.

The AFN Human Resources Committee recommends that the Alaska Congressional Delegation support legislation amending Title IV-E of the Social Security Act to allow tribes direct access to this funding to assist them in meeting the costs of the administration training and maintenance associated with the operation of foster care programming.

ALASKA FEDERATION OF NATIVES, INC.

2000 ANNUAL CONVENTION

RESOLUTION 00-32

TITLE: A RESOLUTION REQUESTING THE ALASKA CONGRESSIONAL DELEGATION TO SUPPORT LEGISLATION AMENDING TITLE IV-E OF THE SOCIAL SECURITY ACT TO ALLOW TRIBES DIRECT ACCESS TO FEDERAL FUNDING FOR ADMINISTRATION, TRAINING AND MAINTENANCE COSTS FOR FOSTER CARE PROGRAMMING

WHEREAS: Under Title IV-E of the Social Security Act, federal funding is available to states to help offset the costs of administering foster care programs, training staff and foster parents and paying for foster care; and

WHEREAS: Tribes exercising their authority under the Indian Child Welfare Act need to have access to the same federal resources provided to the states; and

WHEREAS: Under current federal laws tribes are not able to directly access these federal funds despite the fact that they have the same authorities and responsibilities to protect children as do the states; and

NOW THEREFORE BE IT RESOLVED by the Delegates to the 2000 Annual Convention of the Alaska Federation of Natives, Inc. request the Alaska Congressional Delegation to actively support amendments to Title IV-E of the Social Security Act that would allow tribes direct access to federal funding appropriated to reimburse administrative, training and maintenance costs for foster care programming.

SUBMITTED BY: Tanana Chiefs Conference, Inc.

COMMITTEE ACTION: DO PASS

CONVENTION ACTION: PASSED

## FUNDING THE BIA, CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT PROGRAM

**THE ALASKA FEDERATION OF NATIVES, HUMAN RESOURCES COMMITTEE REQUESTS THAT THE ALASKA CONGRESSIONAL DELEGATION ALLOCATE FUNDING IN THE BIA BUDGET UNDER THE CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT**

### BACKGROUND/BASIS FOR REQUEST

Congress passed the Indian Child Protection and Family Violence Prevention Act, 25 U.S.C. § 3201, to establish an avenue for the distribution of federal funds to support tribally operated programs designed to protect Indian children and reduce the incidents of family violence in tribal communities. Tribes representing 225 mostly rural Alaskan communities are eligible to receive direct funding for programs under the Act. Under the current funding formula, about 40% of the federal funding would be distributed to tribes in Alaska. (Even a modest $5 Million appropriation would translate to $10,000 per tribe, [$2.25 Million for Alaska's tribes]. Although Congress reauthorized the Act over three years ago, the Bureau of Indian Affairs has yet to receive funding from Congress to support this program despite the fact that the Bureau has requested funding for this program in its budget every year.

The AFN Human Resources Committee requests that the Alaska Congressional Delegation support the allocation of funding for the BIA Child Protection and Family Violence Prevention Act program.

ALASKA FEDERATION OF NATIVES, INC.

2000 ANNUAL CONVENTION

RESOLUTION 00-31

TITLE: A RESOLUTION REQUESTING THE ALASKA CONGRESSIONAL DELEGATION TO THE ALLOCATION OF FUNDING FOR THE BIA CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT PROGRAM

WHEREAS: Adequate resources are needed in Alaska's rural communities for tribes to design and implement community-based programming to prevent and respond to child abuse and domestic violence; and

WHEREAS: Congress passed the Indian Child Protection and Family Violence Prevention Act to establish an avenue for the distribution of federal funds to support tribally operated programs to protect Indian children and reduce the incidence of family violence in tribal communities; and

WHEREAS: Tribes representing 25 mostly rural Alaskan communities are eligible to receive direct federal funding for programming under the act; and

WHEREAS: To date, the Bureau of Indian Affairs has requested in their budget but not received funding from the Congress to support this program; and

NOW THEREFORE BE IT RESOLVED by the Delegates to the 2000 Annual Convention of the Alaska Federation of Natives, Inc. request that the Alaska Congressional Delegation support the allocation of funding for the BIA Child Protection and Family Violence Prevention Act program.

SUBMITTED BY: Tanana Chiefs Conference, Inc.

COMMITTEE ACTION: DO PASS

CONVENTION ACTION: PASSED

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## INCREASED ECONOMIC DEVELOPMENT ASSISTANCE GRANT FUNDING

**THE ALASKA FEDERATION OF NATIVES, HUMAN RESOURCES COMMITTEE REQUESTS THAT THE ALASKA CONGRESSIONAL DELEGATION SUPPORT LEGISLATION INCREASING ECONOMIC DEVELOPMENT ASSISTANCE GRANT FUNDING FOR COMMUNITIES IN RURAL ALASKA**

**BACKGROUND AND BASIS FOR REQUEST:** As of 1996 over 57% of Alaskan's live in non-metropolitan areas. In a majority of these communities, economic survival is heavily dependent on resource-dependent industries such as commercial fishing, hunting and trapping and upon government transfer payments. In recent years, state cutbacks, declining fish returns and dwindling fur prices have had devastating impacts on rural economies, adding to the problems of communities already suffering from high rates of suicide, domestic violence and alcoholism. With unemployment rates as high as 50% and dependence on federal and state support programs disproportionately high, the economic future for a number of Alaska's rural communities is dismal.

In a May 1999 Final AFN Report by the Economics Resource Group, researchers point to the fragmentation of responsibility and power among multiple governing units in rural communities as another significant obstacle to economic development in rural Alaska. The report stated that while village governments, tribal governments, village corporations, municipal governments and non-profits are all, in some way, working to stabilize recent economic declines, there is very little coordination of these entities to form comprehensive economic development strategies. In addition, none of these entities routinely controls enough natural resource to provide long-term sources of employment for more than a handful of local residents.

**PROPOSAL:** In light of the above, the AFN Human Resources Committee recognizes and appreciates the contributions of Economic Development Assistance (EDA) grants toward supporting economic development planning in Alaska's rural communities. The Human Resources Committee, however, believes that Congress should amend the Public Works and Economic Development and Trade Acts of 1965 and 1974 to:

1. Increase EDA funding amounts to levels that would support at least one economic development/community development/planning staff person for each of Alaska's rural communities.

2. Expand the EDA program to allow for operational support enabling EDA funded staff to implement economic development strategies.

3. Provide EDA funding for the organization and centralization of disparate economic development efforts, and

4. Build flexibility into federal development grants to reflect community specific development targets rather than predetermined projects.

ALASKA FEDERATION OF NATIVES, INC.

2000 ANNUAL CONVENTION

RESOLUTION 00-57

TITLE: INCREASED ECONOMIC DEVELOPMENT ASSISTANCE GRANT FUNDING

WHEREAS: As of 1996, over 57% of Alaskans live in non-metropolitan areas; and

WHEREAS: In a majority of these rural communities, economic survival is heavily dependent on federal and state support and resource dependent industries such as commercial fishing, hunting and trapping; and

WHEREAS: In recent years state cutbacks, declining fish runs and dwindling fur prices have had devastating impacts on rural economies, adding to the problems communities already suffering from high rates of suicide, domestic violence and alcoholism; and

WHEREAS: With unemployment rates as high as 50% and dependence on federal and state support programs disproportionately high, the economic future for a number of Alaska's rural communities is dismal; and

WHEREAS: Research points to the fragmentation of responsibility and power among multiple governing units in rural communities as being another significant obstacle to economic development in rural Alaska; and

NOW THEREFORE BE IT RESOLVED by the Delegates to the 2000 Annual Convention of the Alaska Federation of Natives, Inc., that they recognize and appreciate the contributions of Economic Development Administration (EDA) grants toward supporting economic development planning in Alaska's rural communities; and

BE IT FURTHER RESOLVED that the AFN Delegates respectfully request that Congress further amend the Public Works and Economic Development and Trade Acts of 1965 and 1974 to:

1. Increase EDA funding amounts to levels that would support at least one fulltime economic development staff person for each of Alaska's rural communities.

2. Expand the EDA program to allow for operational support enabling EDA funded staff to implement economic development strategies.

3. Provide EDA funding for the organization and centralization of disparate economic development efforts, and

4. Build flexibility into federal development grants to reflect community specified development targets rather than predetermined projects.

SUBMITTED BY: Bristol Bay Native Association

COMMITTEE ACTION: DO PASS

CONVENTION ACTION: PASSED

## AFFORDABLE ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES

**The Alaska Federation of Natives, Human Resources Committee Requests Congress to Ensure Alaska Native Service Providers and Villages Have Affordable Access to Advanced Telecommunications Services**

**Background/Basis for Request:** The Alaska Native Regional Non-profit Corporations ("Regional Non-profits") are working to more efficiently deliver educational and social services to tribal members throughout rural Alaska, but the telecommunication services required to do this cost more than 10 times those in urban Alaska. For example, a T1 from Nome to Unalakleet would cost more than $14,000 dollars per month, while a T1 in Anchorage costs about $900.

The Regional Non-profits have increasing need for up-to-date technology to deliver vocational education, adult literacy, social services, economic development, and other services to rural Alaska villages, yet the cost of telecommunications in most locations is prohibitive. The high cost of doing business in rural Alaska and the relative small populations served has kept the private sector from bringing affordable access to advanced telecommunication services to rural villages.

The Universal Service programs have done a lot to narrow the "Digital Divide" in many places around the country, but at the same time have caused division in many rural Alaskan communities. Schools, libraries, and health clinics are able to access the Internet at reasonable rates, but community members and businesses cannot. Further, in regions where the Regional Non-profit Health Corporation (funded primarily by the Indian Health Service) is separate from the Regional Non-profit providing educational and social services (funded primarily by the Bureau of Indian Affairs), only the health corporation is eligible. This prevents core educational and social service programs from receiving reasonable rates.

The AFN Human Resources Committee believes that the cost of providing advanced telecommunications services in Alaska will remain high because these services must be provided via satellite. Enhanced communication can and will revolutionize the way Alaska's non-profits deliver services like family counseling, social services, and distance education. The lack of affordable access to telecommunications services remains one of the biggest barriers to providing these services to rural Alaska. Health clinics and schools have been able to dramatically improve the quantity and quality of service in rural areas primarily because of the Universal Service Fund subsidy.

The AFN Human Resources Committee therefore believes that Congress should modify existing Universal Service programs to allow Alaska's non-profit regional corporations to more efficiently provide services through use of advanced telecommunications services, and to generally provide public Internet access in the villages at reasonable rates.

**Proposal:** The AFN Human Resources Committee recommends that Congress take one or more of the following steps:

- Amend the Telecommunication Act of 1996, section 254(h)(1)(A) to clearly identify Alaska non-profits as eligible entities for USF support (proposed changes are italicized):

> (A)HEALTH CARE *AND HUMAN SERVICE* PROVIDERS FOR RURAL AREAS-A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are

necessary for the provision of health care services in a State, including instruction relating to such services, to any public or nonprofit health care provider that serves persons who reside in rural areas in that State at rates that are reasonably comparable to rates charged for similar services in urban areas in that State. *Additionally, telecommunications carriers shall provide the same consideration to human and social services providers serving rural areas where the lack of terrestrial telecommunications links significantly raises the cost of advanced telecommunications and information services.* A telecommunications carrier providing service under this paragraph shall be entitled to have an amount equal to the difference, if any, between the rates for services provided to health care *or human service* providers for rural areas in a State and the rates for similar services provided to other customers in comparable rural areas in that State treated as a service obligation as a part of its obligation to participate in mechanisms to preserve and advance universal service.

- Direct the FCC and or the Joint Federal-State Board to provide Alaska Native Regional Non-profits universal service support equal to that provided rural health providers as called for in section 254(b)(7) "OTHER PRINCIPLES." to allow for the continued provision of services vital to the health, education, and well-being of Alaskans.

- Amend the Telecommunications Act of 1996 so that schools, health care providers, or other eligible entities in rural Alaska villages to become Internet Service Providers on a not-for profit basis, at USF rates.

Tanana Chiefs Conference, Inc.
Position Paper
February 20, 2001

Subject

Develop a suicide intervention and prevention program in the Interior villages of the Tanana Chiefs Conference, Inc region of Interior Alaska and develop a Critical Incident Response Team.

Issue

- Tanana Chiefs Conference, Inc., a 501 C (3) corporation is a multifaceted regional organization, which serves the 43 villages within Interior Alaska. Tanana Chiefs Conference, Inc. coordinates services through 5 sub-regional offices and to local communities. The Tanana Chiefs Conference, Inc is the principle provider of health and other health-related services such as mental health, prevention activities, and substance abuse treatment.

- The Alaska suicide rate for the communities of the Tanana Chiefs Conference, Inc. region is between 4 and 5 times that of the all U.S. suicide rate and double the all Alaskan rate. Attempted suicide was the leading cause of injury hospitalization for the Tanana Chiefs Conference, Inc. beneficiaries between 1994-1998.

- No Federal, state or local system of trained professionals or assistance program exists to rapidly respond to a suicide in the remote villages within the Tanana Chiefs Conference, Inc region. This leaves an already decimated village to their own limited devices to deal with the terrible aftermath of a suicide. In a majority of the villages, no professional staff is immediately available to help the family and community to begin to heal and no monetary resources are available to assist with burial expenses, carrying out a memorial potlatch and other social requirements.

- Prevention services are not coordinated to all communities within the Tanana Chiefs Conference, Inc. region.

Background

The Tanana Chiefs Conference, Inc. asserts that a village-level rapid critical incident or suicide response team needs to be developed to meet the needs of tribes within Interior Alaska. The following needs to be given special consideration to reduce the tragic loss of life and the tearing apart of the social fabric that ties our lives and villages together:

- Several villages have experienced multiple suicides, especially in the ages groups of 20-24 year old males. Many of these have occurred within weeks of each other. This clustering of suicides is well documented by the professional community. In fact, in one subregional area of the Interior, eight out of the last fifteen deaths were from suicide in the last 13 months.

- Village-level law enforcement is hugely understaffed and the Village Public Safety Officer (VPSO) program not only faces great difficulty recruiting and retaining qualified staff but also lacks adequate training to deal with suicidal individuals. Consequently, relying exclusively on VPSO's to provide first response already stresses an already over-stressed enforcement system and contributes to the above problems. Federal funding is available to further staff VPSO positions, however recruiting and retaining VPSOs is difficult. Furthermore, to rely solely on the Alaska State Troopers to provide suicide interventions is unwise because they are not readily available in a quick and timely manner. This is also a tool of last resort.

- Typically, the Community Health Aides are called upon to intervene with suicidal individuals. However, many lack the necessary training and are reluctant to assist. Due to their medical training, they prefer to provide medical treatment. There is a lack of locally available mental health resources.

- In all subregional areas of the Interior, there are small community mental health centers. However, these programs are under-funded and consequently have few travel funds, other special-purpose funds are typically composed of one or two master-level clinicians and possibly one or two paraprofessional counselors. The few local mental health providers assist with suicide interventions however, their stress and burnout is extremely high and their turnover rate is also very high.

- Limited resources exist on the village, interior, state and federal levels to deal with mental health counseling, alcohol and drug abuse prevention. Yet, statewide, there is no coordinated effort to reduce suicides.

- There is evidence that a rapid response team and village-level intervention training can reduce the number of this type of suicide. There is no coordinated effort or funding for a rapid response team or training to combat suicide.

- A suicide prevention committee was organized in last 2000 to address suicides. Members of this committee represent community health, mental health, law enforcement, planning, community health aide, injury prevention, administration and others. They have met weekly to begin to address suicide. Close contact has been kept with a local tribe that has a strong interest in suicide prevention. Address suicide. Close contact has been kept with a local tribe that has a strong interest in suicide prevention.

- Suicide will receive a public panel discussion at the Annual Tanana Chiefs Conference, Inc. Convention in March 2001. Suicide has never been on the convention agenda. This attests to the deep concern and commitment of Tanana Chiefs Conference, Inc. to follow through with suicide prevention and intervention efforts. It is expected that further resolutions from the floor will help to direct our suicide prevention and intervention program.

Recommendations

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The Tanana Chiefs Conference, Inc., which is the central health provider for mist villages within Interior Alaska, makes the following recommendations:

1. Recruit and hire a dedicated Suicide Prevention Specialist. This person should have a bachelor's degree and specialized experience in suicide prevention and will oversee the suicide prevention program.

2. This Suicide Prevention Specialist will work with the existing TCC Health Board and Executive Board, sub-regions and village councils and groups to develop an advisory group to guide the efforts of the Suicide Prevention Specialist.

3. The Suicide Prevention Specialist and the Advisory Committee will develop a Suicide Rapid Response Team. This team of 5-7 reliable and available people from a variety of personal and professional backgrounds will be responsible for deploying quickly to any village within the TCC region that has just experienced a suicide. The team will respond to a suicide or suicide attempt at the request of the village chief or president. This team will be trained and empowered to work on behalf of the Suicide Prevention Committee. They will work with the affected family, local community, religious, and school groups, sub-regional officials and others in the areas of: individual debriefing, coordinating assistance for the family as well as assisting with village specific issues such as grave digging and pot latch preparation. The response team will meet to debrief themselves once returning to their community to alleviate any mental/emotions associated with the response

4. The over-riding principal of the Suicide Prevention Program will be to implement a community based and driven effort to prevent suicides. In order to achieve this goal, suicide summits at each of the 5 sub-regional areas will be held with representatives from each sub-regional community. Additionally, a Tanana Chiefs Conference, Inc. wide summit will be held to address suicide.

5. The suicide prevention specialist will report to the Director, Community Health Services.

6. There is a need to increase the knowledge of suicide prevention in families, communities and with caregivers.

7. The responders will be trained in Critical incident Response Debriefing as well as Applied Suicide Intervention Skills Training. Both of these training systems focus on the need to work with individuals, families and the community to work through issues associated with a fatality due to suicide or other trauma.

8. The suicide prevention specialist and the suicide intervention team will focus as a continuing resource to all villages within Tanana Chiefs Conference, Inc.

Summary

Tanana Chiefs Conference, Inc. believes that a village driven, coordinated and sustained suicide prevention and intervention program needs to be implemented to serve the

communities of Interior Alaska. This program will actively assist the family and community in the most immediate and critical time after a suicide. Evidence shows that this is a critical time especially with youth suicide and in the prevention of clustered suicides.

A 5-year plan to develop and administer this program is necessary to begin to show a reduction in the suicide rate to Alaskan Natives in Interior Alaska.

Proposal

To: Fund a 5-year plan to reduce the suicide completion rate in TCC villages.

1. Recruit and hire a dedicated Suicide Prevention Specialist. This person should have a bachelor's degree in human resources and specialized experience in suicide prevention.

2. This Suicide Prevention Specialist will work with the existing TCC Health Board and Executive Board and village groups to develop an advisory group to guide the efforts of the Suicide Prevention Specialist.

3. The Suicide Prevention Specialist and the Advisory Committee will develop a Suicide Rapid Response Team. This team will be responsible for deploying quickly to any village within the TCC region that has just experienced a suicide. This team will be trained and empowered to work on behalf of the Suicide Prevention Team. They will work with local community members in the areas of: individual debriefing, community debriefing, coordinating assistance for the family as well as assisting materially with village specific issues such as grave digging and pot-latch preparation.

4. The over-riding principal of the Suicide Prevention Program will be to implement a community based and driven effort to prevent suicides.

5. Budget for each year (with the exception of office equipment which would be a first year cost):

| | | |
|---|---|---|
| Salary | $50,000 | |
| Travel | $50,000 | |
| Office Equipment | | $25,000 |
| Summit | | $25,000 |
| Specialized Training | $25,000 | |
| Training | | $25,000 |
| Pot latches | $ 5,000 | |
| Office materials | | $ 1,000 |
| Direct Cost | $206,000 | |
| Indirect costs @ 28% | $ 57,680 | |
| Total Project Cost | $263,680 | |

January 24, 2001

**VIA FACSIMILE**
(202)224-5301

The Honorable Frank H. Murkowski
United States Senator
United States Senate
322 Hart Building
Washington, D.C. 20510

Re: BIA Social Services Regulations, Discrimination Against Alaska Natives

Dear Senator Murkowski:

We reluctantly write once again to reiterate the Bureau of Indian Affair's continuing and unjustifiable discrimination against thousands of Alaska Natives in the provision of BIA social services.

As you know, the recent BIA regulations severely and illegally limit services to thousands of Alaska Natives, and the BIA's initial proposed correction only partly corrects the problem by still cutting off services at the quarter-blood level for Alaska Natives only. Now we have learned in the course of a self-determination contract negotiation that the BIA Alaska Regional Office is insisting on contract language that, unlike Lower 48 tribes, restricts eligibility for services to persons of at least one-quarter Alaska Native blood. The offending contract provision being pressed by the Bureau is this:

> The applicant must be an Indian, **except that for Alaska, a one-fourth degree or more Indian or Native blood quantum will be an additional eligibility requirement.**

Although Bureau personnel insist this language is standard, such a restriction has no foundation in law or regulation. Indeed, like the offensive new social service regulations, the BIA contract language violates the provision of ANCSA requiring that Alaska Natives be treated on an equal basis with Lower 48 Indians in the receipt of federal services. 43 U.S.C. § 1626(d).

Thanks to your efforts, the BIA is in the process of amending its social service regulations to cure the legal problems created by its insensitive treatment of Alaska Natives. But the Bureau should not be allowed an end-run around corrected regulations by insisting on illegal language in self-determination contracts. While we will recommend that the few self-determination contractors we represent resist such efforts, the Bureau's actions warrant close and renewed oversight of the Bureau's process for amending its new regulation and for bringing its contracting practices into conformity with those revised regulations.

Thank you for your continuing interest in this grave matter, and for your unflagging commitment to protecting the Alaska Native community against discriminatory BIA practices.

Sincerely,

SONOSKY, CHAMBERS, SACHSE,
MILLER & MUNSON

By: Lloyd Benton Miller
John P. Lowndes

JPL:alm
cc: Ms. Gloria O'Neill
Mr. Joseph A. Ballot
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January 12, 2001
Via Facsimile

Ms. Liz Connell
Legislative Assistant
The Honorable Ted Stevens's Office
522 Senate Hart Office Building
Washington, D.C. 20510-0201

Re: Amendment to BIA Social Services Regulations

Dear Ms. Connell:

Thank you for the opportunity to comment on the BIA's proposed amendment to its new social services regulations, which is intended to fix the problem of removing many Alaska Natives from eligibility for service. We find that while the BIA's proposal aims in the right direction, it misses the mark and invites more confusion.

Under the previous regulations, three categories of Alaska Natives were independently eligible for BIA-funded services: **(1)** tribal members, **(2)** ANCSA corporation shareholders, and **(3)** quarter-blood descendants of tribal members or shareholders regardless of whether such descendants were tribal members or shareholders.

This scheme comported with ANCSA, which requires that Alaska Natives be served on the same basis as Indians in the lower 48, because ANCSA defines "Natives" as persons with 1/4 Alaska Native blood, regardless of tribal or corporation affiliation. With its new regulations, the BIA removed categories (2) and (3) from eligibility, making tribal membership the only criteria for eligibility. Now, the BIA's proposed amendment to that new regulation covers only persons in category (3), leaving out categories (1) and (2).

Further, the BIA's proposal creates a significant new problem: it appears to require that Alaska Natives, *but not Indians throughout the rest of the country*, must meet a one-quarter degree blood requirement for service eligibility. Thus, under the BIA's proposal, a person could have 1/8th degree Alaska Native blood, be a member of an Alaska Native tribe, and

be an ANCSA corporation shareholder, but still not be eligible for BIA services. In the rest of the country, however, it is sufficient for eligibility that one is a member of an Indian tribe, regardless of blood quantum. Thus, a member of a lower 48 tribe with only 1/64th degree Indian blood or less would remain eligible for services.[1] (This possibly inadvertent result is a function of using one definition of "Indian" for the lower 48 states ("member of an Indian tribe") and a separate definition of "Indian" for the Alaska service area ("Native" as defined in ANCSA).)

We propose two alternative solutions to avoid confusion over the blood quantum requirement in Alaska and to ensure that Alaska Natives in all three categories (tribal members, ANCSA shareholders, and quarter-blood descendants) retain the eligibility for services they previously enjoyed.

**Solution A.** The first solution is to simply reinstate the previous regulations' (pre-November 2000) definitions of "Indian tribe" (which included ANCSA corporations), and "Indian" (which included tribal members and their quarter-blood descendants). The primary advantage of this solution is continuity and the assurance that no previously-eligible Alaska Natives lose eligibility under the new regulations. We can see no reason for not making this simple adjustment, except perhaps for the BIA's desire to remove non-tribal entities out from the definition of "tribe." In our view, this desire is misdirected, in that dozens of statutes and regulations already include ANCSA corporations in the definition of "tribe." See, *e.g.*, the Indian Self-Determination Act and the Native American Housing and Self-Determination Act. But since the BIA seems to have made a legal/policy cut on that issue, we doubt that the BIA would restore these eligibility requirements unless it believes it is required to do so by ANCSA.

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[1] The problem is even more extensive. Consider an 1/8 blood degree Alaska Native tribal member residing on a lower 48 reservation. Such a person might not be eligible for service by the host tribe regardless of the fact that members of other tribes who have less Indian blood quantum remain eligible for service on that reservation. Conversely, under the BIA's proposal a full-blood member of a lower 48 tribe residing in Alaska could not receive service from the BIA or any tribal organization in Alaska since he or she would not meet the definition of "Native" under ANCSA which requires 1/4 *Alaska Native* blood quantum.

**Solution B.** The second solution – which would reach the same result – is to define "Indian" to include (1) members of an Indian tribe, (2) "Natives" as defined by ANCSA (which the BIA's proposal also does), and (3) persons who own voting shares of an ANCSA corporation. Though awkward, this may be more palatable to the Bureau than Solution A since it leaves the definition of "Indian tribe" as the Bureau wishes. We propose the following language:

*Indian*

(a) any person who is a member of an Indian tribe; or

(b) in the Alaska service area, any person who

(i) is a member of an Indian tribe, or

(ii) meets the definition of "Native" as defined under 43 U.S.C. § 1602(b) [*insert remainder of BIA's proposed subsection (b)*], or

(iii) owns voting shares of a "Native Corporation" as defined in 43 U.S.C. § 1602(m).

The BIA's new proposed amendment already accepts this definition in principle, except for the inclusion of subparagraph (iii) (owners of voting shares of ANCSA corporations). However, adding this category of people should not present a problem for the Bureau since it simply gets us back to where we were with the previous regulations under which ANCSA corporation shareholders were deemed members of tribes and therefore eligible.

**Solution C.** Regardless of whether the BIA accepts subparagraph (iii), **we think it is imperative that the definition be re-written as formulated above with respect to (b)(i) and (b)(ii).** This clarifies that members of Alaska Native tribes are eligible for service on exactly the same basis as members of tribes in the lower 48 and that there is no heightened blood quantum requirement for Alaska Natives vis-a-vis other Native Americans. It further clarifies that Alaska Native tribal organizations could serve members of lower 48 tribes residing in Alaska, a circumstance probably impossible under the BIA's proposed amendment. If the proposal is not re-written in this way, there will be considerable confusion over the blood quantum and tribal membership criteria, and almost certainly loss of services to many Alaska Natives. But we emphasize, again, that Solution C will result in cutting of all Alaska Natives who are not enrolled tribal members and who possess less than 1/4 blood. Given that tribal enrollments in Alaska are in their infancy, and often limited by residency rules (unlike the lower 48), Solution C will have a disproportionate adverse impact on Alaska Natives, even though it superficially gives equal treatment.

This whole discussion highlights the vulnerability of Alaska Natives when it comes to BIA services and in our opinion underscores the need to consider in the 107th Congress the enactment of a new ANCSA provision that affirmatively declares Alaska Natives to be eligible for the various programs and services provided by the BIA and the Indian Health Service (rather than, as 43 U.S.C. 1626(d) currently does, merely preserve equality in treatment).

Again, we thank you for providing us this opportunity to review and comment on the BIA's proposed regulatory amendments. Please do not hesitate to contact us if we can be of further assistance in this matter.

Sincerely,

SONOSKY, CHAMBERS, SACHSE,
MILLER & MUNSON

Lloyd Benton Miller
John P. Lowndes

LBM:JPL:ct

cc: Gloria O'Neill, President and Chief Executive Officer
Cook Inlet Tribal Council, Inc.

December 26, 2000
Via Facsimile

Mr. Jim McDivitt
Chief of Staff, Assistant Secretary for Indian Affairs
MS 4140-MIB
1849 C Street, NW
Washington, D.C. 20240

Re: BIA Social Services

Dear Mr. McDivitt:

I write to confirm our telephone conversation of this afternoon in which you stated that the Bureau of Indian Affairs will amend its new social service regulations to ensure that Alaska Natives will be eligible for services on the same basis as under the previous regulations at 25 C.F.R. Part 20. Further, I understood you to say that pending the regulation's amendment, service providers in Alaska should provide services based on eligibility rules in place before the effective date of the new regulations.

Please let me know as soon as possible if these understandings vary in any significant way from yours.

Thank you for your assistance in this matter of critical importance to our clients. Happy Holidays.

Sincerely,

SONOSKY, CHAMBERS, SACHSE,
MILLER & MUNSON

John P. Lowndes

JPL:ct
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FRANK H. MURKOWSKI
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December 8, 2000

The Honorable Kevin Gover
Assistant Secretary for Indian Affairs
U.S. Department of the Interior
1849 C St., N.W.
Washington, D.C. 20240

FAX: (202) 208-6334

Dear Mr. Assistant Secretary:

I am writing to ask that you immediately suspend implementation of new regulations that appear to disqualify certain Alaska Natives from receiving assistance under the Bureau of Indian Affairs Social Services and Financial Assistance Programs.

The new regulations (65 Fed. Reg. 63144-63171) appear to disqualify literally thousands of Alaska Natives from federal social service assistance unless individual Natives are enrolled as a member of a federally recognized tribe. If that is the case, these regulations would represent a dramatic change in personal eligibility requirements and would appear to violate the terms of the Alaska Native Claims Settlement Act (ANCSA). As you know, ANCSA did not require Alaska Natives to be enrolled in a tribe to receive BIA services, only to meet the blood quantum requirement contained in 43 U.S.C. § 1602(b). In addition, ANCSA states that "Alaska Natives shall remain eligible for all Federal Indian programs on the same basis as other Native Americans" (43 U.S.C § 1626(d)). In spite of the fact that your agency was informed during the public comment period that the proposed regulations violated ANCSA, the BIA ignored these comments and finalized the rules anyway. By this action, your agency also appears to have violated the Administrative Procedure Act.

I am certain that a host of Alaska Natives are totally unaware of the impact of your proposed rule, and were unaware of it prior to its adoption. After speaking with the staff of the Indian Affairs Committee, it seems that they were unaware of the effect of these proposed regulations as well. I am extremely disappointed in the agency for the way this issue has been handled and for the agency's total unwillingness to listen to reasoned concerns about the proposed rule making.

I respectfully urge that the BIA immediately suspend the implementation of the new regulations. I also ask that the BIA hold full public hearings on the issue in Alaska in order that Alaskans can understand their potential effects.

Sincerely,

Frank H. Murkowski
United States Senator

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For Immediate Release:
December 8, 2000

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MURKOWSKI DEMANDS SUSPENSION OF NEW NATIVE ELIGIBILITY RULES, URGES PUBLIC HEARINGS ON WIDE RANGING EFFECTS OF TRIBAL RULES

WASHINGTON -- Alaska Sen. Frank Murkowski, R-Alaska, has urged the Department of the Interior to immediately suspend new Bureau of Indian Affairs (BIA) regulations that could keep many Alaska Natives from receiving BIA Social Services and Financial Assistance. He has also asked the BIA to convene public hearings in Alaska in order that Alaskans can be fully informed about the effects of these new regulations.

Under the new BIA regulations, which were quickly and quietly finalized in recent weeks, shareholders of Alaska Native corporations and their descendants may not be eligible for BIA social services unless they are also enrolled members of federally recognized tribes. Thousands of Alaska Natives could be disqualified from receiving some federal benefits, as a result.

"I believe this decision by the Department of the Interior violates the Alaska Native Claims Settlement Act, which plainly states that Alaska Natives shall remain eligible for all Federal Indian programs," said Murkowski.

In a letter to Interior Secretary Babbitt and Assistant Secretary Kevin Gover, Murkowski questioned whether the agency followed the law in developing these regulations. He noted that the BIA ignored comments during the public comment period that opposed the rule changes and went ahead and finalized the new regulations, anyway, apparently in violation of the Administrative Procedure Act. Murkowski also questioned whether the Department had done the appropriate outreach among Alaska Natives and the general public to inform them of these sweeping changes.

"While the attention of the nation was directed toward the election and its aftermath, the BIA finalized these regulations as the Clinton Administration was headed out the door. For many Alaskan Natives, the Interior Department may become the Grinch that Stole Christmas," Murkowski said.

A copy of Senator Murkowski's letter follows in some releases or is available by FAX.

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*ALASKA BAR

December 7, 2000
Via Facsimile: 202-224-2403

The Honorable Senator Trent Lott
487 Senate Russell Office Building
Washington, D.C. 20510-2403

Re: Emergency Request to Revise New BIA Regulations on Social Services Eligibility

Dear Senator Lott:

We write on behalf of the Cook Inlet Tribal Council (CITC), the Arctic Slope Native Association (ASNA), the Kodiak Area Native Association (KANA), and the Bristol Bay Area Native Association (BBNA) to urgently seek your immediate assistance with an issue of grave concern to potentially thousands of Alaska Natives. The problem arises because a few weeks ago the Bureau of Indian Affairs promulgated a radical change in the personal eligibility requirements of the BIA's Social Services and Financial Assistance Programs. Under the new regulations, shareholders (and descendants) of Alaska Native Claims Settlement Act (ANCSA) corporations will no longer be eligible for BIA social services unless they are also enrolled members of federally recognized tribes. Cook Inlet Tribal Council alone expects that the new eligibility regulations will bar it from serving several hundred Alaska Natives it formerly served, and will disqualify thousands more and as other providers become aware of the new regulations, this number will multiply many times across the state.

To avert the immediate loss of crucial social services to many Alaska Natives, we respectfully request that Congress reinstate the BIA's eligibility requirements that were in effect prior to November 20, 2000 (the effective date of the new regulations). The new regulations were published October 20, 2000 and went into effect thirty days later. *See* 65 Fed. Reg. 43144. The matter was only brought to our attention last week.

Prior to the new regulation, the BIA's social services regulations defined "Indian tribe" to include "any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act . . ." *See* 25 C.F.R. § 23.1(p) (2000 ed.) (emphasis added). However, the BIA's new regulations redefine "Indian tribe" by removing the reference to Alaska Native villages and ANCSA corporations. *See* 65 Fed. Reg. at 63161, 25 C.F.R. § 20.100. Defining tribes to ANCSA corporations is common practice in statute and regulation and is necessary to accommodate Alaska's unique circumstances. For example, the Indian Self-Determination Act defines "tribe" to include ANCSA corporations in precisely the same terms as the previous BIA social services regulations. This definition was used in the previous BIA social services regulations to ensure that Alaska Native shareholders who had not enrolled in a tribe (or who could not enroll because of a tribe's village residency requirement) would nevertheless remain eligible for BIA services. The effect of the BIA's new definition of "tribe" is to disqualify Alaska Native shareholders of ANCSA corporations from being eligible for BIA social services unless they also appear on a tribe's tribal roll. Unfortunately, many Alaskan tribes have no such rolls, and many do have residency requirements that bar eligibility for Native people who live in Anchorage, Fairbanks, Juneau or elsewhere away from their ancestral village.

Further, under the previous regulations, descendants of ANCSA corporation shareholders were eligible for services so long as they met a one-fourth degree blood quantum requirement. The new BIA regulations wipe out this basis for eligibility. This radical change excludes Alaska Natives who are not ANCSA corporation shareholders because they were born after December 18, 1971.

It is likely that the Bureau's regulations are in violation of federal law, in particular, ANCSA and the Administrative Procedure Act. ANCSA provides that "Alaska Natives shall remain eligible for all Federal Indian programs on the same basis as other Native Americans." 43 U.S.C. § 1626(d). Alaska Natives are defined as persons

> of one-fourth degree or more Alaska Indian...Eskimo, or Aleut blood, or combination thereof. The term includes...in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group. Any decision of the Secretary regarding eligibility for enrollment shall be final.

43 U.S.C. § 1602(b).

In our view, the BIA's new regulations violate this federal statute in at least two ways. First, as a matter of law, Alaska Natives are not required to be enrolled in a tribe to receive BIA services so long as they meet the blood quantum requirement *or* so long as they are considered "Native" by a village or Native group. The new BIA regulations apparently violate this federal statute by disqualifying persons of one-fourth degree Alaska Native blood or who are otherwise recognized as "Native" by their village, regardless of enrollment in a tribe. Second, the Secretary's enrollment list, which was used for establishing eligibility for ANCSA corporation shareholder status, was a final determination of individual Alaska Native status under ANCSA. *Id.* As a consequence, all ANCSA corporation shareholders are "Alaska Natives" under the Act and must be eligible for federal Indian programs on the same basis as other Native Americans under § 1626(d). By disqualifying ANCSA shareholders as *per se* eligible for BIA's social services, the BIA regulations are in violation of federal law.

In addition to these substantive violations, the BIA's route to adopting the new eligibility standards is in violation of the Administrative Procedure Act, which requires all agencies to consider and respond to criticisms submitted during the public comment period. *See* 5 U.S.C. § 553. During the public comment period on the draft regulations, several commenters requested that the BIA retain ANCSA corporations in the definition of "Indian tribe." Inexplicably, the BIA stated in the "Review of Public Comments" portion of the final rule that it had *honored* these requests, but the rule itself ignored them and ANCSA corporations are deleted from the definition of "Indian tribe." *See* 65 Fed. Reg. 63147. Undeniably, the BIA has not responded to tribal concerns on this issue, and there is no evidence in the final rule that the BIA has taken public comments into account in formulating its definition of "tribe." It is apparent, therefore, that at least with regard to the redefinition "Indian" and "Indian tribe," the BIA's new regulations would not withstand scrutiny under the Administrative Procedure Act.

In any case, the Bureau has clearly failed to frankly discuss this major policy change with those most affected. In fact, at a public meeting with tribal service providers in Anchorage last week, officials of BIA's Juneau Area Office and D.C. Central Office claimed to have no idea of the dramatic impact of this new regulation. The Bureau's action demonstrates an appalling disregard for some of the neediest members of our society and for the accountability of Federal agencies to their constituencies. Although we have this week requested that the BIA immediately withdraw its new regulatory redefinition of "Indian" and "Indian tribe" and reinstate the previous definitions, the BIA's dealings on this matter leaves us with no confidence the request will be considered. For this reason, CITC, KANA, ASNA, and BBNA urgently seek your assistance with a legislative remedy.

Following are two independent suggestions for legislation which would resolve the problem of excluding Alaska Natives from services. The effect of either is to revert to the prior eligibility requirements of the BIA's social services regulations.

1. Notwithstanding any Federal agency regulation, hereafter for the determination of eligibility for services under the Bureau of Indian Affairs's programs of Adult Care Assistance, Burial Assistance, Child Assistance, Disaster Assistance, Emergency Assistance, General Assistance, Services to Children Elderly and Families, Tribal Welfare Reform, and Tribal Work Experience, whether such programs are administered directly by the Bureau of Indian Affairs or by tribes or tribal organizations under the authority of the Indian Self-Determination and Education Assistance Act, "Indian" shall mean "any person who is a member, or a one-fourth degree or more blood quantum descendant of a member of any Indian tribe," and "Indian tribe" shall mean "any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony, or Community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is federally recognized as eligible by the U.S. Government for the special programs and services provided by the Secretary to Indians because of their status as Indians."

2. None of the funds appropriated under Public Law shall be used to implement the Bureau of Indian Affairs' Final Rule for Financial Assistance and Social Services Programs, published October 20, 2000, 65 Federal Register 63144 - 63171, unless and until the Bureau of Indian Affairs revises such rule to define "Indian" to mean "any person who is a member, or a one-fourth degree or more blood quantum descendant of a member of any Indian tribe," and to define "Indian tribe" to mean "any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony, or Community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is federally recognized as eligible by the U.S. Government for the special programs and services provided by the Secretary to Indians because of their status as Indians."

Thank you for your consideration of this grave matter and for your continued dedication to meeting the needs of the Alaska Native community.

Sincerely,

SONOSKY, CHAMBERS, SACHSE,
MILLER & MUNSON

Lloyd Benton Miller /ct

Lloyd Benton Miller
John P. Lowndes

JPL:ct
cc: Ms. Gloria O'Neill, Executive Director, Cook Inlet Tribal Council
Mr. Eben Hopson, Jr., Executive Director, Arctic Slope Native Association
Ms. Rita Stevens, President, Kodiak Area Native Association
Mr. Terry Hoefferle, Chief Operating Officer, Bristol Bay Native Association
Senator Ted Stevens
Senator Ben Nighthorse Campbell
Senator Daniel Inouye

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*ALASKA BAR

December 7, 2000
Via Facsimile: 202-224-2309

The Honorable Daniel K. Inouye
Vice Chairman, Committee on Indian Affairs
Senate Hart Office Building, Room 838
Washington, D.C. 20510-6252

Attn: Patricia M. Zell, Minority Staff Director, Chief Counsel

Re: Emergency Request to Revise New BIA Regulations on Social Services Eligibility

Dear Mr. Vice Chairman Inouye:

We write on behalf of the Cook Inlet Tribal Council (CITC), the Arctic Slope Native Association (ASNA), the Kodiak Area Native Association (KANA), and the Bristol Bay Area Native Association (BBNA) to urgently seek your immediate assistance with an issue of grave concern to potentially thousands of Alaska Natives. The problem arises because a few weeks ago the Bureau of Indian Affairs promulgated a radical change in the personal eligibility requirements of the BIA's Social Services and Financial Assistance Programs. Under the new regulations, shareholders (and descendants) of Alaska Native Claims Settlement Act (ANCSA) corporations will no longer be eligible for BIA social services unless they are also enrolled members of federally recognized tribes. Cook Inlet Tribal Council alone expects that the new eligibility regulations will bar it from serving several hundred Alaska Natives it formerly served, and will disqualify thousands more and as other providers become aware of the new regulations, this number will multiply many times across the state.

To avert the immediate loss of crucial social services to many Alaska Natives, we respectfully request that Congress reinstate the BIA's eligibility requirements that were in effect prior to November 20, 2000 (the effective date of the new regulations). The new regulations were published October 20, 2000 and went into effect thirty days later. *See* 65 Fed. Reg. 43144. The matter was only brought to our attention last week.

Prior to the new regulation, the BIA's social services regulations defined "Indian tribe" to include "any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act. . . ." *See* 25 C.F.R. § 23.1(p) (2000 ed.) (emphasis added). However, the BIA's new regulations redefine "Indian tribe" by removing the reference to Alaska Native villages and ANCSA corporations. *See* 65 Fed. Reg. at 63161, 25 C.F.R. § 20.100. Defining tribes to ANCSA corporations is common practice in statute and regulation and is necessary to accommodate Alaska's unique circumstances. For example, the Indian Self-Determination Act defines "tribe" to include ANCSA corporations in precisely the same terms as the previous BIA social services regulations. This definition was used in the previous BIA social services regulations to ensure that Alaska Native shareholders who had not enrolled in a tribe (or who could not enroll because of a tribe's village residency requirement) would nevertheless remain eligible for BIA services. The effect of the BIA's new definition of "tribe" is to disqualify Alaska Native shareholders of ANCSA corporations from being eligible for BIA social services unless they also appear on a tribe's tribal roll. Unfortunately, many Alaskan tribes have no such rolls, and many do have residency requirements that bar eligibility for Native people who live in Anchorage, Fairbanks, Juneau or elsewhere away from their ancestral village.

Further, under the previous regulations, descendants of ANCSA corporation shareholders were eligible for services so long as they met a one-fourth degree blood quantum requirement. The new BIA regulations wipe out this basis for eligibility. This radical change excludes Alaska Natives who are not ANCSA corporation shareholders because they were born after December 18, 1971.

It is likely that the Bureau's regulations are in violation of federal law, in particular, ANCSA and the Administrative Procedure Act. ANCSA provides that "Alaska Natives shall remain eligible for all Federal Indian programs on the same basis as other Native Americans." 43 U.S.C. § 1626(d). Alaska Natives are defined as persons

> of one-fourth degree or more Alaska Indian...Eskimo, or Aleut blood, or combination thereof. The term includes....in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or

> Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group. Any decision of the Secretary regarding eligibility for enrollment shall be final.

43 U.S.C. § 1602(b).

In our view, the BIA's new regulations violate this federal statute in at least two ways. First, as a matter of law, Alaska Natives are not required to be enrolled in a tribe to receive BIA services so long as they meet the blood quantum requirement *or* so long as they are considered "Native" by a village or Native group. The new BIA regulations apparently violate this federal statute by disqualifying persons of one-fourth degree Alaska Native blood or who are otherwise recognized as "Native" by their village, regardless of enrollment in a tribe. Second, the Secretary's enrollment list, which was used for establishing eligibility for ANCSA corporation shareholder status, was a final determination of individual Alaska Native status under ANCSA. *Id.* As a consequence, all ANCSA corporation shareholders are "Alaska Natives" under the Act and must be eligible for federal Indian programs on the same basis as other Native Americans under § 1626(d). By disqualifying ANCSA shareholders as *per se* eligible for BIA's social services, the BIA regulations are in violation of federal law.

In addition to these substantive violations, the BIA's route to adopting the new eligibility standards is in violation of the Administrative Procedure Act, which requires all agencies to consider and respond to criticisms submitted during the public comment period. *See* 5 U.S.C. § 553. During the public comment period on the draft regulations, several commenters requested that the BIA retain ANCSA corporations in the definition of "Indian tribe." Inexplicably, the BIA stated in the "Review of Public Comments" portion of the final rule that it had *honored* these requests, but the rule itself ignored them and ANCSA corporations are deleted from the definition of "Indian tribe." *See* 65 Fed. Reg. 63147. Undeniably, the BIA has not responded to tribal concerns on this issue, and there is no evidence in the final rule that the BIA has taken public comments into account in formulating its definition of "tribe." It is apparent, therefore, that at least with regard to the redefinition "Indian" and "Indian tribe," the BIA's new regulations would not withstand scrutiny under the Administrative Procedure Act.

In any case, the Bureau has clearly failed to frankly discuss this major policy change with those most affected. In fact, at a public meeting with tribal service providers in Anchorage last week, officials of BIA's Juneau Area Office and D.C. Central Office claimed to have no idea of the dramatic impact of this new regulation. The Bureau's action demonstrates an appalling disregard for some of the neediest members of our society and for the accountability of Federal agencies to their constituencies. Although we have this week requested that the BIA

immediately withdraw its new regulatory redefinition of "Indian" and "Indian tribe" and reinstate the previous definitions, the BIA's dealings on this matter leaves us with no confidence the request will be considered. For this reason, CITC, KANA, ASNA, and BBNA urgently seek your assistance with a legislative remedy.

Following are two independent suggestions for legislation which would resolve the problem of excluding Alaska Natives from services. The effect of either is to revert to the prior eligibility requirements of the BIA's social services regulations.

1. Notwithstanding any Federal agency regulation, hereafter for the determination of eligibility for services under the Bureau of Indian Affairs's programs of Adult Care Assistance, Burial Assistance, Child Assistance, Disaster Assistance, Emergency Assistance, General Assistance, Services to Children Elderly and Families, Tribal Welfare Reform, and Tribal Work Experience, whether such programs are administered directly by the Bureau of Indian Affairs or by tribes or tribal organizations under the authority of the Indian Self-Determination and Education Assistance Act, "Indian" shall mean "any person who is a member, or a one-fourth degree or more blood quantum descendant of a member of any Indian tribe," and "Indian tribe" shall mean "any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony, or Community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is federally recognized as eligible by the U.S. Government for the special programs and services provided by the Secretary to Indians because of their status as Indians."

2. None of the funds appropriated under Public Law shall be used to implement the Bureau of Indian Affairs' Final Rule for Financial Assistance and Social Services Programs, published October 20, 2000, 65 Federal Register 63144 - 63171, unless and until the Bureau of Indian Affairs revises such rule to define "Indian" to mean "any person who is a member, or a one-fourth degree or more blood quantum descendant of a member of any Indian tribe," and to define "Indian tribe" to mean "any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony, or Community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement

Act (85 Stat. 688) which is federally recognized as eligible by the U.S. Government for the special programs and services provided by the Secretary to Indians because of their status as Indians."

Thank you for your consideration of this grave matter and for your continued dedication to meeting the needs of the Alaska Native community.

Sincerely,

SONOSKY, CHAMBERS, SACHSE,
MILLER & MUNSON

Lloyd Benton Miller/cr

Lloyd Benton Miller
John P. Lowndes

JPL:ct
cc: Ms. Gloria O'Neill, Executive Director, Cook Inlet Tribal Council
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Senator Ted Stevens
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*ALASKA BAR

December 6, 2000
Via Facsimile: 202-208-5320

The Honorable Kevin Gover
Assistant Secretary for Indian Affairs
Interior Building, 1849 C Street, N.W.
Washington, D.C. 20240

Re: Emergency Request to Revise New BIA Regulations on Social Services Eligibility

Dear Mr. Gover:

We write on behalf of the Cook Inlet Tribal Council, the Bristol Bay Native Association, and the Arctic Slope Native Association to strongly protest the Bureau of Indian Affairs's recent promulgation of regulations that disqualify potentially thousands of Alaska Natives from the Bureau's Social Services and Financial Assistance Programs. Not only was the BIA's action procedurally unsound under the Administrative Procedure Act, it amounts to a substantive violation of federal law, in particular the Alaska Native Claims Settlement Act, by disqualifying many Alaska Natives from BIA services. To avert the immediate loss of crucial social services to many Alaska Natives, we respectfully urge that the Bureau immediately suspend implementation of the new regulations' eligibility requirements and reinstate the previous definitions of "Indian" and "Indian tribe" formerly found at 20 C.F.R. § 20.1(n) and (p) (2000 ed.).

The Bureau's redefinition of "Indian" and "Indian tribe" in the new regulations, 65 Fed. Reg. 63144-63171, represents a radical policy change in the personal eligibility requirements of the BIA's Social Services and Financial Assistance Programs. Under the new regulations, shareholders of ANCSA corporations and their descendants of one-fourth degree Alaska Native blood will no longer be eligible for BIA social services unless they are also

enrolled members of federally recognized tribes. Cook Inlet Tribal Council expects that the new eligibility regulations will bar it from serving several hundred Alaska Natives it formerly served, and automatically disqualify thousands of others. We expect that as other providers become aware of the new regulations, this number will be multiply many times across the state.

Prior to the new regulation, the BIA's social services regulations defined "Indian tribe" to include "any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act. . . ." *See* 25 C.F.R. § 23.1(p) (2000 ed.) (emphasis added). The BIA's new regulations remove any reference to Alaska Native villages and ANCSA corporations. *See* 65 Fed. Reg. at 63161, 25 C.F.R. § 20.100. The effect is to disqualify shareholders of ANCSA corporations unless they also appear on a village's tribal roll. As you know, defining tribes to include ANCSA corporations is common statutory and regulatory practice and is necessary to accommodate Alaska's unique circumstances. In the previous BIA social services regulations, neither the purpose nor the effect of such a definition was to give corporations tribal status, but rather only to ensure that Alaska Native shareholders who had not enrolled in a tribe, or who could not enroll (for instance, because of a tribe's village residency requirement), nevertheless received BIA services. This is necessary because many villages have no such rolls, and many others have residency requirements that bar eligibility for Native people who live in Anchorage, Fairbanks, Juneau or elsewhere away from their ancestral villages.

By disqualifying many Alaska Natives from BIA services, the new regulations also violate ANCSA, which provides that "Alaska Natives shall remain eligible for all Federal Indian programs on the same basis as other Native Americans." 43 U.S.C. § 1626(d). Alaska Natives are defined as persons

> of one-fourth degree or more Alaska Indian...Eskimo, or Aleut blood, or combination thereof. The term includes....in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group. Any decision of the Secretary regarding eligibility for enrollment shall be final.

43 U.S.C. § 1602(b).

The BIA's new regulations violate this federal statute in at least two ways. First, as a matter of law, Alaska Natives are not required to be enrolled in a tribe to receive BIA services so long as they meet the blood quantum requirement *or* so long as they are considered "Native" by a village or Native group. The new BIA regulations violate this federal statute by disqualifying persons of one-fourth degree Alaska Native blood or who are otherwise recognized as "Native" by their village, regardless of enrollment in a tribe. Second, the Secretary's enrollment list, which was used for establishing eligibility for ANCSA corporation shareholder status, was a final determination of individual Alaska Native status under ANCSA. *Id.* As a consequence, all ANCSA corporation shareholders are "Alaska Natives" under the Act and must be eligible for federal Indian programs on the same basis as other Native Americans under § 1626(d). By disqualifying ANCSA shareholders as *per se* eligible for BIA's social services, the BIA regulations are in violation of federal law.

In addition to these substantive violations, the BIA's route to adopting the new eligibility standards is in violation of the Administrative Procedure Act, which requires all agencies to consider and respond to criticisms submitted during the public comment period. *See* 5 U.S.C. § 553. During the public comment period on the draft regulations, several commenters requested that the BIA retain ANCSA corporations in the definition of "Indian tribe." Inexplicably, the BIA stated in the "Review of Public Comments" portion of the final rule that it had *honored* these requests, but the rule itself ignored them and ANCSA corporations are deleted from the definition of "Indian tribe." *See* 65 Fed. Reg. 63147. Undeniably, the BIA has not responded to tribal concerns on this issue, and there is no evidence in the final rule that the BIA has taken public comments into account in formulating its definition of "tribe." It is apparent, therefore, that at least with regard to the redefinition "Indian" and "Indian tribe," the BIA's new regulations would not withstand scrutiny under the Administrative Procedure Act.

Aside from those grave legal violations, it is a sad reflection on the BIA that it did not honor its responsibility to frankly discuss this policy change with those it would affect. At the BIA Providers Conference in Anchorage last week, both Juneau Area and Central Office officials claimed to have had no knowledge of this drastic cut in eligibility, much less have any idea of the numbers of Alaska Natives that have now been dropped from eligibility. That is almost inconceivable given the fact that in the final rule, the BIA conceded that several commenters had specifically warned of the problem. When a regulation of this potentially disastrous magnitude is being considered, it is incumbent on the regulating agency to assess the impact and to confer with those who would be impacted. The Bureau has failed to live up to this responsibility.

For these reasons, we respectfully urge that the BIA immediately suspend implementation of the new regulations' eligibility requirements and reinstate the definitions of "Indian" and "Indian tribe" formerly found at 20 C.F.R. § 20.1(n) and (p) (2000 ed.) within the new regulations.

Sincerely,

SONOSKY, CHAMBERS, SACHSE,
MILLER & MUNSON

*/s/ John P. Lowndes*

Lloyd Benton Miller
John P. Lowndes

JPL:ct
cc: Ms. Gloria O'Neill, Executive Director, Cook Inlet Tribal Council
Mr. Terry Hoefferle, Chief Operating Officer, Bristol Bay Native Association
Mr. Eben Hopson, Jr., Executive Director, Arctic Slope Native Association
Mr. Niles Cesar, Director, Juneau Area Offices
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*ALASKA BAR

December 5, 2000

**VIA FACSIMILE**
**(202)224-2354**

The Honorable Ted Stevens
United States Senate
522 Senate Hart Office Building
Washington, D.C. 20510-0201

Attention: Ms. Liz Connell

Re: Request for Legislation to Cure BIA's Regulatory Exclusion of Alaska Natives

Dear Senator Stevens:

We write on behalf of the Cook Inlet Tribal Council, Inc. to urgently seek your immediate assistance with an issue of grave concern to potentially thousands of Alaska Natives. The problem arises because a few weeks ago the Bureau of Indian Affairs promulgated a radical change in the personal eligibility requirements of the BIA's Social Services and Financial Assistance Programs. Under the new regulations, **shareholders (and descendants) of ANCSA corporations will no longer be eligible for BIA social services unless they are also enrolled members of federally recognized tribes.** Cook Inlet Tribal Council expects that the new eligibility regulations will bar it from serving several hundred Alaska Natives it formerly served, and will disqualify thousands more. We expect that as other providers become aware of the new regulations, this number will be multiplied many times across the state.

To avert the immediate loss of crucial social services to many Alaska Natives, we respectfully request that Congress reinstate the BIA's eligibility requirements that were in effect prior to November 20, 2000 (the effective date of the new regulations). The new regulations were published October 20, 2000 and went into effect thirty days later. *See* 65 Fed. Reg. 43144. The matter was only brought to our attention last week.

Prior to the new regulation, the BIA's social services regulations defined "Indian tribe" to include **"any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act. . . ."** *See* 25 C.F.R. § 23.1(p) (2000 ed.) (emphasis added). However, the BIA's new regulations redefine "Indian tribe" by removing the reference to Alaska Native villages and ANCSA corporations. *See* 65 Fed. Reg. at 63161, 25 C.F.R. § 20.100. As you know, defining tribes to ANCSA corporations is common practice and is necessary to accommodate Alaska's unique circumstances. For example, the Indian Self-Determination Act defines "tribe" to include ANCSA corporations in precisely the same terms as the previous BIA social services regulations. This definition was used in the previous BIA social services regulations to ensure that Alaska Native shareholders who had not enrolled in a tribe (or who could not enroll because of a tribe's village residency requirement) would nevertheless remain eligible for BIA services. The effect of the BIA's new definition of "tribe" is to disqualify Alaska Native shareholders of ANCSA corporations from being eligible for BIA social services unless they also appear on a village's tribal roll. Unfortunately, many villages have no such rolls, and many do have residency requirements that bar eligibility for Native people who live in Anchorage, Fairbanks, Juneau or elsewhere away from their ancestral village.

This is not the only problem with the new BIA regulations. Under the old regulations, descendants of ANCSA corporation shareholders were eligible for services so long as they met a one-fourth degree blood quantum requirement. The new BIA regulations wipe out this basis for eligibility. This radical change excludes Alaska Natives who are not ANCSA corporation shareholders because they were born after December 18, 1971.

What is particularly frustrating is that these Alaska-specific problems were brought to the BIA's attention by several entities during the public comment period. The final rule acknowledges this. *See* 65 Fed. Reg. 63144, 63147. Nevertheless, the BIA ignored the comments and went ahead without explaining the rationale for cutting off services to potentially thousands of Alaska Natives. In our view, this action demonstrates an appalling disregard for some of the neediest members of our society and for the accountability of Federal agencies to their constituencies. Although we are this week requesting that the BIA immediately withdraw its new regulatory redefinition of "Indian" and "Indian tribe" and reinstate the previous definitions, the BIA's dealings on this matter leaves us with no confidence the request will be considered. For this reason, CITC urgently seeks your assistance with a legislative remedy.

Following are two independent suggestions for legislation which would resolve the problem of excluding Alaska Natives from services. The effect of either is to revert to the prior eligibility requirements of the BIA's social services regulations.

1. Notwithstanding any Federal agency regulation, hereafter for the determination of eligibility for services under the Bureau of Indian Affairs's programs of Adult Care Assistance, Burial Assistance, Child Assistance, Disaster Assistance, Emergency Assistance, General Assistance, Services to Children Elderly and Families, Tribal Welfare Reform, and Tribal Work Experience, whether such programs are administered directly by the Bureau of Indian Affairs or by tribes or tribal organizations under the authority of the Indian Self-Determination and Education Assistance Act, "Indian" shall mean "any person who is a member, or a one-fourth degree or more blood quantum descendant of a member of any Indian tribe," and "Indian tribe" shall mean "any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony, or Community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is federally recognized as eligible by the U.S. Government for the special programs and services provided by the Secretary to Indians because of their status as Indians."

2. None of the funds appropriated under Public Law shall be used to implement the Bureau of Indian Affairs' Final Rule for Financial Assistance and Social Services Programs, published October 20, 2000, 65 Federal Register 63144 - 63171, unless and until the Bureau of Indian Affairs revises such rule to define "Indian" to mean "any person who is a member, or a one-fourth degree or more blood quantum descendant of a member of any Indian tribe, and to define "Indian tribe" to mean "any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony, or Community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is federally recognized as eligible by the U.S. Government for the special programs and services provided by the Secretary to Indians because of their status as Indians."

Thank you for your consideration of this grave matter and for your continued dedication to meeting the needs of the Alaska Native community.

Sincerely,

SONOSKY, CHAMBERS, SACHSE,
MILLER & MUNSON

By: Lloyd Benton Miller
John P. Lowndes

LBM:JPL:alm
cc: Ms. Gloria O'Neill
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# AFN IMPLEMENTATION STUDY

**Proposals to the United States Congress to implement recommendations of the Alaska Natives Commission pursuant to P.L. 104-270**

**Alaska Federation Of Natives**
1577 C Street Suite 300
Anchorage, Alaska 99501

**December 1999**

DEDICATION

This AFN Implementation Study, published on December 31, 1999, is dedicated to the loving memory of Herbert Hope, who died on Christmas Day of this year. Mr. Hope was a member of the AFN Board of Directors and of its Planning Committee, which oversaw production of this report. A commercial fisherman and a career employee of the Bureau of Indian Affairs, he was an outstanding leader of Native institutions in Southeast Alaska (Tlingit and Haida Central Council, Alaska Native Brotherhood). Herb was from the Tloo-Ka Hit (Point House) of the Kiks.adi Clan of Sitka. His Tlingit name was Chont'kee and his Kiks.adi name was Stoon-nukw. He was Kaagwaantaan yadi, a grandchild of the Teikweidi and a great-grandchild of the Wooskkeetaan. As we mourn his loss, we celebrate his remarkable life.

## PREFACE

The AFN Implementation Project is part of a continuum of reports highlighting the critical situation of Alaska Natives and a series of hearings of which arose proposing actions to address problems.

Ten years ago, the Alaska Federation of Natives (AFN) published the "Report on the Status of Alaska Natives: A Call for Action." Subsequently, Congress created the Alaska Natives Commission to carry out the first comprehensive assessment of the social, cultural, and economic condition of Alaska's Natives. The commission summarized its extensive hearings and conclusions in a three-volume report issued in 1994.

Congress enacted Public Law 104-270 in 1996. That law provided for a grant to the Alaska Federation of Natives to examine the recommendations of the Alaska Natives Commission, to study pertinent initiatives in the United States and elsewhere, to conduct hearings on ways to implement the commission's recommendations, and to recommend to Congress enactment of specific provisions of law and other actions to implement such recommendations. The AFN Implementation Report is the result of this process.

On behalf of the Alaska Native community, AFN thanks the U.S. Congress for its attention to Alaska Native issues and looks forward to actions on the recommendations contained in this report.

Julie Kitka, President
Alaska Federation of Natives

Special thanks are extended to the following individuals for their hard work and dedication during this process:

Project Direction, AFN Planning Committee whose membership included: Tom Tilden, Chair; Herbert Hope; Rosita Worl; Gloria O'Neil; and Terry Hoefferle.

Project Director, Alaska Native Implementation Study: Ethel Patkotak

Report: Victor Fischer, Institute of Social and Economic Research, University of Alaska Anchorage, and Pete Spivey, GRS Consulting, Anchorage

## INTRODUCTION

In accordance with Public Law 104-270, enacted by the U.S. Congress in 1996, the Alaska Federation of Natives (AFN) has conducted an extensive process to develop recommendations to implement the Alaska Natives Commission report. Rather than reworking the same ground, we used the commission's work as the point of beginning.

Only Commission recommendations that: 1) give the fullest promise of improved life opportunities to large populations of Alaska Natives; 2) require further analysis and study to make a compelling case for action; 3) are appropriate as subjects of Congressional rather than state action; and 4) that these be guided by the overarching principles of the report were selected for further analysis and consideration by AFN.

The three major study areas included governance, substance abuse and expanding job opportunities. The recommendations contained in this report are based on these three studies as well as subsequent hearings within the Native community.

The AFN process found that although most previously identified social, cultural, and economic problems persist, progress is being made. Innovations are coming about in areas of self-governance, education, delivery of health and other services, and other endeavors. Such progress has come about through both the efforts of Alaska Natives and the support provided by the Congress and federal agencies. Yet, social and economic needs remain tremendous, and it is toward meeting these that the AFN process has been directed.

As directed by Congress, the AFN Implementation Study examined recommendations of the Alaska Natives Commission and looked at successful initiatives in the United States and elsewhere. AFN held extensive hearings in the Alaska Native community, and consulted widely with different groups, including the Alaska Commission on Rural Governance and Empowerment. The resultant priority topics covered by this report are Alaska Native self-governance, jobs and economic development, substance abuse, education, and subsistence.

This report has a strict focus on recommendations. So as not to detract from this focus, we hold explanations to a minimum. Background and related research material are not presented here. They are available and will be marshaled as needed to back up and implement specific proposals.

Alaska's Native community was thoroughly involved in fashioning the report's recommendations. Participants at AFN conferences considered major recommendations and themes as part of a continuing process. Hundreds of comments and proposals were received in the hearings conducted throughout Alaska. Research reports commissioned by AFN as part of the study were distributed to organizations and individuals for their review. The work of many task forces and other efforts also fed into the process. AFN convention resolutions, hearing transcripts, research reports, and other documents are available.

AFN offers the recommendations as a starting point to address the issues and conditions that were pointed out in the Alaska Native Commission report.

The AFN Implementation Report has been approved by AFN's Board of Directors.

## A. ACHIEVING ALASKA NATIVE SELF-GOVERNANCE

### Strengthening self-governance authority

This AFN study and the Alaska Rural Governance Commission report both reconfirm the conclusions of the Alaska Natives Commission that **Alaska Native self-governance is an essential element in overcoming economic and social problems in rural Alaska.** All make clear that sustained, successful economic development and sustained improvement of social conditions can only be achieved by communities whose decisions, resources, and internal affairs are controlled at the local level -- by the people who bear the consequences.

Alaska Native tribes have been recognized by the federal government and their inherent powers of self-government over their members have been recognized by the Alaska Supreme Court in *John v. Baker* (No. S-8099, September 8, 1999).

The Alaska Native Claims Settlement Act (ANCSA) was established to settle land claims and develop economic engines to develop Alaska Native economies. ANCSA corporations are also recognized as tribes for special statutory purposes in over 100 federal legislative acts which were enacted to advance the socio-economic welfare of Native people. ANCSA's purposes and effective tribal governments are complementary and not inconsistent.

AFN, therefore, recommends that Congress:

**A1. Amend federal Indian legislation in order to explicitly clarify and strengthen Alaska Native decision-making powers and responsibilities in programs that affect Native communities and families, including alcohol control, child welfare, education, public safety, resource management, environmental protection, and other programs.**

**A2. Amend ANCSA to authorize land transfer of 14(c)(3) municipal lands to tribes and to include lands acquired by Alaska tribes as trust lands.**

### Contracting and compacting

Contracting and compacting under federal programs have, where applied, proven effective in improving the way federal responsibilities are carried out, improving service delivery, and increasing local self-reliance and self-determination.

Self-governance compacting, in particular, helps attain greater efficiency in the expenditure of federal funds and allows more money to be spent locally without a federal agency acting as middleman. It helps streamline paperwork, reduce overhead and other deductions, and it provides opportunities for combining different programs and funding sources at the local level. However, only the Indian Health Service and Bureau of Indian Affairs currently have compacting authority.

**A3. Encourage and achieve greater Native participation and decision**

**making in all federal programs through consultation, contracting, and compacting.**

A4. Expand contracting and compacting authority to all federal agencies and all federally funded programs in Alaska and ensure preference to Native management.

**A5. Effect full and expeditious disclosure by federal agencies of all operating and related administrative budget and cost data in negotiating contracts and compacts.**

Co-management

Resource co-management arrangements have emerged in recent years as an effective means of implementing national goals and carrying out federal responsibilities in consonance with Native cultures and knowledge. Agreements to date have been directed mainly toward developing effective and sustainable systems of wildlife management that are consistent with both Native and federal and state responsibilities for preserving and protecting natural resources.

**A6. Authorize and extend co-management to all wildlife, fish, and land and subsurface (including public domain, parks, forests, refuges, and other reserves) where significant Native interests exist in such natural resources.**

Adequate and equitable financial support

Tribal governments are the principal governing institution in most Alaska villages, yet are usually seriously underfunded to carry out basic local functions, such as public safety, conflict resolution, child welfare, alcohol enforcement, and others. The Joint Tribal/BIA Advisory Task Force recommended annual base funding of small tribes at $160,000 nationally, which has been achieved, and at $200,000 in Alaska, for which the additional amount has not been appropriated.

**A7. Fund all Alaska tribes at a minimum $200,000 base funding level.**

Bureau of Indian Affairs funding excludes Alaska tribes or providing them only limited support under resource management, tribal law enforcement and courts, roads, housing improvement, education, and other programs.

Further, despite the fact that Congress granted Alaska civil and criminal jurisdiction over Alaska Natives under P.L. 280, the state government has failed in its responsibilities by not providing adequate law enforcement and judicial services to Alaska Natives in rural Alaska.

**A8. Assure that more BIA funding categories be made available to Alaska and that contract support be fully funded, and specifically that Congress and the BIA provide tribal law enforcement and tribal court funding to Alaska.**

**A9. Ensure that Alaska Native regional tribal organizations are eligible to apply for federal funds, as well as individual Alaska Native tribes.**

Training Native managers

The need for effective management of programs, projects, and self-governing institutions will grow as more Native communities take on contracting, compacting, project agreements, welfare program management, and other functions. That need can be met through the collaboration of Native organizations, both profit and non-profit, Alaska higher education institutions, tribal colleges, municipal associations, and other groups. The requirement now is for seed money to initiate Native self-governance management training programs. Once under way, it should be self-sustaining.

**A10. Provide assistance to the Alaska Federation of Natives to create an Institute of Alaska Native Self-Governance in cooperation with tribal colleges, the University of Alaska, and the Alaska Municipal League in order to provide training in general management, budgeting, personnel management, grant writing, negotiation, and other topics of interest to rural administrators and managers. A top priority will be increased capacity for economic development and project planning.**

Principal sources

Alaska Commission on Rural Governance and Empowerment, *Final Report to the Governor.* June 1999.

Alaska Federation of Natives, "Recommendations from Native Community: Self-Governance". Report of Hearings, 1999.

Alaska Federation of Natives, Annual Convention Resolutions, 1999 and preceding conventions.

Alaska Natives Commission, *Final Report.* 1994.

Cornell, Stephen et al, *Achieving Alaska Native Self-Governance.* The Economic Resource Group, Inc., and Institute of Social and Economic Research, University of Alaska Anchorage, 1998. Final Report – AFN Version, May 1999.

## B. CREATING JOBS AND ECONOMIC DEVELOPMENT

### Expanding economic opportunities in rural Alaska

New studies undertaken by the Alaska Federation of Natives show that little has changed since 1994, when the Alaska Natives Commission concluded in its final report that "acute and chronic" unemployment was undermining Native society. Simply put, **Alaska Natives need more jobs and economic opportunities, in both the urban areas (where many people have migrated to because of the depressed economic conditions in their home communities) and in rural Native villages.**

Developments since that report was issued pose new threats to Native employment. Already marginal economies in many rural Alaska Native villages may be constrained even further by the new time restrictions that federal welfare reform imposes on benefits to the poor and unemployed. Also, the number of young Natives reaching working age is outstripping the number of new jobs being generated, a trend that is predicted to continue for at least the next decade.

Despite this sobering picture, however, **there are promising approaches Congress and the federal government can take to increase Native hire.** Meeting in its annual convention in October 1999, the Alaska Federation of Natives membership enacted Resolution 99-07, entitled, "Expanding Federal Job Opportunities For Alaska Natives," specifying steps Congress and the federal government can take, both to carry out prior obligations to Natives that remain unfulfilled and to explore new ways to provide economic opportunities for Alaska Natives which outline the following initiatives.

> **B1. Support pending legislation to require the Department of the Interior to contract, in a demonstration project, with six Alaska Native tribes or tribal organizations to manage conservation units or other public land units lying in close proximity to these Native entities, providing adequate operating funds.**

### Expanding and enforcing Native hire and contracting

Despite the passage of nearly 20 years since Congress enacted the Alaska National Interest Lands Conservation Act of 1980, Department of the Interior efforts to assure compliance with the Native hire and Native contracting provisions of ANILCA have been wholly inadequate.

> **B2. Direct the Department of the Interior to comply with ANILCA's Native hire and Native contracting requirements.**

Only three of 18 federal agencies operating in Alaska -- the National Park Service, Fish and Wildlife Service, and Bureau of Land Management -- are authorized to limit certain job opportunities solely to local residents with special knowledge of local conditions.

> **B3. Expand local hire authority to all federal agencies operating in Alaska, and direct the recently formed Denali Commission to require Alaska Native**

**hire provisions in all forms of employment or contracting the Denali Commission may sponsor.**

The federal government has successfully employed the use of force accounting to complete numerous construction projects in rural Alaska but has largely confined the practice to village sanitation projects. Under force accounting, the federal government provides materials, equipment and a project manager, while local government sets wages, hours, and conditions of employment, giving rural communities a greater degree of self-determination and providing rural Alaska Natives with valuable training and work experience.

**B4. Expand the use of force accounting project management methodology to all federally funded construction projects in rural Alaska, where feasible, and, to maximize the number of jobs, grant permission on force accounting projects to pay wages at the local prevailing wage rate rather than at levels required by the Davis-Bacon Act.**

Coordinating Native hire

Previously, there existed a federally sponsored Alaska Native Employment Network, whose coordinator worked with federal agencies, Native organizations, and individual job applicants trying to work their way through the complexities of the federal hiring process. Although apparently effective, the network was disbanded because of lack of funding and agency support.

**B5. Establish and fund a statewide Office of Native Hire Coordination.**

Redefining unemployment

The Department of Labor and federal Bureau of the Census do not count those in rural Alaska who report not looking for work "unemployed", despite the fact that in many cases, the respondents say they are not looking for work because they realize there simply are no jobs available.

**B6. Direct the Department of Labor and federal Bureau of the Census to categorize non-working rural Alaska residents -- in communities where there is a jobs deficit – as unemployed in their official counts, even if the respondents report not looking for work.**

Developing transportation, energy and telecommunication infrastructure

Failure to provide adequate federal funds and limitations of the distribution formula for Alaska for the Indian Reservation Roads Program has resulted in a decades-long backlog of work that should have been funded by this program in rural Alaska. Inadequate funding has deprived rural Alaska of transportation infrastructure critical to economic development and of jobs that would have resulted from construction projects.

**B7. Authorize a continuing appropriation of $50 million annually for rural Alaska projects under the Indian Reservation Roads Program.**

**B8. Utilize federal authority and resources : 1) to ensure that state policies do not leave rural communities without light and heat due to exorbitant utility costs, and 2) to ensure continuing maintenance, upgrading and expansion of rural energy utilities that meet the fundamental needs of residential space heat, electricity and transportation.**

**B9. Utilize federal authority and resources to ensure that rural Alaska is not left behind in the development of worldwide telecommunications technology and of the economic opportunities that flow from it.**

Strengthening rural economies

A near-universal complaint during AFN hearings on jobs and economic development in early 1999 concerned the lack of outreach by federal agencies to Alaska Natives in rural Alaska. While there are many programs and grants that Alaska Natives could qualify for, the agencies overseeing these programs are centered in the state's urban areas and make very little effort to inform rural tribal councils and Native organizations of their availability. Even when they do learn of a program's availability, most of these councils and organizations are understaffed. Also, most have no one trained to negotiate the extremely complicated process required to successfully apply for these programs.

**B10. Specify that Alaska Native tribes, corporations and other organizations are authorized to participate, with the necessary funding, in programs designed to promote development and employment in rural America through programs overseen by various federal agencies, and specifically to:**

**a. Direct the Department of Agriculture to maximize efforts to notify Alaska Native tribes, corporations and other Native organizations of rural development grants and programs for which they qualify and provide the technical information and assistance needed to successfully apply for these programs.**

**b. Direct the Department of Commerce to place more focus on economic development in rural Alaska, including technical assistance, seed money for business enterprises, adequate funding for rural Alaska planners through the Office of Economic Development Planning, and greater outreach and assistance to Alaska Native tribes, corporations, and other organizations qualified for Section 8-A minority contractor set-asides.**

**c. Direct the Department of Defense to contract with Alaska native tribes, corporations, and other organizations and train Alaska Natives to provide services to the department, such as computer programming, that would meet critical Native employment needs and help eliminate the current practice of loosening federal immigration policies to import foreign workers to meet the department's programming skills requirements.**

Principal sources

Alaska Commission on Rural Governance and Empowerment, *Final Report to the Governor.* June 1999.

Alaska Federation of Natives, "Recommendations from Native Community: Jobs and Economic Development". Report of Hearings, 1999.

Alaska Federation of Natives, Annual Convention Resolutions, 1999 and preceding.

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McDiarmid, G. Williamson et al, *Expanding Job Opportunities for Alaska Natives.* Institute of Social and Economic Research, University of Alaska Anchorage, November 1998.

## C. DEALING WITH ALCOHOL, DRUG AND INHALANT ABUSE, DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND RELATED PROBLEMS

Strengthen ability to deal with problems

This study, the Alaska Rural Governance Commission report, and other recent studies fully support and reinforce the findings of the Alaska Natives Commission that the tragic consequences of alcohol, drug and inhalant abuse in Alaska villages can only be resolved at the village level by Native people and tribal governments.

The Alaska Commission on Rural Governance and Empowerment report specifically recommends that tribes, through federal legislation, be empowered to find local solutions through enforcement of tribal ordinances in areas surrounding their villages and that there be adequate funding to effectively enforce, adjudicate, and otherwise implement tribal programs.

All studies and statistics demonstrate that domestic violence, sexual assault, child abuse, and other forms of violence are rampant in Alaska, and Alaska Natives, particularly women and children, are disproportionately victims of these crimes that violate the basic right of human beings to be safe and free from violence in their own homes and in their communities

AFN, therefore, recommends that Congress and, as appropriate, the Administration, take the following steps:

**C1. Establish clear civil and criminal authority for Alaska tribes to develop effective local programs to have control over and respond to alcohol, drug and inhalant abuse, domestic violence, and sexual assault at the community level -- and provide the necessary funding.**

**C2. Increase funding and support for programs that provide community outreach and education efforts, village initiatives, direct services for victims, and other innovative approaches to prevent domestic violence, sexual assault, and other violence against Alaska Native women and their families.**

**C3. Adequately expand program funding support to meet the needs of individuals and target groups, rather than reducing services to all because of limited appropriations.**

**C4. Provide for specific grants from the Attorney General to tribes and regional tribal consortia to assist Native communities with development of tribal ordinances prohibiting the use, manufacture, and importation of alcohol in their villages and with development and implementation of effective systems of enforcement and adjudication of such ordinances.**

**C5. Support the ability of Native communities to combat substance abuse by providing funding for local and regional programs through set-aside money designated for Alaska Native projects within the National Institutes**

**of Health and the Substance Abuse and Mental Health Services Administration.**

Alcohol and substance abuse

Fetal Alcohol Syndrome (FAS), Fetal Alcohol Effects (FAE), and other Substance Abuse Related Birth Defects (SARBD) are completely preventable. Yet, they are still entirely too common, not only in rural Alaska Native villages but also among Natives living in Alaska cities. The burdens on families and communities are extremely high: the estimated monetary lifetime cost of medical, disability services, and long-term care for each individual with FAS is $1.4 million. Agreement is widespread that there is an urgent need for a comprehensive community-based approach to prevent FAS/FAE/SABRD and for a coordinated approach to diagnosis, treatment planning, treatment and service delivery.

**C6. Assist Alaska tribes, regional tribal consortia, and non-profit organizations with the prevention and treatment of Fetal Alcohol Syndrome (FAS), Fetal Alcohol Effects (FAE), and other Substance Abuse Related Birth Defects (SARBD) through the following actions:**

**a. Provide long-term support for a sustainable effort to implement and maintain prevention and early intervention substance abuse programs designed specifically for Native women of childbearing age and for young girls before they reach that age. Child care and family support systems must be provided for women in treatment.**

**b. Support multi-disciplinary approaches for diagnosis, treatment planning and treatment, cognitive retraining, and other special educational services for Native children and youths; group homes; and other activities to deal with those affected by FAS/FAE/SABRD.**

c. Articulate FAS/FAE/SABRD as billable under Medicaid and other reimbursement programs.

**C7. Develop and support innovative initiatives between treatment programs and domestic violence/sexual assault victim assistance programs. Support intervention models that address both substance abuse and domestic violence as separate but related issues.**

**C8. Develop and support initiatives to organize alcohol and drug abuse programs to respond to gender needs. (eg. Burden of family responsibility, absence of adequate child care for Native women seeking treatment)**

**C9. Develop and support initiatives within alcohol intervention treatment programs to specifically address the behavioral consequences of alcohol abuse. (eg. Child abuse, sexual crime, and domestic violence)**

Family Resource Centers

Disparate programs exist to deal with problems of infants, children, the disabled, the elderly, and others, as well as for alcohol and drug use, physical and sexual abuse, and mental health. We propose to bring together the resources of all such programs to help

the community heal itself and its members holistically, without social stigma attached to any individual or family. This is particularly critical for the future, because in many villages 50 to 60 percent of the population is under 18 years of age.

> **C10. Establish and appropriate funds for a major demonstration program in Alaska communities to set up family resource centers that are open to all members of the community and that provide a focus for all programs for children and families. It is recommended that at least $50 million be authorized at $10million a year for five years.**

Principal sources

Alaska Commission on Rural Governance and Empowerment, *Final Report to the Governor.* June 1999.

Alaska Federation of Natives, "Recommendations from Hearings: Alcohol Abuse / Domestic Violence". 1999.

Alaska Federation of Natives, Annual Convention Resolutions, 1999 and preceding conventions.

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Cornell, Stephen et al, *Achieving Alaska Native Self-Governance.* The Economic Resource Group, Inc., and Institute of Social and Economic Research, University of Alaska Anchorage, 1998. Final Report – AFN Version, May 1999.

Institute for Circumpolar Health Studies, University of Alaska Anchorage, *Alaska Natives Combating Substance Abuse and Related Violence Through Self-Healing.* January 1999.

## D. SUPPORTING ALASKA NATIVE EDUCATION

Reauthorizing the Alaska Native Educational Equity, Support and Assistance Act

A key finding of the Alaska Natives Commission was **the critical need to create and implement programs designed to improve the quality of education for young Alaska Natives.**

The Commission found that innovative education programs were needed to help reverse the deterioration of socio-economic conditions and the poor educational performance of many Alaska Native children, the majority of whom attend schools in small and remote traditional Native villages.

The Commission also urged that parents and community leaders become compelling voices in directing Alaska's formal education system; that the education system employ teachers and administrators knowledgeable about Native cultures and respectful of them; and that Alaska Natives receive an integrated education -- one that provides them not only with the skills to succeed in life, but also the understanding necessary to carry on their cultures' community values.

Other studies have noted a differential between Native men and women in the attainment of higher education and the reasons for and impacts of this need further analysis.

In response to these findings and recommendations, Congress adopted the Alaska Native Educational Equity, Support and Assistance Act of 1994 (108 Stat. 3805; 20 U.S.C. § 7931), incorporating it into the Elementary and Secondary Education Act. Although funding for Alaska Native education programs created under the Act was not authorized until 1997, **the Alaska Federation of Natives believes these new programs already have shown they can be of immense value in achieving the educational goals for Native children recommended in the 1994 commission report.**

AFN, therefore, recommends that Congress:

**D1. Reauthorize the Alaska Native Equity, Support and Assistance Act of 1994.**

**D2. Incorporate additional titles into the act to provide for Native language revitalization, including Alaska Native language immersion projects and the Alaska Rural Systemic Initiative/Rural Challenge Program.**

**D3. Increase funding under the act and the additional titles to a total of $25 million annually, to expand the number of Native communities able to participate.**

**D4. Assess the implications of gender differential between Native men and women in attainment of higher education and implement strategies and appropriate programs to improve the success of all Alaska Natives in higher education.**

Program administration

Under the act, three new education assistance programs – in the form of grants-in-aid administered by the U.S. Department of Education – were made available to Alaska Native organizations. They are the Alaska Native Educational Planning, Curriculum Development, Teacher Training and Recruitment Program, (Sec. 9304); Alaska Native Home-based Education for Preschool Children (Sec. 9305); and Alaska Native Student Enrichment Programs (Sec. 9306).

Under current procedures, eligible Alaska Native organizations -- tribal entities, nonprofit associations and other groups acting alone or in partnership with schools or educational association – apply to the Department of Education for grants to participate in these programs. While changes in management are needed, the involvement of Alaska Natives is essential to achieving program goals.

**D5. Continue issuing grants to Alaska Native organizations, acting alone or in partnerships.**

DOE has not promulgated regulations specific to Alaska; instead, Alaska programs are governed by general regulations applicable across the whole country. The Alaska Federation of Natives has had some role in setting guidelines for grants and in subsequent project evaluation, but more complete Native involvement is called for.

A more effective and comprehensive management approach to improving the education of Alaska Natives can be achieved by having all the programs under the act lodged in Alaska and managed by an Alaska Native entity. Fuller Native involvement will result in greater synergy and continuity.

**D6. Provide overall funding and management responsibility for programs under the Alaska Native Equity, Support and Assistance Act to an Alaska Native institution, rather than to the Department of Education.**

**Alaska Native Archives and Research Center**

Alaska Natives have experienced dramatic change during the past several decades as the result of rapid economic, demographic and technological development. But the dynamics of these changes are little understood by Native people and only minimally grasped by social scientists and policy makers.

Major examples of profound change include passage of the Alaska Native Claims Settlement Act, development of regional non-profits into major service providers, operation of ANCSA corporations throughout the state, the rebirth of tribal governments and the re-assumption of local powers and responsibilities, the persistent economic underdevelopment of rural Alaska, and the epidemic of behavioral pathologies in Native communities. Public policy does not keep pace with such rapid evolution because Natives and non-Natives alike don't understand the relationships between cause and effect, the individual and society, or technology and human behavior. There is a great need for social science research and analysis of such factors as a prerequisite to better governance and a healthier society.

There also is a critical need to preserve the historical record of life in Native communities and of the efforts undertaken by Native institutions to improve the standing of the people they represent, especially over the four decades that have passed since the Congress granted statehood to Alaska in 1959. The archival needs of Native institutions cannot be met by present resources. Instead, a federal effort to collect, maintain and use such documents is a necessity.

These twin requirements of research and collection must be affiliated with one or more academic institutions in order to ensure professional standards and top rate Native researchers.

**D7. Utilize federal authority and resources to create an Alaska Native Archives and Research Center in Alaska.**

## E. PROTECTING THE SUBSISTENCE HUNTING AND FISHING RIGHTS OF ALASKA NATIVES AND OTHER RURAL RESIDENTS

The right to adequate food for oneself and one's family is a human right enumerated in the Universal Declaration of Human Rights of the United Nations Charter. Moreover, the protection of the aboriginal practice of subsistence hunting and fishing in Alaska is now the law of the land. As noted by the Alaska Natives Commission " subsistence is....a critical part of the larger historical question about the status, rights and future survival of Alaska's aboriginal peoples. The economic and cultural survival of Native communities is the principal reason why Congress enacted its rural subsistence priority in 1980. By articulating the federal government's traditional obligation to protect indigenous citizens from the political and economic power of the non-Native majority. Title VIII of ANILCA constitutes a landmark of Indian law. Such congressional action was...constitutional and appropriate."

Without a state rural subsistence statute, Alaska is out of compliance with ANILCA and the requirements of federal law. Because the Alaska legislature has refused for ten years to submit to the voters a constitutional amendment that would allow a rural priority in state law, the federal government has taken over regulation and management of subsistence hunting and fishing on all federal public lands and waters (almost two-thirds of Alaska's domain).

### Strengthening federal protection of subsistence

**E1. Congress should enact amendments to Title VIII of ANILCA that strengthen federal protections of subsistence, in particular:**

**--Congress should require that, at any time the state is out of compliance, federal jurisdiction shall include all federal public lands and reserved navigable waters, all selected but unconveyed lands under the Statehood Act and the Alaska Native Claims Settlement Act, Native lands considered Indian country, any conveyed ANCSA lands agreed to by the Native corporations owning them, and federal "extraterritorial" authority over subsistence on state or other private lands and waters in order to provide for subsistence on federal lands and waters**

**--Congress should specifically provide for a subsistence defense in state or federal courts for any person accused of a fish or game violation**

**--Congress should add "cultural and religious" uses to the list of protected subsistence uses in Title VIII**

**--Congress should provide full statutory protection of the subsistence practices of Native communities which, through no fault of their own, have been dropped from the category of "rural" by non-Native population growth and socio-economic change -- recognizing that neither proxy hunting and fishing nor discretionary**

**cultural/educational subsistence permits will adequately address this need**

**--Congress should require that federal agencies and the state contract to Native institutions, particularly to tribes and tribal consortia, as many subsistence management functions as are feasible and proper -- and that such delegated functions of co-management include effective roles in the regulatory process itself and in enforcement on the ground, not just counting fish runs, gathering soil samples, and monitoring harvests**

**Maintaining federal statutory protection of subsistence**

The only legal force that can ensure the continued existence of rural and Native communities in Alaska is the power of federal law – which is why anti-subsistence groups are so determined to destroy Title VIII's rural priority, just as they removed it from state law in 1989. Anti-subsistence state legislators demand congressional amendments to the federal statute as the price of a state constitutional amendment, since they would be delighted to allow state compliance with a toothless federal law that reduces subsistence rights to unenforceable rhetoric. AFN urges the Congress not to be drawn into that game and to stand fast in defense of the poorest and more traditional indigenous people in the nation.

**E2. Congress should not enact any amendment to Title VIII of ANILCA that Weakens current federal protections of subsistence, in particular the Congress should not incorporate into federal law: the current definition of Customary and traditional (the key term in defining subsistence); nor, diminish the current federal requirement that subsistence regulations cause the least adverse impact on local customary and traditional practices; not diminish the powers of federal courts or administrative agencies to oversee and enforce Title VIII protections; nor, require federal judicial deference to state decision or eliminate secretarial oversight or authority when the State is in compliance with federal law or allow state agencies discretion to define customary trade.**

**Subsistence and the federal role**

AFN commends to the Congress and other policy-makers the findings and recommendations of two landmark studies of Alaska Native needs: the 1994 Report of the Alaska Natives Commission and the 1999 Report of the Governor's Commission on Rural Governance and Empowerment.

## APPENDIX. AFN-COMMISSIONED STUDIES

Three major research studies were commissioned by the Alaska Federation of Natives to help provide the Native community with implementation of Alaska Natives Commission recommendations. Each study reviewed the existing situation in Alaska, identified problems and successes, examined pertinent experiences in the United States and Canada and in other countries, and provided directions for future policies and programs. The consultants' reports do not include recommendations, as that is the responsibility of the Native community.

Study reports can be found on Alaska Native Knowledge Network, as referenced below. The contents and executive summary depict the scope of each study.

Cornell, Stephen et al, *Achieving Alaska Native Self-Governance.* The Economic Resource Group, Inc., and Institute of Social and Economic Research, University of Alaska Anchorage, 1998. Final Report – AFN Version, May 1999.
[http://www.ankn.uaf.edu/Self-Gov2.pdf]

McDiarmid, G. Williamson et al, *Expanding Job Opportunities for Alaska Natives.* Institute of Social and Economic Research, University of Alaska Anchorage, November 1998.
[http://www.ankn.uaf.edu/ISER/coverack.pdf]

Institute for Circumpolar Health Studies, University of Alaska Anchorage, *Alaska Natives Combating Substance Abuse and Related Violence Through Self-Healing.* January 1999.
[http://www.ankn.uaf.edu/afnreportsub.pdf]

**TESTIMONY OF**
**LORETTA BULLARD**
**PRESIDENT OF KAWERAK, INC.**
**CHAIR OF THE A.F.N. HUMAN RESOURCES COMMITTEE**

**BEFORE THE COMMITTEE ON INDIAN AFFAIRS**
**UNITED STATES SENATE**
**MAY 10, 2001**

**HEARING ON ALASKA NATIVE ISSUES**

Mr. Chairman and Members of the Committee, thank you for the opportunity to speak today on goals of the Alaska Native community for the 107th Congress. My name is Loretta Bullard. I am President of Kawerak, Inc., which is a non-profit consortium of 20 federally recognized Alaska Native villages in northwestern Alaska. Kawerak administers most BIA services in our region by compact under Title IV of PL 93-638, and we have recently entered a Title I contract to operate the BIA Indian Reservation Roads program for 18 villages. My remarks therefore come from the perspective of a BIA tribal contracting organization.

I would like to address three Alaska-specific issues, and then touch briefly on several national legislative issues.

I. Indian Reservation Roads Funding

First, AFN has included in its federal packet this year a request that $50 million in Indian Reservation Roads funds be earmarked for Alaska, and that Alaska be taken out of the national funding distribution system for this program. I have attached to my written testimony a copy of our justification paper for this request.

Mr. Al Ketzler, Sr. of the Tanana Chiefs Conference, Mr. Gideon James of Venetie, and myself have served as the Alaska representatives to the IRR negotiated rule-making for the past two years, and I can only say the experience has been extremely frustrating. Although I believe the rule-making will eventually result in improved program regulations, there is entrenched resistance within the Bureau of Indian Affairs to making needed changes in the funding system.

The existing funding formula is deeply flawed. Fifty percent of the funding is allocated according to the costs of making improvements in the BIA road system, and 30% according to "Vehicle Miles Traveled," which is a measure of usage. This may superficially make sense, until you realize that both of these components – 80% of the formula – *is linked to an inventory limited to existing BIA-owned roads.* Thus the BIA allocates the funds primarily according to where it has built roads in the past, disregarding the need for new construction or the transportation needs of tribes that have historically been underserved. The remaining 20% of the formula is distributed by

population, which does not address the imbalance because in general it is the small and medium population tribes that have not been served by the IRR program.

I will note that for Alaska, Congress used appropriations act riders in the mid 1990's to partially correct this problem. Congress required the BIA to include planned roads from a 1993 Juneau Area Plan in its inventory for funding purposes. Without that rider, Alaska would have received next to nothing under the IRR formula. However, the 1993 BIA Area Plan only skimmed the surface of actual needs, and left many villages out altogether. No one actually visited the villages to do roads planning.

To illustrate the unfairness of the formula, the BIA's identified IRR construction cost need in 1999 was about $6.4 billion. $204.1 million was available nationally for IRR construction. The amounts have since gone up, but I am using 1999 figures because that was the last year the formula distribution was unaffected by the negotiated rule-making. . At the 1999 appropriated amount it would take about 31 years nationally to meet the IRR construction cost need. One would think all tribes and BIA Regions would thus be getting about 3.2% of their need met every year, and about 19% over the six-year period of TEA-21.

But when we ran the equivalent numbers for Kawerak's villages, we discovered that we were on about an 80-year plan, and this is using the BIA's superficial inventory of need and undercounted construction costs. The formula only generates about $1/80^{th}$ of our identified need annually. This is because the population and VMT components of the formula divert money away from tribes with small populations or undeveloped roads systems, regardless of how badly they may need a particular project. Alaska as a whole was getting its identified construction need met at 1.8% annually, Navajo Region at about 4%, and Eastern Oklahoma at 6.1%.

While this figures illustrate that the IRR program nationally is badly under-funded, they also underscore that the BIA is not meeting the need evenly. A formula distribution that meets the need of some regions twice or even three times as fast as other regions is badly flawed.

In fact, the vast majority of tribes nationally are not allocated enough funds by the formula to realistically do much if any work within a highways act authorization cycle. This is because road projects can't generally be done 2 or 3% at a time. A hypothetical small tribe that only needs one project is only generating a tiny fraction of the cost for its project in any year. In Alaska, it costs between 1 and 2 million dollars per mile to build a two-lane gravel road to FHWA standards. The annual formula share of most Alaska tribes is less than $100,000, and in many instances less that $25,000. This not just true in Alaska – 22 of the tribes in Portland Area were attributed less than $25,000 in FY 1999. It is not feasible and would not be cost efficient to build a road project $25,000 at a time.

Historically, in Alaska the BIA bundled funds into fairly large-scale projects and only served a few of the 220-plus eligible villages in any authorization cycle. In other Regions, the funds generated by small tribes are also pooled with other tribes, typically larger tribes that have annual construction activity. In theory, the BIA could keep track of which tribes' funding goes where to ensure that over time all tribes received their full construction share, but it would literally take at least 80 to 100 years of tracking to make the system work out. A formula that only works if applied over multiple generations, is broken.

Another fundamental problem with the IRR funding system is that it is based on a massively complex inventory and data management system that must be updated regularly. The tribes and BIA program staff have to do a considerable amount of planning and inventory management work in order to fully participate in the program. But the BIA allocates its 2% tribal planning funds and its program management funds to the regions according to how much construction funding they receive. The problem with this is a region or tribe doesn't do well in its construction allocation unless it has already done its inventory development and planning work.

Further, the cost to the BIA Region of program management work has little to do with the amount of construction funding it receives. I can assure you that BIA program management costs in Alaska, for 227 tribes mostly only reachable by air, is a lot higher per IRR construction mile than it would be in more geographically compact regions serving fewer tribes.

The IRR funding system is designed to work only for tribes that have historically had large BIA construction programs and generate enough funding under the formula to have projects every year – which is probably no more than 10% of the tribes nationally.

Although the proposed IRR regulations developed in the negotiated rule-making will ask for comment on two alternative formulas, one of which Alaska supports, I do not believe the BIA will change the system sufficiently to make it work fairly. The senior federal officials at the negotiated rule-making never defined the task of the rule-making as developing a "new" formula as opposed to "a" formula. One of the formulas to be published for comment is just the old formula, with some improvements to the inventory management system the BIA was planning to make anyway. It is very clear which formula BIA Central Office supports.

We believe Alaska would be better served outside the national system altogether than to continue under the old formula. In fact, it is very difficult to develop a single formula that adequately addresses Alaska's needs and those of reservation-based tribes with developed BIA road systems. Their needs are mostly to maintain and upgrade an existing road network. Most of our needs are for new construction of relatively short roads, i.e. access roads to new housing projects, landfills, mineral resources, etc. Virtually any development undertaken in our communities requires some new road construction, because so few developed roads exist now. Village Alaska also has a huge unmet need for boardwalks, trails, winter trail staking, dust abatement and similar projects that are allowable uses of IRR funds but do not generate funds under the formula.

Although a $50 million earmark may seem high out of a $275 million appropriation amount, I believe it is actually low if Alaska Native villages had fully developed inventories of eligible projects and if the BIA was using up-to-date construction cost data. Alaska has been so under-served by the IRR program, few people knew how to make the system work. If nothing else, the negotiated rule-making is changing that.

Alcohol Enforcement Jurisdiction

The second goal I wish to address is that Congress legislatively extend tribal enforcement jurisdiction for alcohol and substance abuse violations. As this Committee is well aware, in Alaska our villages do not have reservations. There is little or no formal "Indian Country" within which our tribal governments exercise jurisdiction. Most Native land is owned by corporations created under the Alaska Native Claims Settlement act, and is not tribal land, per se.

The federal courts and to some extent the state courts recognize that our tribal governments have some judicial authority, most notably in the context of children's cases under the Indian Child Welfare Act and matters that are purely internal tribal matters. It is still unclear whether jurisdiction over tribal internal matters extends to core health and safety problems or to juvenile proceedings, but it is unlikely the courts would recognize that our tribes have much authority over individuals outside of the context of ICWA and family matters.

This creates a gaping hole in government services at the village level, because the state law enforcement and judicial systems are not designed to deal with minor criminal problems in remote villages and do not have the resources to do so. Kawerak and several of the other regional Native organizations developed proposed statutory language last year that would ensure our villages have tribal jurisdiction to enforce alcohol and substance abuse laws within their communities. The legislation ran into objections from the state and was not introduced in the last Congress.

We are simply asking that Congress confirm the jurisdiction of tribal governments in Alaska to deal with alcohol and drug problems. I do not need to detail the social costs to rural Alaska caused by alcohol and drugs. It is astronomic, and the state system is too remote and under-funded to address the problem on a day-to-day basis. Although the state allows villages to ban possession of alcohol under state law, state local option laws can only be enforced in state courts in the regional centers. Enforcement is only by state officials, because even city governments, where they exist, cannot afford to pay for the transportation and prosecution costs. There are no municipal courts in Alaska, and many villages have no law enforcement at all except for the state troopers based in the regional centers. The state will never have the resources to provide magistrates and peace officers in every village.

Alcohol and drug offenses, particularly by juvenile offenders, must be handled quickly and close to home, or the problems escalate. The tribal governments are the only entities in position to do this.

As proposed, our language would require that a village have consistent tribal and state "local option" alcohol laws. The village's territory for enforcement purposes would be its core township as defined in ANCSA. The details of the language could be worked out, but our village tribal governments need the clear authority to deal with alcohol and substance abuse problems at home.

Federal Land Management Contracting

The third Alaska issue I would like to address is our continuing request that Congress expand self-governance contracting in Alaska to allow tribal organizations to contract some Interior Department functions, in addition to the BIA programs. This should extend all the way to managing park or wildlife refuge units.

Part of the background of this request is that when the Alaska National Interest Lands Conservation Act (ANILCA) expanded the park and refuge system in Alaska in 1980, Congress also provided a local hire preference for jobs within the federal conservation system units. Section 1308 of ANILCA provided that people with special knowledge or expertise because of their history in the area were eligible for hire outside normal civil service rules. Sections 1306 and 1307 of ANILCA also provided a preference for using Native lands for federal facilities, and a preference to Native corporations in providing visitor services. With the exception of putting facilities on Native lands, the Interior Department has not lived up to these promises.

Title IV or PL 93-638, added in 1994, theoretically opened the door to Native compacting of non-BIA Interior Department functions, but the Interior Department has taken a very narrow view of this law. Essentially they have concluded that the only functions the tribes have a right to compact are specifically Native programs they already had the right to contract. Everything else is discretionary with the agency, and they have not exercised their discretion to allow compacts.

Kawerak actually had the first Title IV compact agreement with the National Park Service in the country, in 1996, which was funded from the NPS Beringia project and was used for our Eskimo Heritage program. We viewed this as an annual agreement that would be renewed so long as we provided the service. NPS treated it as a grant and phased it out after a couple of years.

Senator Murkowski worked hard on the local hire issue; we appreciate SB 748 regarding Native hire last year, which was enacted as P.L. 106-488. Even if the NPS and Fish & Wildlife do improve their hiring statistics, they are unlikely to train and promote Natives to management positions.

We believe legislation creating a demonstration project for actual Native contracting of the federal land-management operations is needed. Please bear in mind that in many places Alaska Native villages are surrounded by federal conservation units; what may seem like wilderness to people here in D.C. is often the backyard of Alaska Natives. As a people, we are highly reliant on fish, game and plant resources for food and for sustaining our way of life generally. Subsistence largely defines who we are. No one is more concerned about conservation than we.

AFN developed proposed legislation last year that would create up to 12 pilot projects for federal lands contracting in Alaska, based on the number of Alaska Native regions. It was written broadly enough to encourage different types of contracts. In our region for example, there is just one park system unit – the Bering Land Bridge National Monument. It might be suitable for Kawerak or another tribal organization to manage, as a unit. But elsewhere tribal organizations would likely be more interested in contracting the federal subsistence management functions, or other particular programs.

Congressman Don Young introduced a bill last year, H.R. 2804, that tracked AFN's proposal. Some of the non-profit lawyers are working with his staff on revisions, and I expect it to be reintroduced in this Congress. We hope that companion legislation will be introduced and passed in the Senate.

Before concluding, I would like to touch briefly on a few national Indian priorities:

First, I would like to express appreciation to Senator Campbell and the co-sponsors of S.344, a bill to amend the Transportation Equity Act for the 21st Century with respect to Indian tribes. We fully support this legislation, and in particular the creation of a demonstration project for tribes to contract the IRR program directly from the Department of Transportation.

Although not related to S.344, I would also urge Congress to increase the funding for roads maintenance in the BIA budget. One of the problems with the IRR program is that because maintenance is so poorly funded, at about $26 million nationally, the IRR construction budget is being used for deferred maintenance.

Second, Congressman Don Young of Alaska is introducing a bill to make technical amendments to PL 93-638 regarding contract support costs. This proposed legislation would enable tribal contractors with stable indirect cost rates to receive full contract support as part of their base funding, but would limit future increases in contract support to the inflation rate. We believe this is a reasonable approach. The current system where contract support is capped in the appropriations acts at levels that are 88% or 90% of actual costs causes program funds to be redirected for administrative overhead, but does little or nothing to encourage savings.

Third, Congressman Young is also introducing amendments to the Indian Child Welfare Act. This bill would clarify the jurisdictional provisions of the Act and would also impose deadlines on tribal interventions and the revocation of consents to adoptions. The Indian Child Welfare Act has been one of the great success stories of federal legislation regarding Native Americans, but it periodically comes under political attack. It in fact has some flaws that could be corrected. Although Kawerak has not done a section-by-section analysis of the latest proposed amendments, we agree with Congressman Young's approach and believe that this Congress should enact ICWA amendments.

Fourth, an informal task force of self-governance tribal leaders and attorneys is working on proposed amendments to Title IV of PL 93-638. Title IV is rather short, and its lack of detail led to unnecessary impasse issues in the Title IV negotiated rule-making. These proposed amendments would make Title IV more consistent with Title V. They are a work in progress, and should be ready for submission to both Houses of Congress by August.

Mr. Chairman, this concludes my remarks. Thank you again for the opportunity to testify.

**ATTACHMENT I**
**To the Testimony of Loretta Bullard**
**Senate Indian Affairs Committee**
**May 10, 2001**

## ALASKA SET-ASIDE OF INDIAN RESERVATION ROADS FUNDS

**AFN urges Congress to allocate $50 million annually for the Indian Reservation Roads Program in Alaska.**

Alaska Native villages have always been statutorily eligible to participate in the Indian Reservation Roads program, but they have never received an allocation from the Bureau of Indian Affairs which fairly reflects the high costs of construction in Alaska or the fact Alaska Native villages are starting from virtually a zero base of ground transportation infrastructure. AFN believes it unlikely that the BIA will ever treat Alaska equitably in funding this program, unless Alaska funding is earmarked by Congress.

Virtually every development project in rural, Native Alaska requires at least some road construction. Roads are needed for new housing projects, for landfills, for sewage treatment facilities, and for virtually any expansion undertaken by a community not already on the road system. Further, there is huge unmet need for boardwalks, winter trail staking, winter road maintenance, and similar projects which are eligible for IRR funds, but which are not funded by the BIA's allocation system.

The BIA's existing "relative need" formula simply does not take Alaska's needs into account. Although Congress required the BIA to count planned roads in the Juneau Area Transportation Plan in the national inventory for funding purposes, and the Bureau does so, in virtually every other respect the national funding methodology appears tailored to keep Alaska's share artificially low. Some of the flaws of the exiting system are:

- Fully 80% of the funding is allocated based on an inventory of existing BIA-owned roads. For Native villages that have no roads, this appears to be the opposite of a true needs-based formula. The BIA treats the program as a deferred maintenance program for roads it owns in the Lower 48 states, rather than as a new construction program.

- Alaska's planned roads are not given credit for "vehicle miles traveled," which is 30% of the formula.

- In Alaska, the BIA normally will not take ownership of the new roads it builds, and thus its new roads are not added to the inventory for funding purposes.

- The BIA excludes the Native population in Anchorage and Fairbanks from its population data, which constitutes 20% of the formula, even though the entire state is considered a BIA service area for all other BIA programs.

- In determining construction costs, which account for 50% of the formula, the BIA data takes no account of the costs of project mobilization in remote areas or of the particular costs of building roads on permafrost or on muskeg. In short, cost components that are particularly high in Alaska are not even included as components when the BIA runs the data.

- The funding formula depends on a massively complex inventory and cost reporting system which requires annual updating, is subject to manipulation at many levels, and is not verifiable by outside parties.

To all appearances, the BIA funding system is designed to protect tribes that are already in the IRR system and allow them to expand their road programs, while effectively locking out tribes that are not in the system. The planning and reporting requirements necessary to make the inventory system and funding formula work are un-funded mandates for tribes that do not already have an annual road construction program. Alaska villages have historically received only about $1300 per year in IRR planning funds[1]. They are competing against tribes that have construction projects every year, and fully staffed tribal transportation departments.

Representatives from Kawerak, the Tanana Chiefs Conference, the Native Village of Venetie, BBNA/Curyang (Dillingham), and the Sitka Community Association participated in the IRR negotiated rule-making, which began in March of 1999 and concluded its work on proposed regulations in December of 2000. Although progress was made, particularly in regard to program regulations, no permanent formula was agreed upon. The Negotiated Rule-Making Committee decided to publish two proposed funding formulas for public comment. One option, the "Modified Relative Need Formula," is essentially a "no change" option. It would make some improvements in the BIA's calculation of road construction costs but would otherwise leave the old relative need formula in place. By imposing restrictions to additions to the BIA road inventory, this option would make the situation worse for Alaska Native villages.

Alaska representatives at the IRR Rule Making helped develop the other formula option, called the "New Relative Need Formula," which would provide a small minimum allocation for all tribes to meet un-funded mandates for participating in the program, expand the inventory so that all tribes' ground transportation needs are counted, and otherwise make improvements to the formula.

[1] Interim funding allocations resulting from the IRR Negotiated Rule-Making in FY 2000 and FY 2001 made additional transportation planning funds available for those years.

However, the "no change" formula is clearly preferred by BIA Central Office. It was drafted by representatives of tribes that receive the most funding and by BIA staff. Unless the composition of the BIA administration changes, there is virtually no chance

that the BIA will use the New Relative Need Formula supported by Alaska as the basis for the permanent formula.

Alaska's lack of roads makes our villages unique compared to Lower 48 tribes. It is in fact very difficult to develop a national formula. Most of Alaska's needs are for new construction, not for improvement of an existing highway system. We often need improved trails or single lane roads rather than roads built to FHWA standards. The remoteness of our villages, our environmental extremes, and the cost of mobilizing construction projects off the existing road system make it difficult to develop one formula that fits Alaska Native villages and also tribes in the Lower 48 states.

For these reasons AFN believes an Alaska set-aside is appropriate. An increase to Alaska of $50 million is not unreasonable given the costs of construction in rural Alaska, and the number of eligible villages.

# Testimony

## U.S. Senate Committee on Indian Affairs
## Hearing on the Alaska Federation of Natives
## Legislative Priorities for the 107th Congress
## May 10, 2001

## Coordination of Social Service Programs

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**Coordination of Social Service Programs**

There are millions of federal social services dollars expended in Alaska each year. Social service programs funded range from food and nutrition, to alcohol and drug prevention and treatment, to domestic violence responses, to education and employment assistance. The current system of service delivery is fragmented and administratively burdensome. The delivery of these services needs to be coordinated into an integrated system.

The current delivery system needs to be changed to care for the whole person not one issue at a time. People who are experiencing hardships very often have an array of problems that began earlier in their lives and in some cases these problems are now multigenerational. Physical or sexual abuse, alcohol and drug abuse, domestic violence, joblessness and financial hardships complement each other and unfortunately affect the entire family especially the children. The array of issues that plague many Alaska Native families are more than any one program can handle individually. A framework needs to be developed that is capable of addressing a client's issues through a holistic approach.

The Alaska Federation of Natives recognized this situation and addressed it in the Implementation Plan presented to Congress two-years ago. Guided by this document the Native community is addressing the issue in various ways. One current approach to the concept of coordinating the social services programs in Alaska began with a $50,000 grant that flowed from the federal government to the State of Alaska – Healthy Families program. The Bristol Bay Native Association was the recipient of this grant and is developing a demonstration project to locally coordinate social service programs in the Bristol Bay region of the state.

The Alaska Federation of Natives is also preparing a development plan to integrate service delivery of social services through a grant provided by the 106th Congress. The AFN development

plan has a multi-tiered approach. One ties in directly to the Bristol Bay Native Association's efforts of developing a demonstration project that coordinates services in remote Alaska communities. A second component, happening simultaneously, will bring State and federal policy makers together to address policy issues related to integrating social service programs and to redefine collaboration and coordination of services. Change needs to occur at the State and federal agency levels in order for continuing implementation at the point of service.

The long-term goal for coordination of social services programs will need to be addressed through legislation similar to Public Law 102-477. Senator Nighthorse- Campbell recently introduced similar legislation on behalf of this committee. In order for services to improve in remote Alaska communities that have limited financial and human resources, the programs need to be consolidated in a manner which reduces the redundant administrative burden. Many tribal organizations in Alaska operate from ten to thirty individual grants which all have separate reporting and fiscal requirements. These grants also have different eligibility requirements and separate intake and assessment processes. For example: The Bristol Bay Native Association operates seventeen DHHS programs; staff must make 17 separate grant applications for related programs, developing over 680 pages of program narratives, separate sets of budgets, budget narratives, standard forms and assurances. Staff also does 130 separate quarterly, semi-annual, and annual program and financial reports. These have different eligibility requirements and a separate intake and assessment process. Many of them have similar components such as home visitations. A dysfunctional family with young children could have 3 - 4 different people visiting their home within one week. Such intrusiveness turns people away from needed services. Instead of developing services attentive to client's and community needs, program staff is becoming expert at cutting and pasting multiple government documents.

The demonstration project being undertaken by the Bristol Bay Native Association is developing 6 Family Resource Centers in 2 small, 2 medium and 2 large communities. This project will have a number of different goals that will be developed simultaneously. They include: 1)

organizing the communities for grassroots planning to scope and address the social service issues within their communities; 2) coordinating service providers to eliminate duplication of services and developing a holistic approach to service delivery with shared training programs. 3) to explore and develop the various avenues for long-term operational funding for the centers; 4) to explore and secure funding to build the physical structures;

We envision these centers to be places where existing agencies could schedule and conduct on-going activities. Each will serve as an information/referral center for strengthening families. Most important in the design of these centers will be to maintain them as places where parents would be comfortable, where no stigma is associated with participation in center activities and services for clients and the community. New, energy efficient facilities with enough private space to permit all providers to effectively deliver services will replace numerous cold, drafty, poorly lit, cramped offices with limited provisions for confidentiality.

A second, AFN component, running simultaneously with the demonstration project, is a series of Statewide multi-level meetings which will provide an avenue for policy makers to come together to develop a plan that will redefine the collaboration and coordination of service delivery for the programs that they govern. Policy makers from the State, Bureau of Indian Affairs, Health and Human Services, Administration for Children and Families and other federal agencies officials will be invited to a meeting to reevaluate the current social service delivery system and to develop guiding principles for collaboration and coordination of all social service programs. Subsequent meetings will include the urban service providers in Anchorage, Fairbanks and Juneau and regional organizations and tribal entities to also evaluate and discuss how they can improve the current delivery of social service programs. These meetings will provide the agencies an introduction to all the various social service programs in Alaska and then develop a dialogue between the agencies to address the issues with the delivery services. The final product of these meeting will be a statewide plan to change the current delivery system into a seamless network of delivery through a redefined collaboration effort.

At a time when DHHS and Congress are actively capping levels of Indirect and Contract Support, they are overburdening tribes with duplicative administrative requirements. We need to be able to consolidate programs, services, and funding into Social Services Compacts with a minimum delay. The following DHHS Programs should be made available for Social Services-Type Compacts: the 52 programs of the Administration for Children and Families; the 10 programs of the Administration on Aging; and the 17 programs of the Substance Abuse and Mental Health Services Administration.

Thank you for your support of our effort.

**Testimony Of**

THE HONORABLE EDWARD K. THOMAS, PRESIDENT
CENTRAL COUNCIL OF THE TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA

**on**

# ALASKA NATIVE ISSUES

**to the**

## SENATE COMMITTEE ON INDIAN AFFAIRS

**May 10, 2001**

GREETINGS FROM ALASKA! My name is Edward K. Thomas. I am the elected President of the Central Council of Tlingit and Haida Indian Tribes of Alaska (Central Council), a federally recognized Indian tribe from Southeast Alaska with over 23,000 members. I have served as the elected President of my Tribe since 1984.

Thank you for the opportunity to testify at this Hearing on Alaska Native issues. My testimony will focus on contract support shortfalls, the programs of the Bureau of Indian Affairs (BIA), Tribal Consultation policies, some tribal policy issues, co-management of fish and wildlife, and the energy crisis in rural Alaska.

### *BIA CONTRACT SUPPORT FUNDING SHORTFALLS CHOKE OUR OPERATIONS*

For the period between 1996 through 1999, the BIA failed to deliver to us a total of $953,781 in contract support cost funding which its own negotiators, applying uniform federal rules, had determined were due us for our operation of BIA-funded programs. This $953,781 is what we call our shortfall. **This is non-federal money we had to pay from the earnings on our Tribal Trust Fund. The expending of these dollars to replace the federal government's contractual obligations have resulted in lost opportunities to address the many problems facing our people whose unemployment rates are on the average twice that of an unemployment rate during a depression.**

Simply put, the way indirect costs are calculated and paid by the United States creates an ever-tightening chokehold on my Tribe's ability to administer programs. If we follow the law and spend what we must, we receive less money to meet these expenditures. The more we spend, the less we get. The less we spend, the less we get.

In the early 1990s, Central Council took the first possible opportunity to fully assume the operation of all programs, functions, services and activities previously provided to us by BIA employees through a self-governance compact. We were one of the first ten tribes in the self-governance demonstration project. In our first year, we took over and completely closed down one entire unit of the federal government -- the BIA's Southeast Alaska Agency Office.

In 1996 we recovered only 87% of the contract support amount as determined by the Department of the Interior – Inspector General through an audit. This meant we faced a 1996 shortfall in funding of $129,418. We were forced to pull $129,418 out of our modest Trust Fund earnings in order to meet the costs we were stuck with by the United States.

Our Trust Fund is what remains of a judgment fund provided to us in exchange for land taken from our Tribe. We have pledged to our membership that we will jealously guard and preserve the principal, and endeavor to reinvest as much as possible its earnings in order to not

have the value of the principal erode due to inflation. It is not the purpose of the Trust Fund to use the interest it has earned to make up for sudden losses created by the United States. The choice we faced at the end of 1996 was either to shutdown all of the vital services we provide our membership, shutter our offices, layoff employees, and pay for early termination of contracts, or dip into our Trust Fund earnings to maintain operations. We chose to continue.

In 1997, BIA again notified us mid-way through our budget year that it would send us only 77% of our BIA-generated contract support funding requirements. This amounted to an actual under-recovery of $299,287, nearly one-fourth of our annual, BIA-approved budget. Again, we were forced to redirect our limited non-Federal funds so as to permit our operations to continue.

Halfway through 1998, BIA notified us our payment be only 80% of our contract support need. This amounted to an actual shortfall of $302,400.

And earlier in 1999, the BIA informed us that available funding permitted BIA to send us only 88% of the indirect costs associated with our operation of BIA-funded programs, creating a 1999 shortfall of $222,676. Again, we were forced to reallocate Trust Fund earnings to make up for the difference.

The $953,781 shortfall in BIA contract support funds due Tlingit Haida has placed a great deal of financial stress on our Tribe. It has forced Tlingit Haida to draw over $400,000 out of our original judgment Trust Fund, an amount that otherwise would have significantly boosted the Fund's growth during the expansion of the stock market in 1999. In addition, the use of these Trust Fund dollars to make up for under-recovery of BIA contract support funding has made it very difficult for Tlingit Haida to provide other critical membership services that Trust Fund dollars have been used for in the past.

In addition to the diversion of our Trust Fund earnings, the shortfall in BIA contract support funding has been felt throughout Tlingit Haida. As an immediate result of this shortfall, we have had to lay off employees who are also tribal members and in desperate need of employment. In a time when staff training is critical to handle the quickly changing advances in technology, the BIA shortfall has made it necessary for us to reduce and even eliminate many training opportunities.

## INDIRECT COSTS ARE FIXED COST REQUIREMENTS

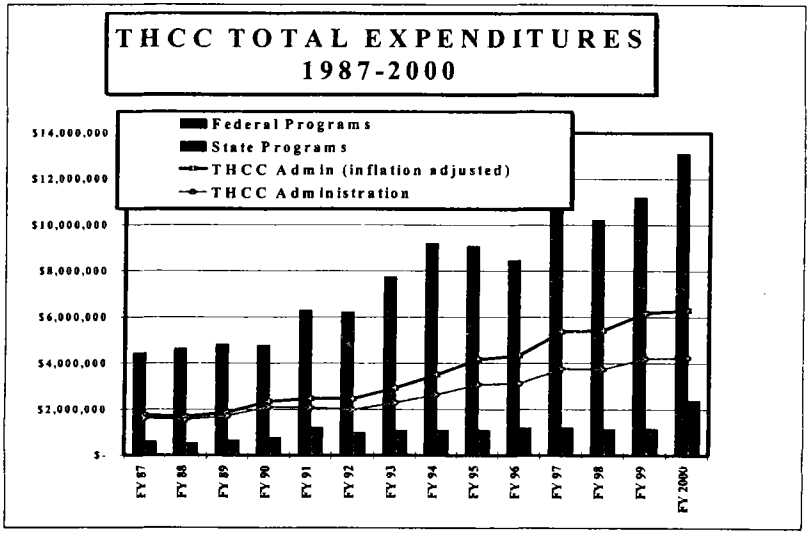
If indirect costs were not primarily "fixed" costs, the recurring problem of a shortfall in BIA contract support cost funding would, perhaps, be survivable. But most of our actual indirect costs <u>are</u> "fixed". For example, typically the most cost-effective way to acquire facility space or equipment is through a long-term lease with locked-in costs. Similarly, package deals for telephone and some forms of transportation offer significant cost savings over time. And obviously, the salary and benefit costs of accounting, administrative, and management staff must be treated as "fixed" or else we cannot hire or keep employees. If BIA does not send us 100% of the funds required by our rate, we have a shortfall associated with our operation of BIA programs.

We refer to tribal indirect cost funding as a "requirement", not a "need". They are requirements because they are derived from negotiations over rates that are used uniformly by federal agencies with all contractors, including universities and the defense industry. The rates use actual expenditures from prior years to project costs in the future year. Once set, the rates must be applied uniformly to all our programs.

Let me be clear about something. We would spiral into bankruptcy if we chose to not spend at the budgeted amounts. Failing to pay certain fixed costs would actually increase our costs (breaking leases, terminating employees, breaching contracts). Deferring certain costs to the following year aggravates the hardship of the shortfalls that cripple that year. And while to a limited extent, the P.L. 93-638 protections against theoretical under-recovery do work with respect to BIA funds; they still do not cushion our Tribe from the difficulties of dealing with shortfalls in non-BIA programs for which we must, by law, use the same indirect cost rate. If in year one we don't spend uniformly on all programs, BIA and non-BIA alike, this will lower the rate negotiated for the following year because the rate must be based on actual expenditures for the prior year. That lower rate is applied across the board to all programs, BIA included. When the BIA "requirement" is calculated by the rate, the BIA then applies an additional reduction to reflect the pro rata shortfall in appropriations earmarked for the contract support cost fund. The bottom line is that our bottom line gets smaller and smaller, year after year while our expenses remain steady or rise with inflation.

## TLINGIT HAIDA'S ADMINISTRATIVE COSTS ARE KEPT TO A MINIMUM

I am proud to report that the Central Council has, year after year, restrained the pressures to increase its administrative spending. We have maintained increased below the national rate of inflation, despite the fact that our unemployment rate are exceedingly high and the resulting pressure from our membership is to make job creation the priority above all other program and service priorities. What follows is a chart we annually provide to our tribal membership that shows the revenue growth and administrative constraint:



## *UNMET NEEDS SUMMARY*

This is a summary of the Un-met Needs of the Central Council of the Tlingit and Haida Indian Tribes of Alaska for the Fiscal Year 2003. This summary may be a little different than what was submitted earlier, in writing. This summary is more of an effort to show what is achievable rather than a full articulation of total need in these areas.

**Tlingit Haida Central Council Unmet Needs - 2003**

| | Base | Total Need | Un-met Need |
|---|---|---|---|
| Indirect costs (BIA) | $ 2,062,567 | $ 2,424,030 | $ 361,463 |
| Housing Improvement Program | $ 87,500 | $ 1,081,250 | $ 993,750 |
| Tribal Enrollment | $ 39,391 | $ 185,000 | $ 145,601 |
| Higher Education | $ 604,977 | $ 1,050,000 | $ 445,023 |
| Adult Basic Education | $ 19,531 | $ 80,000 | $ 60,469 |
| Job Placement and Training | $ 423,854 | $ 529,818 | $ 105,964 |
| Realty | $ 130,819 | $ 180,819 | $ 50,000 |
| Forestry | $ 59,379 | $ 79,379 | $ 20,000 |
| Economic Development | $ 15,295 | $ 255,295 | $ 240,000 |
| Tribal Courts | $ 5,000 | $ 55,416 | $ 50,416 |
| General Assistance | $ 2,383,318 | $3,479,148 | $ 817,420 |
| Social Services | $ 233,510 | $ 590,407 | $ 333,387 |
| ICWA | $ 236,392 | $ 538,618 | $ 302,226 |
| Other Aid to Tribal Government | $ 104,146 | $ 190,000 | $ 85,854 |
| Road Maintenance | $ 75,983 | $ 150,000 | $ 74,017 |
| Totals | $ 6,481,662 | $ 10,869,180 | **$ 4,085,590** |

## *UN-MET NEED JUSTIFICATION*

### Indirect Cost

Each and every year the Department of the Interior Inspector General audits our books and sets an indirect cost rate. We are required by law to charge each federal agency we manage a contract for to collect that amount for managing the contract. Each year the amount of money appropriated by Congress is not enough to cover the amount set by the Inspector General. This creates a deficit for us that in nearly impossible to make up.

### Housing Improvement

This year there are a total of 21 applications for housing improvement totaling $1,081,250. We received a total of $87,500 to fund 2 projects, leaving a balance of $993,750.

### Tribal Enrollment

When additional money is made available, the unmet need for Tribal Enrollment will benefit the tribes by providing a part-time staff member to maintain tribal enrollment issues including

enrolling and certifying natives locally. Some of the money will be used for office equipment, i.e. computer and cabinets to maintain records and travel for training.

**Higher Education**

Higher Education Scholarships are $2,500 per student for 300 students. Raising tuition costs across the United States have risen dramatically making it necessary to increase awards per student to $3,500. This will require at least $445,023 more dollars.

**Adult Basic Education**

The State of Alaska decreased GED services to Southeast Alaska about two years ago and we have been overwhelmed with requests for these services. We have made numerous requests to the State, especially with Welfare Reform in full swing and they report lack of funds as being their reason for decreased GED services. We desperately need a full-time instructor to cover both GED testing and Life/Basic Skills training. As described below in our survey the need for GED and Basic Skills training exists.

**Job Placement and Training**

The services provided are not adequate to meet the higher and more intense services needed by the increased number clients. Adequate training or education assistance does not exist for tribal members to find meaningful jobs. Adequate training reduces the likeliness of success in the workforce. Lower paying jobs are not enough to support the standard of living in Alaska.

**Realty**

This program employees a full time Realty Technician and ¾ time Manager (Realty Officer). The main duty of the Realty Technician is to process probates. The manager is responsible for the adjudication of Native Allotments, processing of land transactions, management of the budget and preparation of all reports to the BIA and Self-governance office.

At this time, there is a need to hire a full-time Realty Specialist. In July 2000, Native Alaska Veterans were given the opportunity to apply for Native Allotments in accordance with the Native Allotments Veterans Act. There has been no additional funding given to the tribes for this unfunded mandate. In addition to assisting Native Veterans in filling out their applications, this Realty Specialist will also be responsible for the adjudication of Native Allotments and processing of land transaction, which will expedite service to our clients.

**Forestry**

This program employs one full-time Forest Resource Specialist. Over the years, many of our clients have expressed an interest in receiving maps of their Native Allotments. We are currently in the need of purchasing GIS equipment and attending GIS training in order to meet this request.

**Economic Development**

1. Business Technical Assistance Program:

Our current business technical assistance (t/a) program covers all communities in Southeast Alaska. We have one business development technician (BTD) who handles t/a for these communities, as well as for the tribal enterprises. The technician also teaches business bookkeeping and QuickBooks classes at the Vocational Training Resource Center. The tribes

have requested the BTD teach, but do not have funding for the travel. We need a "mobile classroom", travel monies, and more time to accomplish this training request.

**2.** Annual Economic Summit:

In the past two years we have hosted two large-scale economic summits, two smaller focus summits; bringing benefits to tribes together with local, state and federal government agencies, local ANSCA's and other economic related agencies. Additional funds are needed to provide the ability to continue our efforts to bring economic development and revitalization to our communities. The end result will be in increased self-sufficiency and determination, as well as to keep dying communities alive.

**3.** Community Travel Budget:

In the past two years we have been providing classroom instruction for small business development. Individual tribes pay for the travel and per diem to get the Business Development Technician to their communities; this is money that most tribes do not have and they must stretch their resources to provide this much needed service. The additional funds will provide the ability to continue our efforts to bring economic development and revitalization to our communities. The end result will be in increased self-sufficiency and determination, as well as to keep dying communities alive.

**Tribal Courts**

The Central Council's Tribal Court has never been activated due to lack of sufficient funding. The current base of $5,000 is enough money for the three tribal court judges to attend approximately one training session each and to pay membership dues in relevant organizations.

Additional funding would allow the Tribal Court to begin the process of implementing a functional judicial system. The requested funds would allow the hiring of one full-time Tribal Court Administrator at a G/9-1 ($50,416) and provide him or her training opportunities ($2,000) and computer equipment ($3,000).

**General Assistance**

It is critical that our clients have access to training and related services in order to become self-sufficient. Without adequate training, reduces the likeliness of success in the workforce. With the first 5th year time limit for long-term welfare recipients closing we anticipate an increase of services need by these harder to service clients. Unskilled and intensive case service clients, who are the long-term welfare dependents, will require additional vocational and/or basic education training services. In addition, we anticipate an increase of tribal members in need of vocational and/or basic education training, and supportive work services to obtain and compete for employment.

The increase for General Assistance is based on the projected case- load increase as a result of the five-year TANF time limit.

**Social Services**

Three additional staff to provide professional level counseling to the GA/Social Services caseload with the goal of moving hard to serve clients to self-sufficiency.

**ICWA**

Increase ICWA staff to six FTE to focus on our 400 ICWA caseload. And, the additional dollars will be used for travel and training for ICWA workers.

**Other Aid to Tribal Governments**

A number of the communities served by the Central Council Compact desire to assume more of the program delivery aspect of tribal activity. The sizes of the communities vary which impact the amount of financial assistance needed. Each of the tribes would receive additional funding in keeping with their direct and specific needs.

**Road Maintenance**

Road maintenance for Southeast Alaska communities has been consistently under-funded. Even after additional roads have been included and the impact of inflation has been ignored. There is chronic shortage and this has been established through the years evidenced by the continuing request for additional funding voiced by the community representatives.

Any assistance you can give us on fulfilling our **$4,085,590 of un-met needs** is very much appreciated.

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## *Object to the Policy of Not Consulting with Alaska Tribes on BIA Budget Development*

The Central Council strongly objects to the decision not to have budget development consultation meetings in the Alaska Region. This decision is in direct violation of the **Bureau of Indian Affairs Government-to-Government Consultation Policy** of December 13, 2000 and **Executive Order No. 13175**.

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**Consultation Policy, Section IV:**

> ***"Consultation"*** means a process of government-to-government dialogue between the Bureau of Indian Affairs and Indian tribes regarding proposed Federal actions in a manner intended to secure meaningful and timely tribal input. Consultation includes that Indian tribes are:
>
> 1. to receive timely notification of the formulated or proposed Federal action;
> 2. to be informed of the potential impact on Indian tribes of the formulated or proposed Federal action;
> 3. to be informed of those Federal officials who may make the final decisions with respect to the Federal action;
> 4. to have the input and recommendations of Indian tribes on such proposed action be fully considered by those officials making such decisions and the basis for such decisions; and
> 5. to be advised of the rejection of tribal recommendations on such action from those Federal officials making such decisions and the basis for such rejections.

> ***"Federal action"*** means regulations, legislative comments or proposed legislation, **the budget** [emphasis added], and other policy statements or actions that have substantial direct effects on one or more Indian tribes...
>
> **V. Principles**
>
> 4. Federal actions shall favor maximum tribal participation with the goal of consultation and collaboration in federal decision-making.

---

The Bureau of Indian Affairs budget process is still one of the most important functions for our tribe and the tribes in our Region. Therefore, it is critical that the BIA – Alaska Region fully fund a budget consultation meeting of the tribes in our Region to discuss funding levels and unmet needs. This is done annually in other BIA Regions and it is the fiduciary responsibility of the Alaska Region to budget money for the purposes of holding such meetings in our Region on an annual basis.

The BIA budget process must include, but not limited to:

1. A thorough review and explanation of the BIA 2001 Green Book to create a better understanding among all tribes the justification of each line-item in the BIA budget.
2. A complete explanation of "unmet needs" by a Bureau official.
3. Guidance on entering numbers that reflect inflation,
4. A process for selecting representation from our Region to the National BIA Budget Meeting on May 9 – 10, and
5. Putting together a Regional presentation for the Nation BIA Budget Meeting.

Once again, the tribes in our region fully understand that the budgeting process of the BIA is one of the most important functions to tribes and we must be consulted with, in person, on this process. If funding for these meetings is the issue then it is incumbent on the BIA to advise all of the tribes in this nation that there will be no budget consultation meetings this year. The absence of meaningful consultation on the BIA budget process puts Alaska tribes at a great disadvantage when there are BIA sponsored budget meetings in other Regions and none in Alaska.

In conclusion, I respectfully request that the Bureau of Indian Affairs – Alaska Region honor the commitment of the United States on its government-to-government relationship with Alaska tribes through meaningful consultation on the development of the BIA budget. If the BIA did not budget for these meetings then it must be taken out of other BIA administrative programs.

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## *Force Accounting for Construction Projects*

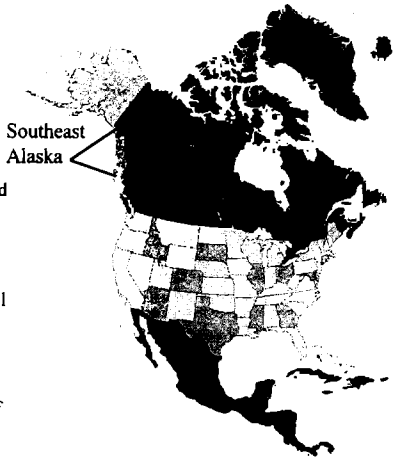
I recommend that legislation that appropriates funding for construction projects in Alaska include language that expands the use of force accounting project management methodology to all federally funded construction projects in rural Alaska to maximize the number of jobs made available to local residents.

# Attachment

[An analysis of cost-of-living in rural Southeast Alaska in comparison to other parts of the nation.]

Central Council
Tlingit and Haida
Indian Tribes of Alaska

# A BRIEF ANALYSIS OF THE COST OF LIVING DIFFERENTIAL BETWEEN RURAL COMMUNITIES IN SOUTHEAST ALASKA AND URBAN CENTERS THROUGHOUT THE UNITED STATES

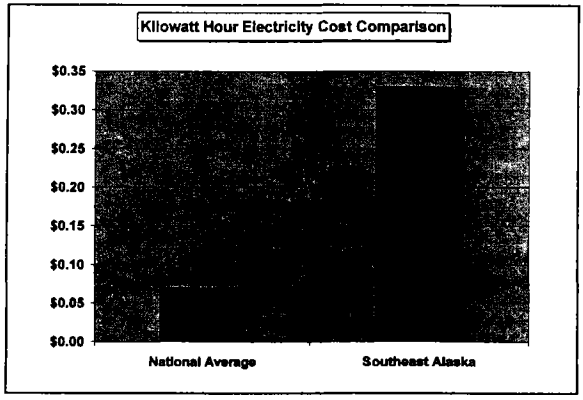



Rural communities in Southeast Alaska experience some of the highest living costs in the entire United States. The primary factor contributing to this situation is geographic.

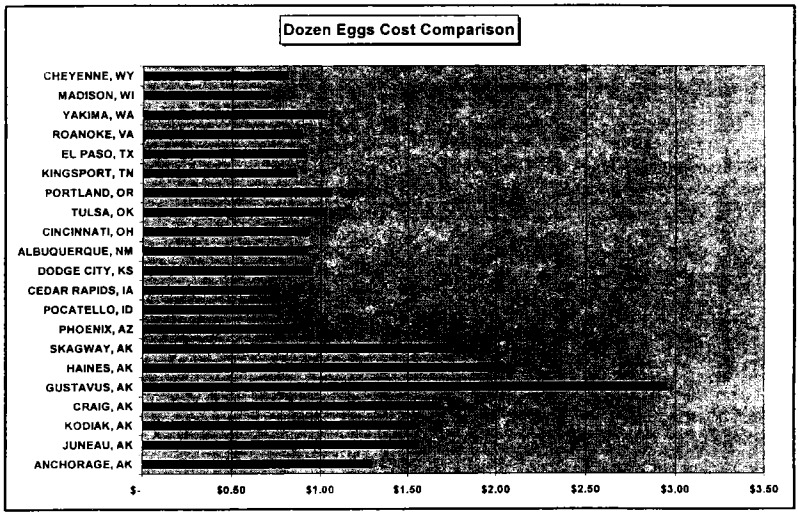
Living and working in these communities is very expensive because they are not connected to transit, energy and shipping infrastructures commonly taken for granted by most of the country.

For instance, in Southeast Alaska timely travel can only be achieved through the use of airplanes. A business trip from our headquarters in Juneau to the community of Angoon costs $86 to fly the 59 miles. At a $1.50 per gallon of gasoline, this same type of trip taken in the "lower 48" would be done with an automobile and cost approximately $6.00. This relative cost differential applies to all the travel we commonly take in serving nearly 20 communities in this region.

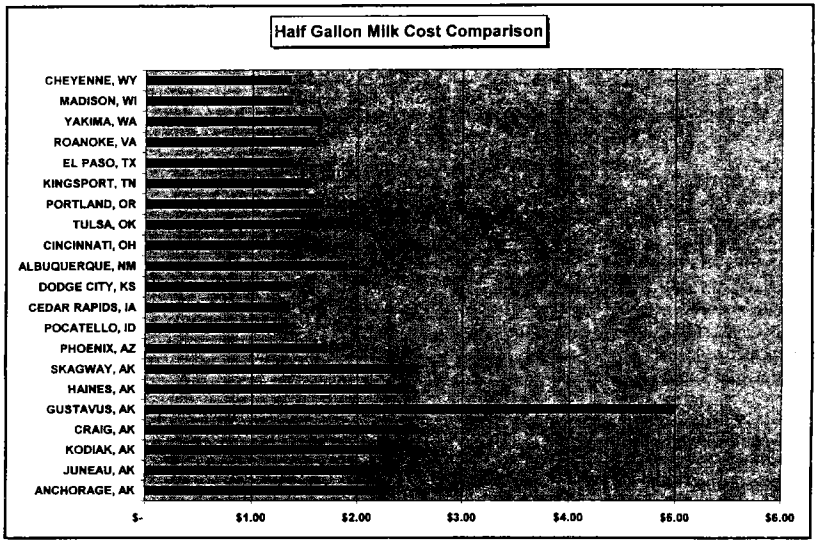
Another area of cost differential that is easily identified concerns the price of electrical power. The contiguous states of this country realize a significant advantage in this area because of access to the national power grid, hydroelectric projects and large coal-fueled power plants. None of this is available to rural communities in Southeast Alaska. Instead, they are almost entirely dependent on diesel generators for their electrical power consumption. Inherent in this dependence is high costs from shipped in diesel fuel and the ongoing maintenance of multiple small-scale power generation facilities.



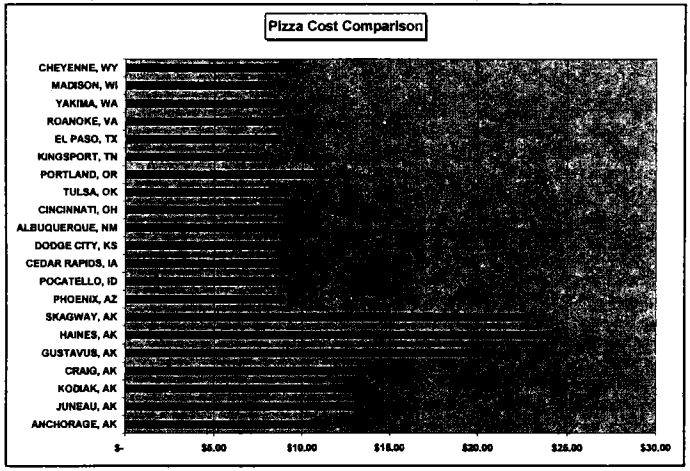
A third area addressed in this brief analysis is the shipping costs that influence virtually everything that is brought into Southeast Alaska. There is no common road system connecting the communities of this region.

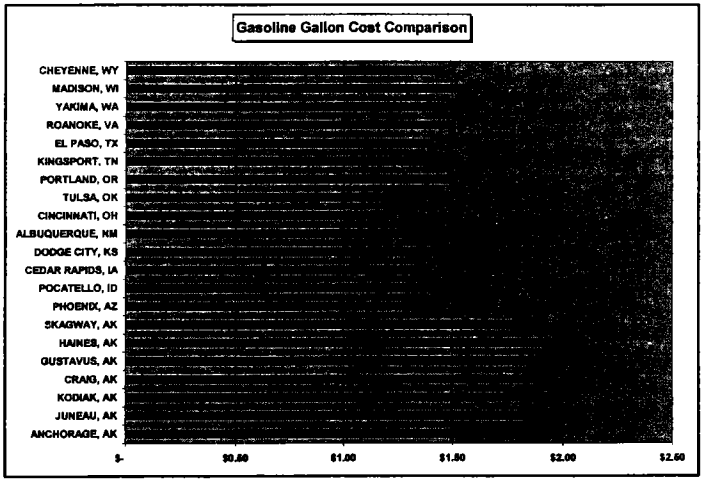



Consequently, all items must be shipped via air or sea systems. This applies not only to the bulk of our shipping, which comes from Seattle but to shipping that takes place between communities.



In many cases items are brought up to Ketchikan or Juneau on barge and then forwarded to isolated communities via airplane or boat. Associated costs for such activity significantly increase expenses for business owners and the corresponding prices retail consumers will pay.




The cost of living and doing business in the rural communities of Southeast Alaska is clearly more expensive than in lower 48 states. The geographical challenges of this region create a situation where high energy, transit and shipping costs touch virtually everyone who lives or visits these communities. What the dollar buys in this region is often only half of what it buys other parts of the country.

U.S. Senate
Indian Affairs Committee
May 10, 2001
2:30pm

ENERGY NEEDS OF ALASKA NATIVES

Testimony
By
Matthew Nicolai
President/CEO

Energy Needs of Alaska Natives

Good Afternoon, Mr. Chairman, Members of the Senate Indian Affairs Committee, Thank you for the opportunity to testify before the Committee. We are truly honored to be here today. My Name is Matthew Nicolai, President/CEO of Calista Corporation, a regional corporation established under the Alaska Native Claims Settlement Act of 1971. Calista Corporation owns 6.5 million acres of subsurface lands.

Calista Corporation serves 13,308 shareholders who live mostly in the 56 villages of Wade Hampton and Bethel Census Districts in western Alaska. U.S. Census report population of the two Census district is at 23,200. Median household income of the people is at $23,796.00 in Wade Hampton, while it is at $29,628.00 in the Bethel Census District. According to the U.S. Census Bureau 8,052 or 35% are living in poverty. 80% of the residents living in the area make ends meet through hunting and fishing protected under Alaska National Interest Land Conservation Act. Unemployment among Alaska Natives in our region is on the order of 70-85% and average income per person is about $8000.00.

The Calista Corporation region has no roads, nor does most of western Alaska. Village residents in 175 communities in western and interior Alaska depend on imported liquid fuel for power generation, heating and transportation. Our village residents in our region consume about 17 million gallons of diesel fuel per annum. Village residents are paying for gasoline at $2.96 to $6.21 a gallon, while they pay 2.91 to 5.01 a gallon for diesel in our villages. These prices are typical in 175 communities in western and interior Alaska.

Alaska's energy infrastructures differ from the rest of the United States. Most consumers in the lower 48 states are linked to huge energy centers. In Alaska, Anchorage, Fairbanks grid is called the railbelt receive power from an interconnected grid system. Natural gas is the primary source used to heat Alaskan homes in the railbelt. The railbelt energy needs are met with a 90 MW Bradley Lake Hydroelectric plant near Homer, and a Natural Gas Power Plant west side of Cook Inlet. These projects were funded by state and federal funds to serve urban Alaskans.

The State of Alaska implemented the Power Cost Equalization (PCE) program to offset costs to rural areas as a result of development of urban energy centers. More than 100,000 Alaskans benefit from this program today. The Alaska State Legislature currently negotiating the demise of the PCE program. PCE continues to be critical to the provision of affordable power in 175 plus rural communities. State of Alaska pays for half of rural residents energy needs for electricity consumption under the PCE program.

The typical cost of power in our region cost between 25 cents to 35 cents a kilowatt hour with PCE, as compared to 10 cents per kilowatt hour in Anchorage. Without PCE our village residents will pay average 50 cents a kilowatt hour.

Calista Corporation formed Nuvista Light & Power to commission energy study of our region. We retained an energy consultant to investigate power needs, costs and various scenarios for providing low-cost power to the residents in our region. Why are we doing this? Resolving energy problems will bring impetus to development of Native corporate lands, thus bring new jobs to the people we serve. Resolution to energy issue must be resolved by working with Native Corporations. Native Corporations own surface and subsurface properties in 223 communities in Alaska totaling 44 million acres.

These properties hold mineral rich and oil properties: NANA the regional corporation serving Northwest Alaska has the Red Dog Mine which produces zinc and employs over 440 direct jobs to

rural residents, Bering Straits has mineral properties in the Nome Area, Doyon, Ltd. owns mineral properties in the McGrath area, Arctic Slope Regional Corporation has oil properties.

Calista Corporation has a world class, 13 million ounce gold deposit in upper Kuskokwim in Donlin Creek. Past six years, Placer Dome of Vancouver, BC, Canada has invested over $33 million dollars into the gold exploration project in Donlin Creek. We have two problems: energy and transportation.

Energy issue is a barrier to our region, just as to the other regional corporations in their process to formulate economic development projects of their subsurface properties. Estimates of energy demand on the order of 20 to 65 megawatts, depending on the production rate, Donlin Creek has a potential the catalyst needed to stimulate economic development to a depressed region. Low cost power and other infrastructure development resolved Donlin Creek Gold Exploration Project will create over 400 direct jobs to our region with a multiplier effect at 1,100 people.

Nuvista Light and Power and Calista Corporation are working on several resolutions to the energy needs of 44 villages. There are many alternatives available: transmission line from Nenana, or Anchorage, coal fired power plant in Bethel and even looking at a natural gas pipeline from the North Slope-tapping onto the proposed Natural Gas Pipeline. A coal-fired plant in Bethel of 80 megawatt plant would serve a 180 mile line power line-would serve about 7-12 villages.

Other regions of the state, urban, rural have experienced increased economic development once their energy problems were resolved. Particularly, Fairbanks has seen gold exploration and production increase as a result of resolving energy: creation of over 600 direct jobs in three mines.

We would to formulate a federal/state private partnership to resolve energy needs of Alaska Natives. Many rural residents depend upon transfer payments from the federal government to survive for their daily needs for home, social and health services. Economic and fiscal indicators demonstrate 88% of funds for such services are derived from the federal government in our region.

Mr. Chairman, we are formally requesting the Senate Indian Affairs Committee formulate Alaska Native Commission on Energy be formed spearheaded by Native Corporations, state and federal agencies to look for long term resolutions to resolving rural energy needs. The Alaska Native Commission on Energy would develop a long-term strategy to resolve the rural energy needs of 175 Native communities. We would like for the Senate Indian Affairs Committee to spearhead the resolution to this issue. We are tired of energy studies without any resolution. Resolving energy will bring economic development to rural areas, thus create new jobs, and pride to our people. We want to see a Commission formed like the Denali Commission, as formed under the auspicious of the U.S. Senate.

The Denali Commission is resolving water, sewer, bulk tank repairs, health clinics in all Native villages. The Native Corporations are working as partners with the Denali Commission. The Denali Commission is succeeding because it does not have red tape created federal and state rules.

In conclusion, Mr. Chairman, we will be request the support from the Bush Administration and of the State of Alaska, Alaska State Legislature to work with the Native Corporations to resolve energy needs. Thank you for the opportunity to give our views to this committee.

Matthew Nicolai
Calista Corporation
301 Calista Court
Anchorage, AK 99518
Telephone: 907-279-5516

# Calista Region Energy Needs

Senate Indian Affairs Committee Briefing
Matthew Nicolai, President and Chief Executive Officer, Calista Corporation

May, 2001

The Calista Region is home to 23,000 residents and 47 permanent villages where one-fifth the Alaska Native population resides. Bethel, with a population in excess of 5,000 is the largest community in the region. This is an under-developed region with sufficient population and natural resources to sustain a viable economy. However, because of a lack of energy and transportation infrastructure, economic growth is stifled and the communities rely heavily upon State and Federal assistance for many basic needs.

There are no roads in the region and communities are entirely dependent on imported liquid fuel for power generation, heating and transportation. This includes approximately 17 million gallons of diesel fuel per annum, of which roughly forty percent is used for power generation, with the remainder used for space heating. The Power Cost Equalization (PCE) program, funded by the State of Alaska, partially offsets these high power costs.

On average, Calista Region households use about half as much electrical power as an average American household and spend approximately twice as much for this power. The typical cost of power in the villages is between 25-35 cents per kilowatt-hour with PCE, as compared to ten cents per kilowatt-hour in Anchorage. Without PCE the cost of power in the villages would exceed 50 cents per kilowatt-hour.

With an appropriation by the Alaska State Legislature, Calista Corporation charged Nuvista Light and Power to commission an energy needs study for the region. An Alaskan energy consultant, retained by Calista, is investigating power needs, costs and various scenarios for providing low-cost power to the region. Included in these scenarios is development of the world-class, 13 million ounce Donlin Creek gold deposit. With an energy demand on the order of 20 to 65 megawatts, depending on the production rate, the Donlin Creek project is potentially the catalyst needed to stimulate viable economic development in the region. Low-cost power and other infrastructure development as a result of a successful Donlin Creek Project would make it

possible to develop abundant other mineral resources in the region. Donlin Creek is just one of many known sites and probably many more undiscovered deposits in the Tintina gold belt that stretches across Alaska from the Canadian border and which contains at least 60 million ounces of gold.

Of the scenarios examined to date, the most attractive scenario is to construct a coal-fired power plant in Bethel in combination with a 180-mile-long power line to transmit low-cost power from Bethel to the Donlin Creek mine site and seven villages along the path of the transmission line. Other villages in the region would benefit from implementation of combinations of waste heat capture from diesel-fired generators, and rapidly advancing fuel-cell and micro turbine technology.

Studies by our consultant indicate that 80 Megawatts of power can be produced in Bethel and provided to nearby villages and the proposed Donlin Creek mine, operating at maximum production, for about 6 to 7 cents per kilowatt-hour. Because of currently low gold prices, initial production at Donlin Creek may be restricted to higher-grade portions of the deposit, thereby initially reducing power demand and correspondingly increasing the cost of power. Regardless of the scale of production, communities along the transmission route would benefit from drastically reduced power costs.

Other regions of the state, urban and rural, have experienced increased economic development because of the availability of low-cost power. In particular, other communities with nearby gold deposits have and will continue to benefit from low-cost power that makes mineral development possible. The Fairbanks community realized a production in power costs and economic stimulation as a result of the Fort Knox Gold Mine. Furthermore, other nearby mineral resources, like the True North deposit, will be developed because of the infrastructure available to the Fort Knox project. Similarly, a new transmission line from the existing rail belt power grid will probably power the Pogo project, in the wilderness east of Delta Junction. As a result, Delta Junction will become a thriving, self-sustaining community. The Donlin Creek project is viewed as the potential catalyst that, given the availability of low-cost power, would allow the middle Kuskokwim and Calista Regions to achieve the long-term goal of sustainable development.

BERING SEA
SHELDON POINT
SCAMMON BAY
HOOPER BAY
TUNUNAK
UMKUMUTE
MEKORYUK
TOKSOOK BAY
KIPNUK
KWIGILLINGOK
KUSKOKWIM BAY
PLATINUM
GOODNEWS BAY
PLATINUM MINE
CALIST

01-May-10 11:12am From-Van Ness Feldman 202-338-4859 T-887 P.002/006 F-884

**Association of ANCSA Regional Corporation Presidents & CEOs, Inc.**

PO Box 92829
Anchorage, AK 99509-2829
Ph: (907) 265-4519 Fax: (907) 265-4528

**TESTIMONY PRESENTED ON MAY 10, 2001**
**TO THE**
**THE SENATE COMMITTEE ON INDIAN AFFAIRS**

Members of the Committee,

Good afternoon, and thank you for the opportunity to testify.

The Association of ANCSA Regional Corporation Presidents and CEOs, formally organized in 1998, is comprised of members representing the Presidents and CEOs of the 13 Alaska Native Regional Corporations.

Presenting comments on the Association's priorities today are:

Matthew Nicolai, President & CEO, Calista Corporation
Norm Ream, President & CEO, the Thirteenth Region
Chris McNeil, President & CEO, Sealaska Corporation

**Native Corporations: Building** a Foundation for Alaska's Economic Destiny (A look at selected data for 12 Regional and 3 Village Corporations)

The Association of ANCSA Regional Corporation Presidents/CEO's recently published a study that shows in very graphic terms just how vital Native Corporations are to the economy of the State of Alaska. Our report looked at 1999 data from the 12 Native Regional Corporations within Alaska and the three largest Native Village Corporations. Copies of this report were submitted to each of you earlier this week.

Our report did not address the myriad of problems faced by many Alaska Natives, both in villages throughout Alaska and in the state's urban areas. As pointed out in the Alaska Natives Commission May 1994 Report, most Alaska Natives remain poor by any American standard.

The Natives Commission report and other studies show that there are limitations on the corporate model. In fact, it is unrealistic in the extreme to expect that Native Corporations can solve all or even most of the problems facing Alaska Natives. While Native Corporations have directly improved the lives of some of their shareholders through employment, training, experience and occasional dividends, these institutions cannot solve all the socio-economic problems that lie

at the heart of modern Native life. Corporations can survive only if they are profitable and protect their equity base over the long run.

Many things have improved for Alaska Natives in the past three decades: life expectancy, health care, housing, sanitation, electricity, public facilities and services, high school and college graduation rates, infant mortality rates, transportation and communication. Even so, Corporations, if successful, can make the most difference in the lives of individual Natives and their families, but they cannot be expected to reverse years of entrenched poverty, cultural breakdown and personal and family dysfunctionality.

A number of studies in the past have attempted to outline regional or statewide Native Corporation performance. Although valuable contributions have been made to public understanding of Native Corporations' importance in Alaska, there has been a dramatic shift over the last decade and even the last five years in Native Corporation performance that has not been collectively documented.

Our report shows that 30 years after they were created, Alaska Native Corporations have become powerful economic engines with a profound effect on the Alaska economy. While their importance and influence are growing at an exponential rate, the Corporations are concerning themselves with the social needs of Alaska Natives, as well as their economic well being.

As Michael J. Burns, Keybank District President put it: "They absolutely control the economic destiny of the State of Alaska."

Byron Mallott, President and CEO of the First Alaskans Foundation, said that he views the economic success of the Corporations as a requirement for survival. "In my reading of history, no racial minority will ever survive for long in a capitalistic society without having economic power or at least an economic ability to survive."

As the Native Corporations have matured, leaders have found ways to weave traditional Native ethics into the corporate fabric, as well as an underlying concern for the well-being of the entire group.

The stronger the firms are economically, the greater the chance for cultural perseverance. Profits developed through business ventures allow the firms to distribute dividends and generate wealth from diverse operations, including those utilizing the natural resources from the land. The Corporations make contributions and support scholarships that help promote continued progress.

Key findings of our report for 1999 for the 15 Corporations include:

- Revenue of $2.1 billion and assets of $2.8 billion
- $49.5 million in dividends and $392 million in payroll within Alaska

- Statewide employment of greater than 10,000
- Alaska Native employment of nearly 2,500
- $8.6 million donated to charitable organizations
- $5.1 million distributed for scholarships

As you have heard, the Alaska Native Claims Settlement Act provided for the establishment of the Alaska Native Corporations as economic development engines for their respective regions and, on a broader scale, for their shareholders wherever they may reside. The progress that the Regional Corporations have made is significant, and we have much to be proud of. However, the problems and challenges that our people continue to face are substantial. There is much that is yet to be done. The Committee has just heard from AFN on some of the social and community issues that remain to be addressed. We are in full accord with AFN on these issues.

The Regional Corporations are all for-profit businesses. While our shareholders look to us, in part, to address the challenges facing all Alaska Natives today, we approach problems from the profit perspective to find ways in which economic development can help solve those problems. The Corporations are not social service agencies.

We are committed to pursuing continued growth and development as a way to solve many of these problems. A stable economy and control of our own destiny can go a long way toward mitigating the impacts of boom-and-bust cycles that hit our Native villages so hard. It is the bust phase of the cycle that often sees the problems return to the village when short term boom cycle jobs go away and people come home.

There are a number of proposed projects in Alaska, which present opportunities for all of the Native Corporations and Alaska Native people. Many of these are or can be influenced, either directly or indirectly, by actions of the U.S. Congress. Congressional action could be beneficial to Alaska Natives and help the Native Corporations to expand upon those benefits to their shareholders.

These projects include:

**ANWR** – The opening of the Coastal Plain of the Arctic National Wildlife Refuge to oil and gas exploration and development would provide increased opportunity for employment of Alaska Natives and utilization of Native corporations contracting companies. Potential production from this area would also significantly extend the life of the Trans Alaska Pipeline System, further stabilizing the economy of the entire state. We urge your support for the Congressional action necessary to this opening. We recognize that this issue is not without controversy, but we are convinced that Alaska Native involvement in the exploration and development will improve the protections and ensure

development is done safely with minimal impact to the habitat and wildlife that is so important to our subsistence way of life.

In addition, this Committee could be helpful in supporting the funding of training and education programs that will assist Alaska Natives seeking to become employed in the oil and gas industry. There are tremendous opportunities for younger Alaska Natives to become involved in this industry as the generation of workers that came to Alaska to support development are beginning to retire. It is critical that our shareholders capture a significant portion of these jobs.

**TAPS Reauthorization** – The right of way for the Trans Alaska Pipeline System is currently being reviewed for re-authorization by the federal government. Keeping this system operating and oil flowing to market is critical to the economy of the state and to opportunities for employment of our shareholders. The original authorization included a section requiring Alaska Native hire. This provision should be strengthened and retained. This Committee's support for that process is important.

**Commercialization of Natural Gas** – The North Slope of Alaska has substantial proven deposits of natural gas that have yet to be significantly developed. To date, natural gas has been utilized for supporting production of oil and production of a small amount of gas liquids. Recent proposals include a natural gas line to the Lower 48 states, a new gas line for production and export of Liquified Natural Gas, and production of Gas-To-Liquids, known as GTLs, with use of the existing oil transportation system. The development of natural gas in Alaska is a new industry for the state, different from and in addition to the oil activity. This presents tremendous opportunities for the Native Corporations and their shareholders. Your support of these projects would be very helpful. Again, providing funding for Alaska Natives to gain the training required to work in this industry would be a fundamental first step.

There are many opinions as to which specific project is preferred for the commercialization of natural gas; we are not asking the Committee to take a position on any one project. In fact, there is likely sufficient natural gas in Alaska to permit more than one project. The Committee might consider, however, support for incentives and special status for Native American participation in these projects; this might be addressed through a Native American title to any broader energy legislation that the Congress considers.

These projects have the further potential of providing substantial economic benefits to the energy needs of Alaska Native. Many of our people would be happy to see two and three dollar per gallon gasoline compared to what they currently pay. Heating and electrical costs for much of rural Alaska also have long been exceedingly high in comparison to the rest of the country. Natural gas GTL development and new fuel cell technology have the potential of lowering

energy costs in remote areas of the state. Your support of demonstration projects as well as the fundamental industrial activity to see that this happens would be valuable to us. This might be included in an Indian title to one of the pending energy bills or that anticipated shortly from the administration.

**Unresolved Issue of Land Rights for Shareholders of the 13th regional corporation** (Norm Ream – testimony will be submitted along with this document)

**Native American Housing Assistance Self Determination Act(NAHASDA)**
Regional corporations want continued recognition as Tribes under NAHASDA
Regional corporations want continued funding levels for allocation to be run through thier tribes.

Thank you for giving us this opportunity to meet with you today.

Thank you for your time.

**United States Senate**
**Committee on Indian Affairs**
**Hearing: Legislative Priorities of Alaska Natives**
**May 10, 2001**

**Testimony of Mike Williams, Chair**
**Alaska Inter-Tribal Council**

Good afternoon, Mr. Chairman, members of the Committee.

Thank you for this opportunity to testify to you today. I know that this hearing is nominally about the "legislative priorities" of Alaska Natives but, Mr. Chairman, I want to speak this afternoon about the wishes, hopes and dreams of Alaska's 200-plus federally recognized tribes.

**WISHES**
There is an old English saying that, "If wishes were horses, beggars would ride." To me, that has always seemed to scold people for wishing. I prefer to go with the true meaning of the word, taken from a time when the English people themselves were as we Yupik people are today: living from the earth. Because the word "wish" comes from the Old English word *winnan*, which means "to win" – and that word comes from an even older English word, *wenan*, which means, "to accustom, train, or wean."

Alaska's tribes wish that this Congress, and especially members of this Committee, become accustomed to looking at Alaska Natives as tribal peoples, whose traditions, practices and values derive from their ancient and modern-day use and occupancy of our traditional lands. The Alaska Native Claims Settlement Act of 1971 did not erase our governments. The United States Supreme Court decision in *State of Alaska versus The Native Village of Venetie* does not erase the age-old authority of our tribal leaders. It is our most earnest wish, then, that whenever the members of this Committee address the issues of "Alaska Natives," uppermost in your minds are the status, rights and authorities of our tribal governments.

**HOPES**
The word *hope* is defined as "to wish for something with expectation of its fulfillment."

Recently, one of the dearest hopes of the Alaskan tribal community was fulfilled when Alaska's Governor, the Honorable Tony Knowles, put his signature to two vital documents.

The first document is Administrative Order No. 186, signed by Governor Knowles on September 29, 2000 (my birthday). The intent of A.O. 186 is [and I quote], "to make clear for all State and federal agencies, the courts, the Tribes and the Public, that the State of Alaska recognizes and respects the governmental status of the federally recognized Tribes within the boundaries of Alaska."

The second document is the Millennium Agreement. The preamble to this agreement begins, "Tribes exist in Alaska. Since time immemorial, indigenous peoples have lived on their land in

organized societies and distinct traditional cultures with their own forms of autonomous sovereign government that predate the United States and the State of Alaska."

Mr. Chairman, I am including copies of these documents in my submittal to the Committee today and it is my sincere hope, on behalf of Alaska's federally recognized tribes, that each member of the Committee receives their own copies.

Administrative Order No. 186 erased a century and more of public policy which denied the existence of Alaskan tribes. Policy guides action – and so, for over one hundred years our tribal leaders have been forced to scale the hurdles of bureaucracy in order to deal with first the Territory of Alaska and later, the government of America's 49th State. And yet our rights as indigenous peoples were pointed out in the 1867 Treaty of Cession, which outlined the terms of Alaska's "purchase" from Russia; the District Organic Act of 1870, which described the metes and bounds of Alaska's territorial government; and in Statehood Act of 1958.

All these years, our tribal chiefs, traditional council presidents, and the heads of councils formed under the Indian Reorganization Act of 1936, have hoped that one day they would be seen by the non-tribal government in Juneau.

Now that our hopes have been fulfilled through the Millennium Agreement, there remains real work to be done as we begin a government-to-government effort with the State of Alaska, to put great words into action.

**DREAMS**

The definition of *dream* that I prefer is not the one that says a dream is "a wild fancy or hope." When Alaska's tribal leaders dream, we are thinking about "a condition or achievement that is longed for – an aspiration."

Mr. Chairman, to pass the time during the five-hour trip from Anchorage to Minneapolis (en route to this fair city), I began reading the December 1998 issue of World Traveler, Northwest Airlines' in-flight magazine. Lo and behold, whose picture did I see on page 64 but yours, and I read that article with great interest because I had an appointment to see you that week.

The article referred to your own "lifelong dream" of becoming a doctor; that was before your valiant service in World War II ended that dream. But you have aspired to greatness in other areas, and for Alaska's tribes, one of your most notable achievements has been your service to America's indigenous peoples in your work on this Committee. Thank you from the bottom of my heart.

As Alaska's First Nations, Mr. Chairman, it is our dream that some day there will be no more talk about "Alaska Native" issues. We dream of a day when we will be seen for the tribes that we are; and that one day Congress will restore to us the status, rights and authorities that have gradually become eroded by public policies, court rulings and legislation.

**LEGISLATIVE PRIORITIES**

I have submitted full written testimony that speaks about our legislative priorities in down-to-earth fashion. I now close with a very brief summary:

- We fully support full funding of contract support costs for tribes under the Indian Self-Determination Act.
- We support legislation being put forth by Alaska Congressman Don Young, in which he addresses a recent Alaska Supreme Court ruling that our tribes were divested of authority over our children at the time Alaska came under Public Law 280. Congressman Young's bill provides for our reassumption of that authority and would like the support of members of this Committee when that issue comes before the full Congress.
- We support Congressman Young in his introduction of legislation to amend TEA-21, which we call "Ice-TEA". This legislation would bring more capital projects into rural Alaska and represents a great opportunity for our tribal members to supplement and support their hunting and fishing way of life with the dollars needed for gasoline, ammunition and equipment.
- Alaska's tribes are deeply concerned about the push to "regionalize" our tribal governments. In fact, this week we are bringing this issue to the attention of the National Congress of American Indians at its mid-year session in Ledyard, Connecticut. A copy of our draft resolution on this subject is enclosed for your review.
- On October 4 of last year I submitted written testimony to this Committee for its hearing on alcohol control and enforcement in rural Alaska. Our position has not changed materially since that time and I submit a copy of that detailed testimony today to refresh the Committee's memory.
- The perennial issue of subsistence has not gone away. Now that the federal government has taken over management of subsistence fishing (as well as hunting) on Alaska's federal public lands, I believe that more diligence than ever will be needed to respond to the cries of Alaska's tribal peoples, that our hunting, fishing and gathering rights be in the full interest and purview of this Committee. These are tribal rights.
- In that vein, I ask this Committee also to take a special interest in the outcome of the lawsuit entitled *Katie John versus the State of Alaska (and the Secretary of the Interior)*. On December 20, that case was heard *en banc* by the Ninth District Appellate Court at the request of the State of Alaska.

  As salmon stocks continue to decline, as the competition for our fish continues to rise, so also will the potential for conflict between uses increase. The difference for our people is that as Congress settled our land claims in 1971, our people were promised that our tribal way of life would be protected. We are at the point "where the rubber meets the road" – and Alaska's tribes are looking to this Committee to take leadership so that the rest of Congress will establish an agenda to maintain (and if necessary, strengthen) the existing protections in Title VIII of the Alaska National Interest Lands Conservation Act.

  Make no mistake: if the *Katie John* case goes to the United States Supreme Court, and the State of Alaska prevails there, then Alaska's tribes will prevail upon Congress to amend the Alaska Lands Act to *guarantee* protection of our subsistence fisheries.
- There has been some criticism of federal management of subsistence over the years. One that makes no sense to me is when critics hearken back to the 1930's and say that federal management of Alaska's salmon harvest resulted in damage to the resource. While that is true, it is also true that today the U.S. Fish & Wildlife Service, their Office of Subsistence

Management, the regional advisory councils, and the Federal Subsistence Board have access to modern scientific research and analysis which are of immeasurable benefit to Alaska's tribes, the great majority of which continue to support their communities with subsistence hunting, fishing and gathering.

- In my testimony on the issue of alcohol enforcement in October, I talked about the benefits of local tribal enforcement over State or federal approaches. I want to draw your attention to my reasoning in that testimony, on page 4: "As long as the State alone is granted legislative powers; or even if the State works hand-in-hand with the federal government using both sets of their laws – as long as tribal ordinances are not in the picture, local tribal members will have the ability to point to "outsiders' laws" and gain sympathy from their fellow tribal members. But when the tribe and its government is recognized and granted authority...to adopt and enforce local ordinances to prevent alcohol abuse, then tribal members will not have such an argument to back them up when they break the law. Because if it is a tribal law, it is one from the heart of the village."

  There is a crying need for increased federal support of tribal courts and tribal justice systems. Our tribal councils and chiefs have persevered through the years following the enactment of ANCSA, when all the federal money automatically went to other Native entities. Now that people are recognizing the value of local, tribal enforcement in Alaska, we tribes desperately need funding to assist us in setting up modern tribal court systems that will take away the need for justice to be served in some faraway regional hub, or in Anchorage, Fairbanks or Juneau.

**CONCLUSION**

Mr. Chairman, I began in a somewhat unorthodox fashion and will close in similar style by quoting from the leader of the political party that opposes your own.

The Honorable President George W. Bush was seeking office in August 2000 when he wrote a campaign letter to America's tribes, including one to myself as the head of the Alaska Inter-Tribal Council. In the letter, President Bush said:

"It is time for a President, together with tribal leaders, to chart a new course for Native Americans: one that recognizes the unique status of the tribes in our constitutional framework and gives tribal governments the freedom to solve their own problems instead of having solutions dictated from Washington. I look forward to working with the tribes and Indian supporters of both parties in Congress and, together, I am confident that we can craft an agenda to help resolve the challenges faced by Native Americans."

I wish the members of this Committee to give heed to the words of President Bush; I hope for a cooperative spirit that will ultimately work to the benefit of my people; and I dream of a time when this Committee hears only good news, from Alaska to Florida; from Maine to New Mexico.

Quyaana Caqnek.

## Testimony on Fiscal Year 2002 Interior Appropriations

Submitted by Mike Williams, Chairman
Alaska Inter-Tribal Council (AITC)
(431 West Seventh Street, Suite # 201, Anchorage, AK 99501 (907-563-9334)
To the Subcommittee on Interior and Related Agencies
HOUSE APPROPRIATIONS COMMITTEE
April 13, 2001

On behalf of the Alaska Inter-Tribal Council (AITC), I am pleased to submit this written testimony on the FY 2002 Appropriations for Interior Department funding of the Indian Tribal Justice Act (Public Law 103-176) and Tribal Courts (under the Tribal Priority Allocations).

The AITC is a statewide organization comprised of 176 federally recognized member Tribes dedicated to promoting, supporting and advocating for the powers and rights of Alaska Tribal governments including the development and perpetuation of tribal justice systems, the exercise of judicial authority and the administration of justice.

**INTERIOR DEPARTMENT FUNDING:**
**Indian Tribal Justice Act and Tribal Court Funding:**

(1) **+$58.4 million. Full Funding for Indian Tribal Justice Act:** AITC strongly supports full funding ($58.4 million) for the Indian Tribal Justice Act (Public Law 103-176). On December 21, 2000, the 106th Congress re-affirmed the Congressional commitment to provide this increased funding for tribal justice systems when it re-authorized the Indian Tribal Justice Act for seven more years of funding at a level of $58.4 million per year (see Public Law 106-559, section 202). AITC strongly supports FULL FUNDING of the Indian Tribal Justice Act as promised in 1993. AITC supports funding at a much higher rate since the number of tribal courts and their needs have substantially increased since the Act was made law in 1993 - more than eight years ago.

(2) **Tribal Courts – at least $15 million** (under the Tribal Priority Allocations Account): AITC strongly supports increased funding for Tribal Courts to a level of at least $15 million under the Tribal Priority Allocations (TPA). This minimal increase represents only a minimal first step towards meeting the vital needs of tribal justice systems. It is important to note that funding has steadily decreased since the passage of the Indian Tribal Justice Act. Moreover, Alaska Native Tribes have historically never accessed BIA funds for tribal courts or law enforcement. The needs (as recognized by Congress in the enactment of P.L. 103-176 and re-affirmed with the enactment of P.L. 106-559), however, have only been compounded with the passage of time, the increase in tribal courts, the increase of caseloads, population growth, and the rise in rates of domestic and criminal disputes in Alaska Native and Native American communities.

Alaska Native and Native American tribal courts must deal with a wide range of difficult criminal and civil justice problems on a daily basis, including the following:

- While the crime rate, especially the violent crime rate, has been declining nationally, it has increased substantially in tribal communities nationwide. Tribal court systems are grossly under-funded to deal with these criminal justice problems.
- Number/complexity of tribal civil caseloads have also been rapidly expanding.
- Congress recognized this need when it enacted the Indian Tribal Justice Act – specifically finding that "tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health and safety and the political integrity of tribal governments" and "tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation."
- While the Indian Tribal Justice Act promised $58.4 million per year in additional funding for tribal court systems starting in FY1994, tribal courts have yet to see ANY funding under this Act.
- Since Congress enacted the Indian Tribal Justice Act, the needs of tribal court systems have continued to increase, but there has been no corresponding increase in funding for tribal court systems. In fact, the Bureau of Indian Affairs funding for tribal courts has actually decreased substantially since the Indian Tribal Justice Act was enacted in 1993. Moreover, Alaska Native Tribes have historically never had access to BIA funds for tribal courts or law enforcement.
- The 106th Congress re-affirmed the Congressional commitment to provide this increased funding for tribal justice systems when it re-authorized the Indian Tribal Justice Act in December 2000 for seven more years of funding at a level of $58.4 million per year (see Public Law 106-559, section 202).

As Attorney General Janet Reno stated in testimony before the Senate Indian Affairs Committee on, it is vital to "better enable Indian tribal courts, historically under-funded and under-staffed, to meet the demands of burgeoning case loads." The Attorney General indicated that the "lack of a system of graduated sanctions through tribal court, that stems from severely inadequate tribal justice support, directly contributes to the escalation of adult and juvenile criminal activity."

Since time immemorial Alaska Native Tribes have maintained peace, law and order in their communities through the exercise of indigenous juridical, social and political authority. Today, Alaska Natives continue to administer justice through their modern day Tribal governments, councils and courts. Over 100 of the 229 federally recognized Tribes located in Alaska are actively establishing or operating single tribal courts systems, inter-tribal/regional and/or appellate courts. This constitutes a significant amount of tribal court activity nationwide since almost half (229) of the Tribes in the US are located in Alaska. The vast majority of the approximately 100 tribal court systems in Alaska function in isolated rural communities. Moreover, most Alaska Tribal courts are intervening in domestic relations and civil/family law matters involving child protection, adoptions, child custody and juvenile delinquency.

These tribal justice systems face many of the same difficulties faced by other tribes in the lower 48 states and other isolated rural communities. These problems are greatly magnified by the many other complex problems that are unique to Tribes. For instance, tribal justice systems are faced with complex jurisdictional relationships with federal and state criminal justice systems, inadequate law enforcement, great distance from the few existing resources, lack of detention staff and facilities, lack of sentencing or disposition alternatives, lack of access to advanced technology, lack of substance abuse testing and treatment options, etc. It should also be noted that in most tribal justice systems, 80-90% of the cases are criminal cases and 90% of these cases involve the difficult problems of alcohol and/or substance abuse.

**Importance of Tribal Courts**

"Tribal courts constitute the frontline tribal institutions that most often confront issues of self-determination and sovereignty, while at the same time they are charged with providing reliable and equitable adjudication in the many and increasingly diverse matters that come before them. In addition, they constitute a key tribal entity for advancing and protecting the rights of self-government. . . . Tribal courts are of growing significance in Indian Country." (Frank Pommersheim, Braid of Feathers: American Indian Law and Contemporary Tribal Law 57 (1995). Tribal justice systems are the primary and most appropriate institutions for maintaining order in tribal communities. Attorney General Reno acknowledged that, "With adequate resources and training, they are most capable of crime prevention and peacekeeping" (A Federal Commitment to Tribal Justice Systems, 79 Judicature No. 7, November/December 1995, p. 114). These courts, however, while striving to address these complex issues with far fewer financial resources than their federal and state counterparts must also "strive to respond competently and creatively to federal and state pressures coming from the outside, and to cultural values and imperatives from within." (Pommersheim, "Tribal Courts: Providers of Justice and Protectors of Sovereignty," 79 Judicature No. 7, November/December 1995, p. 111).

**Inadequate Funding of Tribal Justice Systems**

There is no question that tribal justice systems are, and historically have been, underfunded. The 1991 United States Civil Rights Commission found that "the failure of the United States Government to provide proper funding for the operation of tribal judicial systems . . . has continued for more than 20 years." The Indian Civil Rights Act: A Report of the United States Civil Rights Commission, June 1991, p. 71. The Commission also noted that "[f]unding for tribal judicial systems may be further hampered in some instances by the pressures of competing priorities within a tribe." Moreover, they opined that "If the United States Government is to live up to its trust obligations, it must assist tribal governments in their development . . ." Almost ten years ago, the Commission "strongly support[ed] the pending and proposed congressional initiatives to authorize funding of tribal courts in an amount equal to that of an equivalent State court" and was "hopeful that this increased funding [would] allow for much needed

increases in salaries for judges, the retention of law clerks for tribal judges, the funding of public defenders/defense counsel, and increased access to legal authorities."

As indicated by the Civil Rights Commission, the critical financial need of tribal courts has been well documented and ultimately led to the passage of the Indian Tribal Justice Act, 25 U.S.C. § 3601 et seq. (the "Act"). Congress found that "[T]ribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health, safety and the political integrity of tribal governments." 25 U.S.C. § 3601(5). Affirming the findings of the Civil Rights Commission, Congress further found that "tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation." 25 U.S.C. § 3601(8). In order to remedy this lack of funding, the Act authorized appropriation base funding support for tribal justice systems in the amount of $50,000,000 for each of the fiscal years 1994 through 2000. 25 U.S.C. § 3621(b). An additional $500,000 for each of the same fiscal years was authorized to be appropriated for the administration of Tribal Judicial Conferences for the "development, enhancement and continuing operation of tribal justice systems . . ." 25 U.S.C. § 3614.

Eight (8) years after the Act was enacted, how much funding has been appropriated? None. Not a single dollar was even requested under the Act for fiscal years 1994, 1995, 1997, 1998 or 1999. Only minimal funds were requested for fiscal year 1996 and 2000. Yet, even these minimal funds were deleted. Even more appalling than the lack of appropriations under the Act is the fact that BIA funding for tribal courts has actually substantially decreased following the enactment of the Indian Tribal Justice Act in 1993. In December 2000, Congress re-affirmed its commitment to funding of the Indian Tribal Justice Act by re-authorizing the Act for seven more years of funding (see Public Law 106-559, section 202). Now is the time to follow through on this long promised funding and provide actual funding under the Indian Tribal Justice Act!

**Conclusion**

Tribal justice systems are the primary and most appropriate institutions for maintaining order in tribal communities. They are the keystone to tribal economic development and self-sufficiency. Any serious attempt to fulfill the federal government's trust responsibility to Indian Nations must include increased funding and enhancement of tribal justice systems.

We welcome the opportunity to comment on the Interior Department's Budget Request for the Indian Tribal Justice Act and Tribal Courts (under the Tribal Priority Allocations). Thank you very much.

**United States Senate**
**Committee on Indian Affairs**
**Hearing: Alcohol Control & Enforcement Issues in Alaska**

**Testimony of Mike Williams, Chair**
**Alaska Inter-Tribal Council**

Honored Chair, Senator Ben Nighthorse Campbell; Alaskan Senator Frank Murkowski; and esteemed members of the Indian Affairs Committee:

It is my privilege to present this written testimony on behalf of the 180 member tribes of the Alaska Inter-Tribal Council. Allow me to begin with a brief history of AI-TC.

Alaskan tribes have occupied the length and breadth of America's largest state since time immemorial. Some anthropologists have estimated our use and occupancy of Alaska's 586,000 square miles can be traced back over thirty thousand years. Regardless of the time that has passed since our first ancestors walked over our traditional lands, however, there is no question that this use and occupancy formed the basis for aboriginal land claims, which Congress addressed in the Alaska Native Claims Settlement Act of 1971.

The Alaska Inter-Tribal Council was established in 1993 as an organization empowered by its members to be an advocate for tribal governmental rights and authority. Since that time we have witnessed the federal recognition of 227 tribes, an action which was duly confirmed by Congressional action in 1994; and by the courts in subsequent decisions. Beginning in December 1999, AI-TC was the coordinating organization for a process of government-to-government dialogue between Alaskan tribes and the State of Alaska. On September 29, 2000 we saw that process culminate in the first ever official recognition by the State, of the inherent sovereignty of Alaska's tribes. This is only the beginning of a process we hope will result in the "normalization" of relations between the State and Alaskan tribes, manifested by their mutual approval of an Accord designed to provide a framework for implementing the Administrative Order.

Today, the Senate Indian Affairs Committee will hear testimony from the U.S. Department of Justice, the State of Alaska and the Alaska Federation of Natives, about ways to improve the ability of rural Alaskan communities (including tribes) to address the problem of alcohol abuse through federal legislation. AI-TC appreciates this opportunity to present the perspective of Alaskan tribes and their governments on this important issue.

In 1986 the Anchorage Daily News published a searing study of the effect of alcohol abuse on Bush Alaska. "A People in Peril" ultimately won the Pulitzer Prize for the Daily News – and its publication over a week-long period has been credited with opening the eyes of the Alaskan public, policy-makers and legislators to what had essentially been perceived as "a Native problem". The "people" who were in peril were (and to this day continue to be) members of the Inupiaq, Yupik, Athabaskan, Tlingit, Haida, Tshimpshian and Aleut tribes of Alaska.

It is with no small measure of horror that I testify to you today, that it is a good bet that every single tribal family in Alaska has suffered the loss of a loved one to alcohol abuse, regardless of whether the loss derived from suicide, overdose, murder, hypothermia, drowning, burning, or sclerosis of the liver. Those family members they have not lost to death, are lost to the prison systems, broken homes, child welfare system, domestic violence, divorce or homelessness.

As tragic as the statistics are, the good news is that tribal people have also worked hard to be part of the solution. From Barrow to Kotzebue; from the Interior to the Yukon-Kuskokwim region; from Southeast Alaska to the Aleutian Chain, it can be said that local tribal leaders are banding together, rallying their people, and fighting for local solutions.

In the past, the State of Alaska instituted well-meaning, State-funded programs to "help" our people with "our" alcohol problem. But in many cases, the methods and practices used (for example, the well-known Twelve Step solution advocated by Alcoholics Anonymous) were based on values and traditions totally alien to our tribes and their communities. As a result, the money thrown at the problem did not result in workable solutions – in some cases, the programs served instead to divide communities and create hostility toward the State.

In the 1980's tribes began to institute their own, culturally-oriented programs. Examples include the "spirit camps" used by the Athabaskans; "talking circles"; and the Rural Providers Conference, which now attracts hundreds of participants at its annual events. Today, it can be said that the more local the solution, the more likely it is to work. And it is the contention of the Alaska Inter-Tribal Council that for tribes, "local" means "tribal".

**The Alaska Inter-Tribal Council requests that the Indian Affairs Committee conduct a full public process, including hearings in rural Alaskan communities, before approving any legislation aimed at the control and enforcement of alcohol and substance abuse prevention for Alaska's rural communities.** To date, many tribes and their members are not familiar with alcohol control issues that have the potential to impact their governments' ability to adopt and enforce alcohol control ordinances in the future.

**The Alaska Inter-Tribal Council further requests that representatives of the governments of the United States, the State of Alaska, and as many Alaskan tribes as possible, be involved in the conduct of hearings on how tribes should govern the enforcement of alcohol control measures for tribal communities. The target of these hearings should be for a mutual agreement between the governments to be reached by the end of the year 2001.**

The reality for tribal communities today is that the various governmental jurisdictions operating in Alaska overlap and sometimes conflict each other. A community organized as a third- or second-class city under Title 29 of State law may carry on its books a "local option" law, under which a local election will determine whether the community is classified as "wet" (alcohol sale and possession is allowed); "damp" (alcohol sale banned; possession allowed); or "dry" (alcohol sale and possession are banned). But the tribal members residing in a "wet" or "damp" city may have adopted an ordinance banning alcohol sale and possession. We foresee legal tangles occurring more and more in the future in these cases, unless the right of tribes and their

governments to adopt and enforce tribal ordinances is recognized with the legislation being proposed by the Indian Affairs Committee.
Approximately one hundred rural Alaskan communities have never incorporated under State law to become any class of "city". These communities, for the most part, are governed by "traditional councils" – whose authority was not rescinded by Congress' passage of the Alaska Native Claims Settlement Act. Tribes in these communities continue to strive to address their problems (including alcohol control) with minimal financial and other resources. But they see their local ("tribal") solution as a more effective and culturally appropriate means of addressing the alcohol problem. Their right to do so should be affirmed with the legislation being proposed by the Indian Affairs Committee.

The Indian Affairs Committee should not overlook the importance of granting tribal authority to governments in communities which, over time, have become surrounded by larger communities with non-tribal residents. Many of these larger communities are geographically surrounded and are "hub communities" for many smaller tribal villages. Bethel, located in the Yukon-Kuskokwim area of Alaska, is a good example of problems that arise in these situations.

Bethel is a second-class city; it also is the home of a Yupik tribal government. Under municipal laws, Bethel is "damp". The tribe, however, has adopted a strong position that "alcohol products should not be allowed at all in Bethel". Most of the tribal communities in the surrounding area have also adopted ordinances under tribal and State laws that make their villages "dry". But as long as the City of Bethel's laws take precedence over tribal ordinances, tribal members residing in Bethel or the surrounding villages, will have ready access to alcohol products imported from Anchorage into Bethel, the "damp" city. This places an unnecessary burden on law enforcement agencies, because in this situation, bootleggers flourish.

On a more personal level, I would now like to testify about how the issue of alcohol control has impacted my own family.

I grew up one of seven sons, in Akiak – located outside of Bethel. Although Akiak was and is a "dry" community, Bethel has always provided a steady supply of alcohol to drinkers in Akiak. Over the years, I have lost all six of my brothers to alcohol. And what makes it sad is, I am by no means alone. My unfortunate circumstance has been repeated over and over again in families across my region, throughout the Yukon-Kuskokwim Delta; and all across the state of Alaska.

In 1991, in an effort to overcome the despair that always threatens to overtake me, I began "mushing for sobriety" in the sled dog race called the "Kuskokwim 300". Due to the success of that endeavor, in 1992 I began running the 1,100-mile Iditarod Race, using a "Take Pride in Sobriety" campaign. I collect written, signed pledges from individuals who promise to stay sober if I succeed in making it from Anchorage to Nome on the Iditarod Trail. To date, I have collected over 50,000 pledges – and I have made it to Nome every time. Soon I will begin training and planning for the Year 2001 Iditarod.

I am sure that members of the Committee recognize the sheer volume of work that lies ahead for whatever entity is entrusted to address this issue. If it were only "advocacy" that was needed, the Alaska Inter-Tribal Council would feel up to the task. But we are going to need cooperation

between the federal government, the State of Alaska, and every federally recognized tribe in order to arrive at legislation that will enable the adoption of a single policy aimed at beating this problem once and for all.

I mentioned Bethel – but the problem is just as bad in the Bristol Bay region's City of Dillingham; the Seward Peninsula's City of Nome; the North Slope's City of Barrow; and the Interior's City of Fort Yukon (which owns a liquor store, from which it derives part of its operating revenues). What will be needed are carefully thought-out and organized hearings to take place in every one of these "cities" – which are, in fact, "tribal communities" surrounded by someone else's jurisdiction.

That mindset, by the way, has contributed to the problem for many years. As long as the State of Alaska alone is granted legislative powers; or even if the State works hand-in-hand with the federal government, using both State and federal laws – as long as tribal ordinances are not in the picture, local tribal members will have the ability to point to "outsider's laws" and gain sympathy from their fellow tribal members. But when the tribe and its government is recognized and granted authority by both the State and the federal government, to adopt and enforce local ordinances to prevent alcohol abuse, then tribal members will not have such an argument to back them up when they break the law. Because if it is a tribal law, it is one from the heart of the village.

Finally, let me say that the cities of Anchorage, Fairbanks, Juneau, Ketchikan and Kodiak, among others, need to be part of the solution as well.

Tribes are not against municipal government. Tribes do not oppose borough governments. Every form of government has a role to play in addressing the question of how to prevent alcohol abuse, how to control alcohol use, and how to bring the strong arm of justice against those who break alcohol laws. The Alaska Inter-Tribal Council believes that the Cities of Alaska have a large stake in a positive outcome of the alcohol issue. They should be included in whatever process is used by Congress to arrive at a solution.

Thank you once again for this opportunity to testify on this most important issue. I planned to come in to Washington, D.C. to present this testimony in person, but as Chair of AI-TC, my travel schedule has not permitted me much time at home to tend to my family and my dogs. As a personal decision, I decided that written testimony would have to suffice for now. However, the Alaska Inter-Tribal Council and all of its member tribes stand ready to work closely with Congress toward a strong and workable, culturally respectful, tribal solution to the problem of alcohol control and enforcement in Alaska's rural areas.

MW:me

**National Congress of American Indians**
**2001 Mid-Year Session**
**Ledyard, Connecticut**
**May 13-16, 2001**

**D R A F T**

**Resolution No. _____**

**"In Opposition to the Regionalization of Alaska's Federally Recognized Tribes and Their Tribal Governments, Including the Proposed Regionalization of Federal Funding to Alaska's First Nations."**

**We the members of the National Congress of American Indians** of the United States, do hereby invoke the divine blessing of the Creator upon our efforts to preserve for ourselves and our descendants the rights secured under Indian treaties and agreements with the United States; and upon our efforts to preserve all other rights and benefits to which we are entitled under the laws and Constitution of the United States.

In order to enlighten the public toward a better understanding of the First Nations of America, we do hereby establish and submit the following resolution:

**WHEREAS,** The National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization comprised of representatives of and advocates for Tribal concerns at the local, regional and national levels; and

**WHEREAS,** The NCAI is the pre-eminent Native advocacy organization in the United States, comprised of more than 230 Native American Nations, including representatives of Alaska's federally recognized Tribes; and

**WHEREAS,** The primary goals and objectives of the NCAI are to advocate for Tribal health, safety, welfare, education, employment opportunities, economic success, preservation of natural resources, and the continuation of our ancient cultures; and

**WHEREAS,** The First Nations of Alaska have built thriving cultures which have been supported economically by Their use and occupancy of virtually every region of Alaska; and

**WHEREAS,** The aboriginal use and occupancy of their traditional lands by Alaskan Tribes formed the basis for their land claims, which were addressed by the United States Congress in its passage of the Alaska Native Claims Settlement Act of 1971 (ANCSA); and

**WHEREAS,** The First Nations of Alaska are recognized in federal law as separate and distinct political governments which enjoy a government-to-government relationship with the United States based upon the federal trust responsibility which the United States Secretary of the Interior is obligated to fulfill toward all of America's indigenous peoples; and

**WHEREAS,** In 1993 the Assistant Interior Secretary for Indian Affairs, the Honorable Ada Deer, issued and published in the Federal Register a list of 226 Alaska Native villages which are recognized by the United States government as "federally-recognized tribes"; and

**WHEREAS,** Each and every one of Alaska's federally recognized tribes desires to maintain full control over any and all activities currently funded by the United States through the Congressional appropriations process; and

**WHEREAS,** certain members of the United States Congress have been critical of the fact that under the existing appropriations system, every Alaskan Tribe is eligible to receive tribally-targeted appropriations individually, such criticism being based on the sheer number of individual appropriations, based on the number of federally-recognized Tribes in Alaska; and

**WHEREAS,** in an effort to respond to such criticism, Alaska's senior Senator, the Honorable Ted Stevens, is actively seeking ways to reduce the number of federal appropriations to Alaskan Tribes, including the investigation of the feasibility of "regionalizing" Alaskan Tribal government by granting federal recognition to the State-chartered, for-profit and non-profit regional corporations established under the terms of ANCSA; and

**WHEREAS,** the regionalization of Alaskan Tribes would result in the certain loss of tribal governing authority by the individual Tribal Governments which have existed in Alaska since time immemorial; and such loss would also result in much-decreased local control over the destiny and welfare of individual Tribes, their communities and their Tribal members; and

**WHEREAS,** Alaska's First Nations do not believe that the price for increased governmental efficiency in appropriations should include the loss of tribal authority at the local level, which they have held near and dear to their hearts since before the establishment of the United States Congress and the Senate Appropriations Committee; and

**WHEREAS,** Alaska's First Nations are convinced that the regionalization of Alaskan Tribal government will have long-term negative effects on tribal governance throughout the United States because of the unfortunate legal precedent that it would set.

**NOW THEREFORE BE IT RESOLVED,** that the National Congress of American Indians, congregated at its Mid-Year Session in Ledyard, Connecticut on May 12-16, 2001, does hereby support Alaska's First Nations in their opposition to the regionalization of Alaskan Tribal government; and

**BE IT FURTHER RESOLVED,** that the NCAI calls upon the Honorable Alaskan Senator Ted Stevens, in his capacity as Chair of the U.S. Senate Appropriations Committee, to cease consideration of the regionalization of Alaskan Tribal government and, instead, consult closely with individual tribal leaders and with the Alaska Inter-Tribal Council, to discover a resolution to the appropriations dilemma in a fashion that Alaska's First Nations and the National Congress of American Indians can wholeheartedly support; and

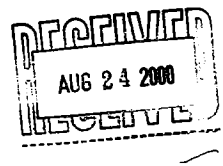
**BE IT FURTHER RESOLVED,** that the membership of the NCAI requests the national administration for NCAI to engage a qualified expert in American Indian Law to investigate the legal and political consequences of regionalization for Alaska's federally-recognized Tribes; and to likewise research the future ramifications of such an action upon the rights, powers and authorities of the federally recognized Tribes and their governments outside Alaska, and that the findings be reported in timely fashion during an appropriately designated NCAI General Assembly; and

**BE IT FINALLY RESOLVED,** that the NCAI calls upon the Honorable Secretary of Interior, Gail Norton, to monitor the issue of the regionalization of Alaskan Tribal government, to ensure that the interests of all of the individual federally recognized Alaskan Tribes are protected, as required under her federal trust obligation to Alaska's First Nations.

**ATTEST:** **DATE:**

_____ _____

GEORGE W. BUSH




file White House Correspondence

August 18, 2000

President Mike Williams
Alaska Inter-Tribal Council
431 W. 7th Avenue, #201
Anchorage, AK 99501

Dear Mike,

I believe my compassionate conservative philosophy of smaller government, lower taxes, and local control offers far greater practical support for Indian self-determination and tribal self-governance than do the paternalistic solutions offered by some in our Nation's capital.

I recognize and reaffirm the unique government-to-government relationship between Native American tribes and the federal government. I will strengthen Indian self-determination by respecting tribal sovereignty, which has improved the quality of life for many Native Americans. I believe the federal government should allow tribes greater control over their lives, land, and destiny.

It is time for a President, together with tribal leaders, to chart a new course for Native Americans: one that recognizes the unique status of the tribes in our constitutional framework and gives tribal governments the freedom to solve their own problems instead of having solutions dictated from Washington. I look forward to working with the tribes and Indian supporters of both parties in Congress and, together, I am confident that we can craft an agenda to help resolve the challenges faced by Native Americans.

I am committed to ensuring that Native Americans have complete access to the American Dream. I look forward to working with you in this spirit.

Sincerely,

George W. Bush

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# INTRODUCTION TO REGIONAL ENERGY NEEDS STUDY

**Frank Bettine, P.E., Esq.**

Nuvista Light and Power, Inc., a non-profit corporation formed by Calista Corp., recently received a $250,000 state grant to conduct a region energy needs study for the Calista region. The purpose of the study is to investigate and identify alternatives or combination of alternatives that could satisfy the electric and heating requirements, and perhaps the telecommunications needs of the region, at the lowest cost to consumers. This includes identifying the least cost alternative for providing electric power and energy to the proposed Donlin Creek gold mine project, located near Crooked Creek, Alaska. The mine will have a continuous load demand of approximately 65 megawatts. Placer Dome, Inc. is presently investigating the feasibility of developing the Donlin Creek mine project, which is estimated to hold approximately twelve million ounces of recoverable gold.

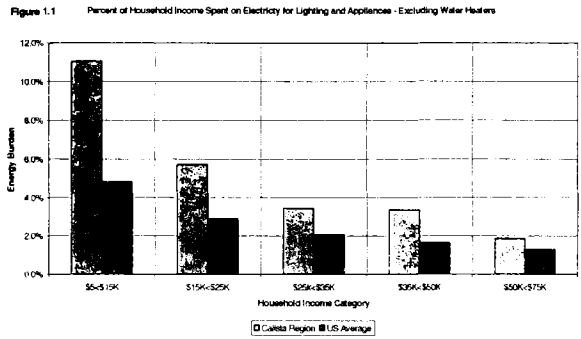
At present, the cost of producing electricity in many of the villages exceeds 50 cents per kilowatt-hour (kWh), as compared to 5 cents per kWh in Anchorage, and 12 cents per kWh in Bethel. The high cost of electric power is somewhat offset by the state-funded PCE program. However, even when heavily subsidized through the PCE program, cost for electricity a residential consumer pays in the villages is three times the cost of electricity in Anchorage and the twice the cost of electricity in Bethel. Without the PCE program, the cost of electricity in the villages is approximately five times the cost in Anchorage and three times the cost in Bethel.

Figures 1.1 and 1.2 further illustrate the disparity between the cost paid for electricity in the Calista region and the average U.S. household.[1] An examination of Figure 1.1 establishes that the energy burden for an average household in the Calista Region is roughly twice that of the average U.S. household, for households with incomes between $5000 and $50,000 dollars. It is only for households with incomes in excess of $50,000 per year that the energy burden is relative equal. Energy burden is the percent of household income spent on electricity.

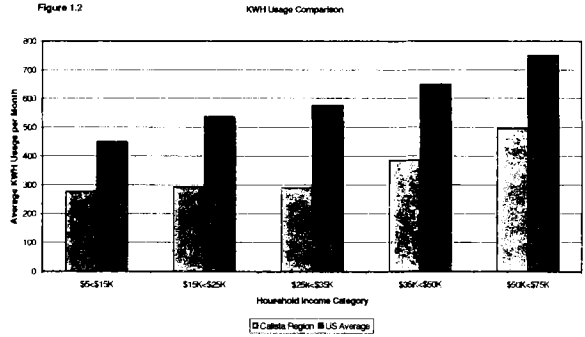
Although households in the Calista region must expend a greater portion of their disposable income for electrical power, they use considerable less energy than the average U.S.

[1] U.S. Household consumption derived from United States Department of Energy, Energy Information Administration, 1997 Residential Consumption Survey, attached as Appendix A. Calista Region household consumption derived from Statistical Reports of the Power Cost Equalization Program and State of Alaska Department of Community and Economic Development, Community Profile data. See Appendices B and C.

Houshold. Figure 1.2 illustrates that households in the Calista region use approximately one-half to two-thirds the amount of electrical energy consumed by the average U.S. household, for any given Household Income Category.




The cost of fuel oil in many of the villages is also double the cost paid in Anchorage or Bethel for the same fuel, and several times the cost paid by Anchorage residents to heat with




natural gas. For example, the cost of natural gas in Anchorage is approximately $3.50 per million BTU, as compared to $14.00 per million BTU in many of the villages. Few village families and businesses can afford such exorbitant energy rates.

As a result of high electric rates and fuel oil costs, the quality of life and business opportunities in the villages have been severely limited. In order to reverse this trend and

prevent further degradation of the quality of life in the villages, it is critical to develop an integrated energy resource approach to supplying the electric and heating requirements of the region.

The initial step in reducing the high energy cost in the region is to develop a comprehensive regional wide energy plan. While in the past, various energy studies have been conducted for individual villages or groups of villages, within the Calista region, no comprehensive regional wide study has been conducted to determine an overall energy strategy for the region. The purpose of study is to assess the overall electric power and heating energy needs of the region and develop a integrated long range plan to satisfy these needs at the lowest cost to consumers.

Assessing the present energy needs of the region and projecting future needs of the region is one of the first tasks that must be accomplished. Once future energy needs for the region are project, various integrated energy resource alternatives, in addition to continued diesel generation, for supplying these needs, will be investigated.

These alternatives would include, but are not limited to, construction of centralized power plants equipped with state of the art aero-derivative combustion turbines or coal fired generation, and the construction of transmission lines to interconnect villages to these highly efficient power plant(s). Other alternatives would include development of previously identified small hydroelectric sites, installation of small combustion turbines in individual villages to replace diesel generation, installation of fuel cells, and capture of waste heat from generating electricity to heat homes and businesses, or some combination of the alternatives identified above.

With modern advances in technology, it is possible to include a fiber optical cable in a power line conductor. Therefore, interconnecting the region via a network of transmission interties could have a secondary benefit of providing the region with high quality, highly reliable telecommunications. This secondary benefit will be briefly examined as part of the study.

# ELECTRIC LOAD FORECAST

## A. Introduction

The Calista region is home to forty-seven permanent year-round villages, in addition to Bethel, which is the largest community in the region. Electric power is provided to the villages in the region by one of three primary sources: village owned systems, private utility companies, or cooperatives. In nineteen of the villages the electric utility system is owned and operated by the village. Alaska Village Electric Cooperative (AVEC) operates the electric utility system in twenty-three of the villages.[1] In five villages located on the Kuskokwim River, upstream of Aniak, the utility system is owned and operated by the Middle Kuskokwim Electric Cooperative (MKEC). The electric utility system in Bethel is owned and operated by Bethel Utilities, Inc., a private, for-profit company. Two village owned utility systems are supplied electric power, by Bethel Utilities, via overhead distribution lines constructed in the early 1980s. In a few of the villages the public schools generate their own electricity. With a few exceptions, electricity is generated using diesel-powered generators. Most villages within the region have bulk fuel storage, either at the local school, electric generation plant, community storage tanks, or all three. Present load requirements range from approximately 40 kW in the smallest villages to over 5000 kW in Bethel.

An analysis and projection of the region's future population, on a village-by-village basis, is the necessary first step in forecasting the long term electrical power needs for the region. Population and economic indicators such as employment and income are commonly used to project future power needs. However, for the Calista Region, population is the most important factor in projecting future power requirements, as employment and income are not suitable indicators of power consumption, due to the regional mix of subsistence and cash based economy, that includes substantial governmental transfer payments.

This section of the report describes the assumptions and methodologies used to forecast future population and load requirements, and summarizes the results in a series of tables and charts.

## B. Population Projections

The forty-seven year-round villages in the Calista region are home to approximately one-

[1] The village of Nightmute operated a village owned utility until joining AVEC in fiscal year 1999. However, for the purpose of this study, it is analyzed as a village owned utility.

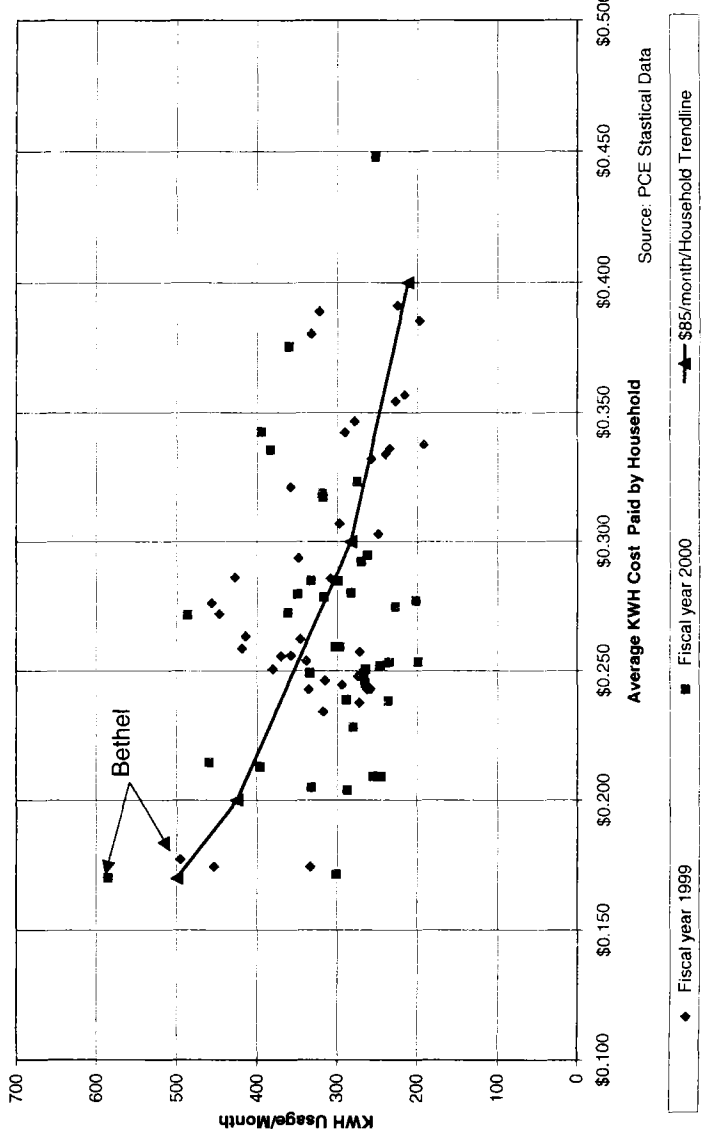
fifth the total population of Alaska Natives in the state. The Calista region, due to its large size, is composed of two census areas; the Bethel census area, including the community of Bethel, and the Wade Hampton census area. The community of Bethel dominates the region in size and economic activity. The population of Bethel has risen steadily since 1910, doubling in size from 1950 to 1960, again from 1960 to 1970 and again from 1970 to 1999. In 1999, the population of Bethel totaled 5,724, according to the Twelfth Edition of the Statistical Report of the Power Cost Equalization (PCE) Program.

The estimated population for the region in 1970 was 12,009, increasing to 15,664 in 1980 and to 19,447 in 1990. The overall population of the region, in 1999, totaled 22,929, roughly doubling in size between 1970 and 1999, according to the above-referenced PCE report. Between 1970 and 1990 the Calista region population increased at an annual average rate of 2.45 percent. However, the annual average increase in population growth has declined since 1990. The annual average increase between 1990 and 1999, a nine year span, decreased to 1.85 percent.

**Population Projection Without Donlin Mine Development**

Regression techniques were used to project population growth in the Calista Region to the year 2020. The model does not include any population growth associated with development of the Donlin Creek Gold Mine project. A linear regression analysis relies on historical population trends to project future population trends. Historical data relied on for the regression analysis included population data obtained from the Department of Community and Economic Development, Community profiles for the years 1970-1990. (Appendix B.1). Population data subsequent to 1990 was obtained from the Statistical Reports of the Power Cost Equalization program. (Appendix C.1). Population projections, by village for the years 2001- 2020 can be found in Appendix B.2. The results from the linear regression model, for the years 2010 and 2020, are summarized in the "Population w/o Donlin" projections listed in Table 1 and graphically illustrated in Figure 1, for each year of the study period. Also included in Table 1 is the individual village population, for the year 1999, obtained from the Twelfth Edition of the Statistical Report of the Power Cost Equalization (PCE) Program, and the DOT&PF's Yukon-Kuskokwim Delta (Y-K Delta) Transportation Plan, high and low population projections, for the years 1999, 2010 and 2020. Information on the DOT projections can be found in Appendix B.3.

**Figure 4** Household KWH Usage/Month versus Power Costs



**Population Projections with Donlin Creek Mine Development**

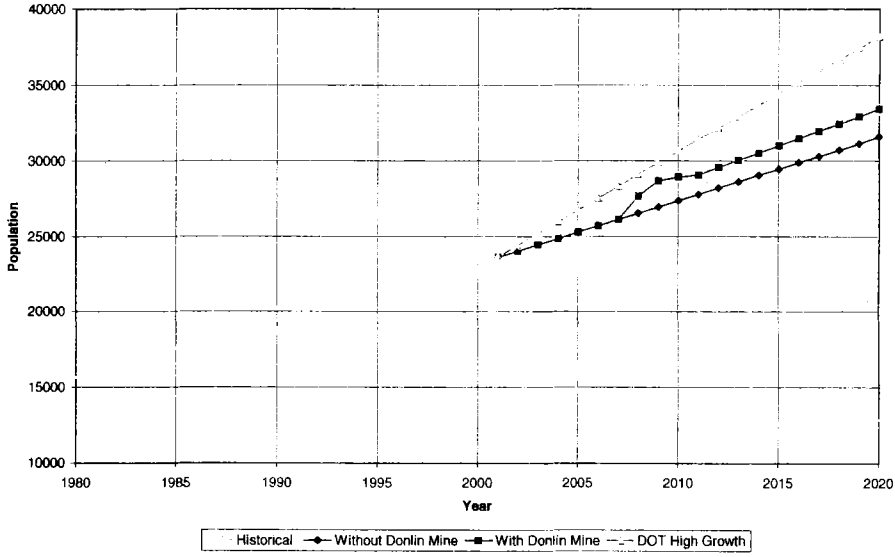
This projection uses the population projections without Donlin Creek development scenario as the underlying bases for its forecast. However, under this scenario it is assumed that, in the year 2007, construction work will begin on the Donlin Creek Gold Mine project, including construction of a 80 megawatt power plant in Bethel and a transmission line to intertie the mine site, located near Crook Creek, with Bethel. Therefore, in 2007, the population in the region is expected to surge upward due to construction related jobs, especially in the community of Bethel and the eight villages located along the route of the transmission line. It is projected that approximately 1000 individuals will be directly involved with construction activities at the mine site by the year 2009. This number is expected to decrease to 500 full-time positions in 2011, with approximately 300 of these individuals present at the mine site, at any given time. Finally, it is assumed that, in the year 2010, the population of Bethel and of the eight villages located along the transmission line route, will increase to the levels projected in the DOT High Growth population forecast and subsequently track the DOT High Growth population forecast for the remainder of the study period. Population projections for this scenario are labeled in Table 1 as "Population with Donlin." The population projections for this scenario are included in Table 1, for the year 2010 and 2020, and graphically illustrated in Figure 1 for each year of the study period.

**DOT Low and High Population Projections**

The DOT Low and High Growth population projections are included for comparison in Table 1. However, the DOT Low projections are not included in Figure 1, as the "Population w/o Donlin" scenario establishes the lower limit of projected population growth in the region. Although the DOT High population projection appears to be based on an unrealistically high population growth rate, except for perhaps the community of Bethel and the eight communities located along the route of the transmission line route, under the scenario where Donlin Creek Gold mine project is developed, this alternative is included for comparison purposes, and serves to bound the upper limit of possible population growth in the region as illustrated in Figure 1.

A review of the population projections, for the three scenarios, illustrated in Figure 1, reveals that the population for the region is expected to increases from 22,929 in 1999, to 31,594, by 2020, under the "Population w/o Donlin" scenario. This represents a 37.5 percent increase over the course of the study period, and an annual average increase of approximately 1.5 percent. Under the "Population with Donlin" alternative the total population increases to 33,352 by the end of the study period, which represents a 45.5 percent increase and an annual average increase of approximately 1.8 percent. The sudden surge in population between 2007 and 2010, reflects the anticipated influx of outside construction workers associated with development of the Donlin

**Figure 1** **Calista Region Population Projections**



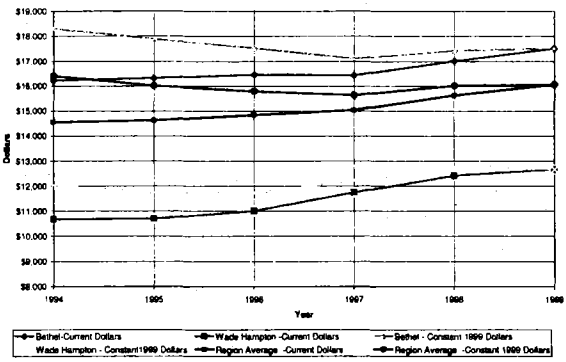

Creek Gold mine project. The DOT High Growth alternative projects a regional population of 38,206, for a total population increase of 66 percent, which corresponds to an annual average increase of approximately 2.5 percent.

**D. Load Forecast**

The preparation of the Calista region load forecast involved a combination of several steps. First as discussed above, it was necessary to prepare population projections by village for the region. Secondly, it was necessary to evaluate several years worth of statistical data obtained from the Power Cost Equalization program for each village in the region. (Appendix C.1). This information was used to determine historical energy use patterns and trends in Bethel and each of the villages. This information was then combined with the population projections to forecast future electrical load requirements for Bethel and each village. Individual village projections were also grouped and analyzed based on utility ownership status. The twenty-two AVEC villages composed one group, the five MKEC villages a second, and the twenty village owned utilities a third group.[2] Bethel, because of its size, was evaluated separately.

Per capita income for the year 1994-1999 was examined as part of the load forecast analysis. Per capita income information, for both the Bethel and Wade Hampton census areas, for these five years, was obtained from the U.S. Department of Commerce, Bureau of Economic Analysis web site. (Appendix C.2). This information is graphically displayed in Figure 2 in both current dollars and constant 1999 dollars. The graphs in Figure 2 establish that the per capita income in the Bethel census area has decreased slightly, in 1999 constant dollars, from $18,290 in 1994 to $17,524 in 1999, or by $766, which equates to a 4.2 percent decrease over the five

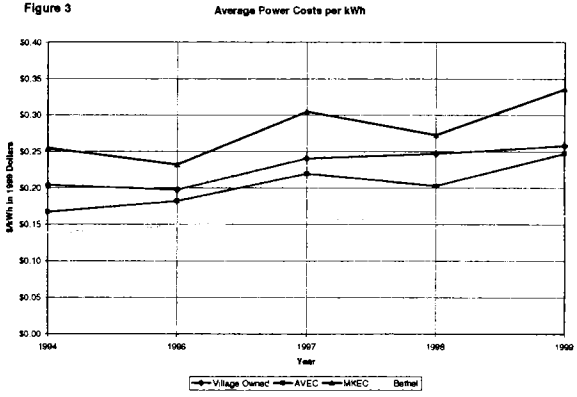
Figure 2 Per Capita Income by Census Area




[2] Although Nightmute joined AVEC in fiscal year 1999, it is analyzed as a village owned utility.

year period. On the other hand the per capita income in the Wade Hampton census has increased by $641 or 5.3 percent, over the same five year period, from $12,043 in 1994 to $12,684 in 1999. When the per capita income for the two census areas are combined, the per capita income in the Calista region decreased $335 over the five year period from $16,405 in 1994 to $16,070 in 1999. The Consumer Price Index (CPI) conversion factor table used to convert to 1999 dollars is included in Appendix C.3.

Figure 3



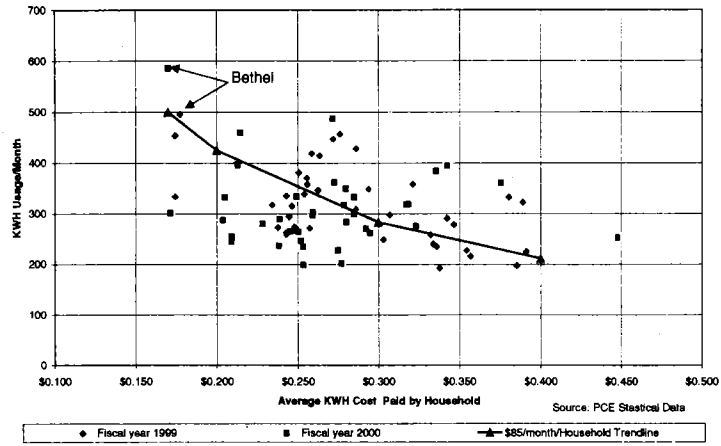

To identify power cost trends, the effective residential rate (power cost) was examined for each of the four groups for the years 1994 through 1999 using data from Statistical Reports of the Power Cost Equalization Program. Power cost trends are displayed graphically in Figure 3 in constant 1999 dollars. An examination of Figure 3 reveals that cost of power has gradually increased, during the five year period, throughout the Calista region.

Using data obtained from the Statistical Reports of the Power Cost Equalization Program for fiscal year 1999, the average residential rates consumers pay for power, in the region, was examined, for Bethel and forty-one villages[3], to identify trends in household usage versus power costs. (Appendix C.4). The average residential rate for Bethel and each of the forty-one villages was calculated by using the formula ((PCE eligible residential kWhs x Effective residential rate) + (Non-PCE eligible residential kWhs x Utility's Average Residential Rate))/(Total residential kWhs sold). The results of this analysis is displayed in Figure 4. An effort was made to identify

[3] For the purpose of this analysis residential usage for, Lower and Upper Kalskag, were combined and treated as one village. The same goes for Nunapitchuk and Kasigluk, St. Mary's and Pitka's Point.

a curve that reasonably fit the 22 data points plotted in Figure 4. It was determined that a curve representing a $90 dollar per month expenditure level per household for electricity was a

**Figure 4** **Household KWH Usage/Month versus Power Costs**




reasonable fit to the data. Effectively this curve is a demand-elasticity curve, projecting average monthly household power usage versus power cost. For the most part it would appear that residential consumers are willing to spend approximately $90 per month on electricity, regardless of whether they live in Bethel or in the villages. As expected, households in Bethel use the most energy, approximately 500 kWhs per month, where residential power costs average $0.175 per kWh. Power usage in the villages averages between 270-300 kWhs per month per household, where residential power costs averaging between $0.35 and $.30 per kWh, respectively.

Despite slight decreases in per capita income and continuing increases in the cost that consumers must pay for power, per capita energy usage in the region has, since 1994, continued to slowly increase. This suggest that so long as per capita income remains relatively constant and the cost of power does not increase excessively, per capita energy usage in the region will continue to gradually increase. It is theorized that the increasing use of electrical appliances accounts for this gradual but steady increase in electrical power consumption. Consumers appear willing to spend more of their disposable income for the conveniences provided by electric

power.

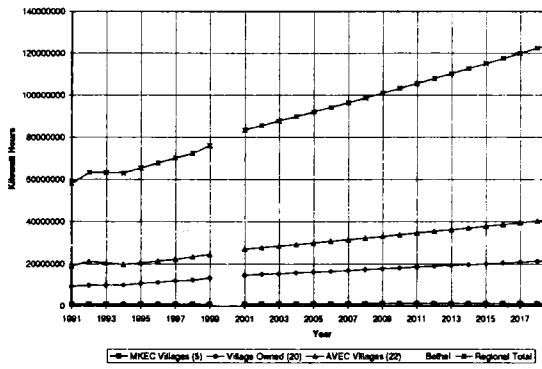
**Description of Load Forecast Scenarios**

Four alternative load forecasts scenarios were developed to accommodate a range of possible future growth scenarios. The load forecast results for the low, medium, medium-high and high case scenarios for the period 2001 through 2020 are presented in detail in a series of spreadsheets located Appendix C.6, and are summarized in Figures 5 through 8 and Table 2. The projected peak demand does not include the effects on peak demand that can be caused by possible extreme weather conditions. The four scenarios are further described below.

**Load Forecasts without Donlin Creek Mine Development (Low & Medium Growth Scenario)**

The medium growth scenario provides load projections for the region under expected load growth conditions given the assumption that the Donlin Creek Gold Mine project is not

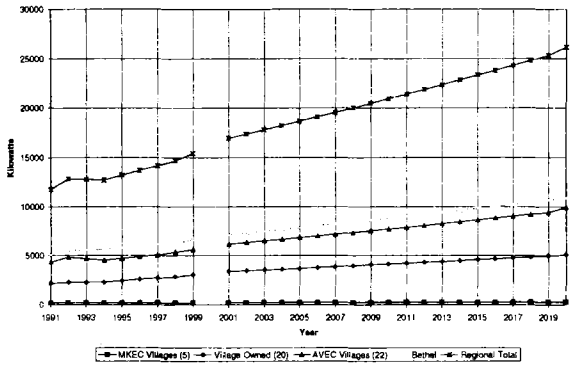
Figure 5 Regional Energy Requirements Without Donlin Creek Mine - Medium Growth




developed during the course of the study period. Regression techniques were used to analyze historical per capita energy usage, from 1994 through 1999, by village grouping, to project future per capita energy usage from 2001 through the end of the study period, for villages within each group. The model projected an increase in per capita energy usage of 30 kWhs per month for

village owned utilities, 27 kWhs per month for MKEC member villages, 46 kWhs per month in AVEC villages and 109 kWhs per month in Bethel. (Appendix C.5). One-half of this amount was added to the historical 1999 per capita usage in each village to project per capita kWh usage

Figure 6 Regional Power Demand Without Donlin Creek Mine - Medium Growth




at the end of the study period for that village. For example, in the AVEC village of Alakanuk, the per capita monthly energy usage in 1999 was 170 kWh per month. Adding one-half on the projected 46 kWh per month increase for AVEC villages, or 23 kWhs per month, results in a projected per capita energy usage of 193 kWhs per month in the year 2020. Under the low growth scenario, per capita kWh usage in each village, beginning in the year 2001, is assumed to decline to and remain at the lowest annual level recorded between the years 1991 and 1999.

Estimated energy sales, by community, for each year, for both medium and low growth scenarios were derived by multiplying the projected yearly per capita energy usage for that scenario, by the population of the community. Estimates of future energy requirements were derived by adding estimated energy losses to projected sales. System losses were estimated at 5% in all villages, including Bethel. Peak demand was then estimated by applying a 0.5 load factor in all villages except Bethel, where a 0.65 load factor was utilized. Under medium growth scenario, energy requirements are projected to increase an average of approximately 2.5 percent per year in the region, from 76,288 Mwhs in 1999 to 128,844 Mwhs in 2020. Regional power demand is estimated to increase from 15.5 MWs in 1999 to 26.2 MWs in 2020. Under the low growth scenario, energy requirements are projected to increase an average of approximately 1.0 percent per year, from 76,288 Mwhs in 1999 to 94,100 Mwhs in 2020 and power demand is

estimated to increase from 15.5 MWs to 19 MWs. Bethel accounts for approximately one-half of the energy usage in the region and 40 percent of power demand in the region, under either scenario.

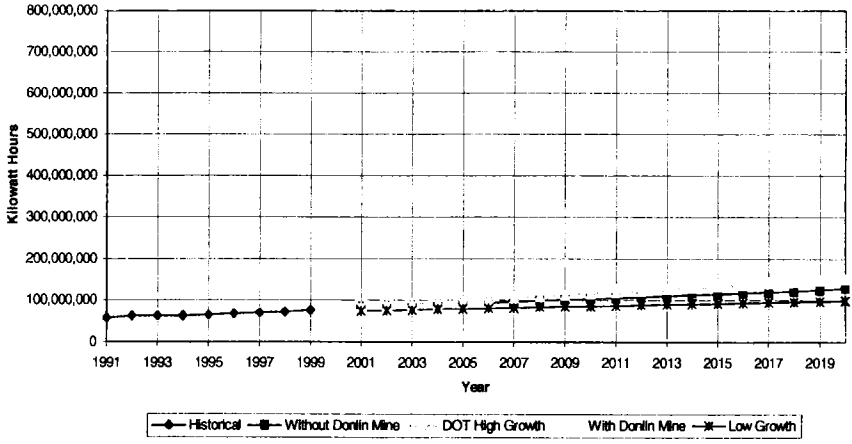
**DOT High Population Projection (Medium-High Growth Scenario)**

This scenario combines the DOT High population growth projections with projected yearly per capita energy usage, derived for the medium growth scenario, to arrive at a regional load forecast. This scenario also assumes the Donlin mine project is not developed. System losses are estimated at 5% in all villages, including Bethel. Estimates of future energy requirements were derived by adding estimated energy losses to projected sales. Peak demand was then estimated by applying a 0.5 load factor in all villages except Bethel, where a 0.65 load factor was utilized.

**Load Forecast with Donlin Creek Mine Development (High Growth Scenario)**

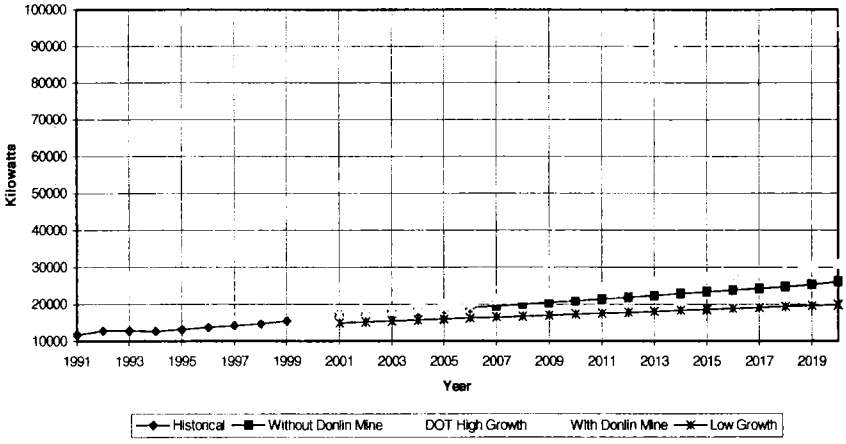
This case scenario assumes development of the Donlin Creek Gold Mine project begins in the year 2007. Development would include construction at the mine site, and simultaneous construction of an 80 megawatt power plant in Bethel along with the construction of a transmission line to intertie Bethel to the mine site. Once fully operational in 2010, the mine will

**Figure 7** **Regional Energy Requirements**



have a peak demand of 65 megawatts, with projected energy requirements of 512,460 Mwhs per year, which equates to a 0.95 load factor. Transmission line losses of 8% must be added to arrive at total mine requirements. Village requirements are added to the mine requirements to obtain a total load forecast for the region. Per capita power usage in villages located along the Bethel to Donlin Creek Mine transmission line corridor, and those located within a 30 mile radius of Bethel, are assumed to double over 1999 usage, up to a maximum of 400 kWhs per capita per month, by the end of study period. Per capita power usage in other villages in the region are projected to increase at medium growth scenario rates. Village system losses are estimated at 5% in all villages, including Bethel. Estimates, of future village energy requirements, were derived by adding estimated energy losses to projected sales. Peak demand in each village, as before, was estimated by applying a 0.5 load factor in all villages except Bethel, where a 0.65 load factor was utilized. The mine is anticipated to operate with a 0.95 load factor. Forecasted power demand, under this scenario, in the year 2020, is 94.7 MWs as compared to 26.1 MWs projected under the Medium Growth Scenario, where Donlin mine is not developed. Energy requirements soar to 658,917 Mwhs beginning in the year 2010, increasing to over 691,000 Mwhs in the year 2020.

**Figure 8** **Regional Power Demand**



It is clear, from reviewing Figures 7 and 8, that the Donlin Creek Gold mine will be the single largest user of electrical power and energy in the region.

| Table 2 | ENERGY REQUIREMENTS & POWER DEMAND | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | KWH REQUIREMENTS | | | | | KW DEMAND | | | | |
| YEAR | 1999 | 2010 | | 2020 | | 1999 | 2010 | | 2020 | |
| | PCE Data(1) | Medium Growth(2) | High Growth(3) | Medium Growth(2) | High Growth(3) | PCE Data | Medium Growth(2) | High Growth(3) | Medium Growth(2) | High Growth(3) |
| **Village Owned Utilities** | | | | | | | | | | |
| Akiachak | 839,246 | 1,109,858 | 1,383,349 | 1,341,324 | 2,698,920 | 192 | 253 | 316 | 306 | 616 |
| Akiak | 739,254 | 1,097,028 | 1,122,841 | 1,358,959 | 1,439,530 | 169 | 250 | 256 | 310 | 329 |
| Anvak | 2,315,997 | 3,204,590 | 3,518,083 | 3,816,485 | 4,436,217 | 529 | 732 | 803 | 871 | 1,013 |
| Atmautluak | 594,022 | 733,939 | 880,633 | 985,163 | 1,580,297 | 136 | 168 | 201 | 198 | 361 |
| Chefornak | 507,154 | 724,466 | 724,466 | 939,436 | 939,436 | 116 | 165 | 165 | 214 | 214 |
| Kipnuk | 1,480,091 | 1,974,525 | 1,974,525 | 2,366,172 | 2,386,172 | 338 | 451 | 451 | 540 | 540 |
| Kongiganak | 692,222 | 903,628 | 903,628 | 1,122,248 | 1,122,248 | 158 | 206 | 206 | 256 | 256 |
| Kotlik | 1,225,803 | 1,575,660 | 1,575,660 | 1,961,321 | 1,961,321 | 280 | 360 | 360 | 448 | 448 |
| Kwethluk | 1,025,691 | 1,441,388 | 1,505,566 | 1,783,801 | 1,964,020 | 234 | 329 | 344 | 407 | 448 |
| Kwigillingok | 520,125 | 566,700 | 566,700 | 634,048 | 634,048 | 119 | 129 | 129 | 145 | 145 |
| Lime Village | 40,387 | 97,133 | 97,133 | 143,440 | 143,440 | 9 | 22 | 22 | 33 | 33 |
| Napakiak | 548,246 | 672,354 | 800,315 | 795,996 | 1,413,784 | 125 | 154 | 183 | 182 | 323 |
| Napaskiak | 603,656 | 881,180 | 1,049,140 | 1,121,639 | 1,994,026 | 138 | 201 | 240 | 256 | 455 |
| Newtok | 328,595 | 510,121 | 510,121 | 667,917 | 667,917 | 75 | 116 | 116 | 152 | 152 |
| Nightmute | 395,279 | 537,764 | 537,764 | 677,350 | 677,350 | 90 | 123 | 123 | 155 | 155 |
| Oscarville | 85,000 | 69,520 | 81,244 | 92,875 | 154,791 | 15 | 16 | 19 | 21 | 35 |
| Platinum | 130,428 | 138,177 | 138,177 | 142,355 | 142,355 | 30 | 32 | 32 | 33 | 33 |
| Sheldon Point | 444,413 | 594,246 | 594,246 | 735,786 | 735,786 | 101 | 136 | 136 | 168 | 168 |
| Tuluksak | 310,994 | 471,252 | 487,533 | 620,381 | 667,639 | 71 | 108 | 111 | 142 | 152 |
| Tuntutuliak | 690,291 | 914,942 | 914,942 | 1,113,066 | 1,113,066 | 158 | 209 | 209 | 254 | 254 |
| **Total** | 13,496,892 | 18,218,453 | 19,366,067 | 22,299,760 | 26,852,362 | 3,081 | 4,159 | 4,421 | 5,091 | 6,131 |
| **MKEC Villages** | | | | | | | | | | |
| Chuathbaluk | 181,218 | 255,969 | 291,828 | 309,489 | 480,990 | 41 | 58 | 67 | 71 | 110 |
| Crooked Creek | 237,066 | 328,772 | 390,811 | 411,400 | 720,559 | 54 | 75 | 89 | 94 | 165 |
| Red Devil | 116,440 | 130,740 | 130,740 | 135,475 | 135,475 | 27 | 30 | 30 | 31 | 31 |
| Sleetmute | 192,909 | 214,716 | 214,716 | 224,844 | 224,844 | 44 | 49 | 49 | 51 | 51 |
| Stony River | 117,534 | 142,383 | 142,383 | 147,118 | 147,118 | 27 | 33 | 33 | 34 | 34 |
| **Total** | 845,167 | 1,072,580 | 1,170,477 | 1,228,326 | 1,708,985 | 193 | 245 | 267 | 280 | 390 |
| **AVEC Villages** | | | | | | | | | | |
| Alakanuk | 1,438,807 | 1,794,028 | 1,794,028 | 2,114,207 | 2,114,207 | 328 | 410 | 410 | 483 | 483 |
| Chevak | 1,580,686 | 2,162,872 | 2,162,872 | 2,694,210 | 2,694,21 | 361 | 494 | 494 | 615 | 615 |
| Eek | 605,142 | 793,840 | 793,840 | 985,185 | 985,18 | 138 | 181 | 181 | 225 | 225 |
| Emmonak | 2,511,627 | 3,384,763 | 3,384,763 | 4,230,425 | 4,230,42 | 573 | 773 | 773 | 966 | 966 |
| Goodnews Bay | 626,180 | 892,853 | 892,853 | 1,113,106 | 1,113,106 | 143 | 204 | 204 | 254 | 254 |
| Hooper Bay | 2,191,502 | 3,205,603 | 3,205,603 | 4,189,081 | 4,189,081 | 500 | 732 | 732 | 956 | 956 |
| Kasigluk/Nunapitchuk | 2,281,501 | 3,394,712 | 3,653,271 | 4,392,982 | 5,712,846 | 521 | 775 | 834 | 1,003 | 1,304 |
| Lower/Upper Kalskag | 1,036,728 | 1,318,938 | 1,523,632 | 1,845,031 | 2,635,495 | 237 | 301 | 348 | 376 | 602 |
| Marshall | 913,985 | 1,191,018 | 1,191,018 | 1,390,208 | 1,390,208 | 209 | 272 | 272 | 317 | 317 |
| Mekoryuk | 787,081 | 1,005,387 | 1,005,387 | 1,145,877 | 1,145,877 | 180 | 230 | 230 | 262 | 262 |
| Mt Village | 2,337,650 | 2,990,615 | 2,990,615 | 3,582,102 | 3,582,102 | 534 | 683 | 683 | 818 | 818 |
| Pilot Station | 1,173,705 | 1,722,824 | 1,722,824 | 3,582,102 | 3,582,102 | 268 | 393 | 393 | 818 | 818 |
| Quinhagak | 1,228,296 | 1,606,797 | 1,606,797 | 2,021,015 | 2,021,015 | 280 | 367 | 367 | 461 | 461 |
| Russian Mission | 649,580 | 1,008,642 | 1,008,642 | 1,320,619 | 1,320,619 | 148 | 230 | 230 | 302 | 302 |
| Scammon Bay | 2,329,419 | 3,267,810 | 3,267,810 | 3,875,133 | 3,875,133 | 532 | 746 | 746 | 885 | 885 |
| St. Mary's/Pitka's Pt. | 988,993 | 1,452,125 | 1,452,125 | 1,923,219 | 1,923,219 | 226 | 332 | 332 | 439 | 439 |
| Toksook Bay | 1,134,734 | 1,675,857 | 1,675,857 | 2,158,924 | 2,158,924 | 259 | 383 | 383 | 493 | 493 |
| Tununak | 766,736 | 975,686 | 975,686 | 1,139,182 | 1,139,182 | 175 | 223 | 223 | 260 | 260 |
| **Total** | 24,584,355 | 33,844,370 | 34,307,822 | 43,502,606 | 45,812,937 | 5,613 | 7,727 | 7,833 | 9,932 | 10,460 |
| **Total Less Bethel** | **38,926,414** | **53,135,403** | **54,844,166** | **67,030,695** | **74,374,284** | **8,687** | **12,131** | **12,521** | **15,304** | **16,980** |
| Bethel | 37,361,516 | 50,202,721 | 50,616,517 | 61,813,365 | 63,877,098 | 6,562 | 8,817 | 8,889 | 10,956 | 11,218 |
| **Total with Bethel** | **76,287,929** | **103,338,124** | **105,460,683** | **128,844,059** | **138,251,370** | **15,449** | **20,948** | **21,411** | **26,160** | **28,199** |
| Donlin Creek Mine(4) | 0 | 0 | 553,456,800 | 0 | 553,456,800 | 0 | 0 | 66,505 | 0 | 66,505 |
| **Total with Donlin Creek** | **76,287,929** | **103,338,124** | **658,917,483** | **128,844,059** | **691,708,170** | **15,449** | **20,948** | **87,916** | **26,160** | **94,704** |

(1) Statistical Report of the PCE Program, Twelfth Edition, May 2000+5percent for system losses
(2) Medium Growth = Expected Growth without Donlin Mine
(3) High Growth = Expected Growth with Donlin Mine
(4) Includes transmission line losses

**Considerations and Limitations**

The load projections, for Bethel and the forty-seven villages, are based primarily on historical trends in both population growth and per capita energy usage. The methodology selected for use in this study attempts to forecast future load requirements using the relationships that exist between population and energy usage. Donlin Creek mine power demand and energy requirement estimates were provided by Placer Dome, Inc.

The primary purpose of the load forecasting effort is to develop a long term projection of load requirements, to be used in evaluating various alternative plans, for supplying the future electrical energy and power needs of the region. Low, medium, medium-high and high growth scenarios are provided in an attempt to bracket the expected range of future load growth, but even these projections do not account for all possible load conditions that might be experienced. The projected load forecasts are not intended to provide a precise indication of future load conditions, but are only intended to provide an estimate of the magnitude of future load requirements, under which the various alternative plans can be compared.

Data Obtained from the Alaska Department of Community and Economic Development - Alaska Community Profiles Database

| Number | Community | Population History 1950 | 1960 | 1970 | 1980 | 1990 | 1999 | Heating Methods Oil | Wood | Other | Median Income Household | Family | Households |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Akiachak | 179 | 229 | 312 | 438 | 461 | 580 | 82.1% | 32.1% | 5.8% | $23,750 | $30,250 | 112 |
| 2 | Akiak | 168 | 187 | 171 | 198 | 285 | 338 | 67.2% | 32.8% | 0.0% | $13,571 | $15,313 | 67 |
| 3 | Alakanuk | 140 | 278 | 265 | 522 | 544 | 659 | 68.3% | 31.7% | 0.0% | $17,708 | $23,250 | 121 |
| 4 | Andreafsky | 0 | 0 | 0 | 107 | 410 | 442 | 71.8% | 28.2% | 0.0% | $28,958 | $28,958 | 110 |
| 5 | Aniak | 142 | 308 | 205 | 341 | 540 | 604 | 78.8% | 14.9% | 5.2% | $32,841 | $34,792 | 159 |
| 6 | Atmautluak | 0 | 0 | 0 | 219 | 258 | 296 | 100.0% | 0.0% | 0.0% | $15,833 | $12,125 | 53 |
| 7 | Bethel | 651 | 1258 | 2416 | 3576 | 4674 | 5471 | 88.8% | 1.3% | 9.8% | $42,232 | $45,203 | 1432 |
| 9 | Chefornak | 106 | 133 | 146 | 230 | 320 | 416 | 100.0% | 0.0% | 0.0% | $20,278 | $20,694 | 64 |
| 10 | Chevak | 230 | 315 | 387 | 466 | 598 | 763 | 100.0% | 0.0% | 0.0% | $17,222 | $22,083 | 147 |
| 11 | Chuathbaluk | 0 | 0 | 94 | 105 | 97 | 105 | 52.0% | 48.0% | 0.0% | $13,750 | $13,750 | 28 |
| 12 | Chuloonawick | 0 | 0 | 0 | 0 | 0 | 0 | 0.0% | 0.0% | 0.0% | $0 | $0 | 0 |
| 13 | Crooked Creek | 43 | 92 | 59 | 108 | 106 | 137 | 48.6% | 51.4% | 0.0% | $16,250 | $18,375 | 33 |
| 14 | Eek | 141 | 200 | 186 | 228 | 254 | 281 | 81.8% | 13.9% | 4.2% | $21,000 | $21,250 | 72 |
| 15 | Emmonak | 0 | 1890 | 439 | 567 | 642 | 818 | 77.7% | 21.7% | 0.6% | $25,625 | $28,405 | 161 |
| 17 | Goodnews Bay | 0 | 0 | 0 | 168 | 241 | 256 | 95.4% | 0.0% | 1.5% | $13,523 | $13,958 | 66 |
| 19 | Hooper Bay | 307 | 460 | 490 | 627 | 845 | 1028 | 97.4% | 1.5% | 1.0% | $18,125 | $19,868 | 190 |
| 21 | Kasigluk | 111 | 244 | 0 | 342 | 425 | 528 | 87.7% | 0.0% | 2.3% | $26,563 | $26,719 | 89 |
| 22 | Kipnuk | 185 | 221 | 325 | 371 | 470 | 573 | 100.0% | 0.0% | 0.0% | $4,999 | $4,999 | 99 |
| 23 | Kongiganak | 0 | 0 | 190 | 239 | 294 | 359 | 93.8% | 0.0% | 6.3% | $33,250 | $32,188 | 80 |
| 24 | Kotlik | 44 | 57 | 228 | 293 | 461 | 579 | 65.3% | 34.7% | 0.0% | $20,417 | $22,083 | 101 |
| 25 | Kwethluk | 242 | 325 | 408 | 454 | 558 | 714 | 76.4% | 23.6% | 0.0% | $16,000 | $16,786 | 127 |
| 26 | Kwigillingok | 245 | 344 | 148 | 354 | 278 | 360 | 100.0% | 0.0% | 0.0% | $14,500 | $15,000 | 82 |
| 27 | Lime Village | 29 | 32 | 25 | 48 | 42 | 62 | 12.5% | 87.5% | 0.0% | $9,257 | $15,000 | 14 |
| 28 | Lower Kalskag | 88 | 122 | 183 | 246 | 291 | 310 | 59.1% | 40.9% | 0.0% | $10,357 | $10,893 | 67 |
| 29 | Marshall | 95 | 166 | 175 | 262 | 273 | 318 | 42.5% | 57.5% | 0.0% | $28,750 | $48,750 | 70 |
| 30 | Mekoryuk | 156 | 242 | 249 | 160 | 177 | 193 | 100.0% | 0.0% | 0.0% | $14,792 | $16,250 | 63 |
| 31 | Mountain Village | 221 | 300 | 419 | 583 | 674 | 766 | 78.3% | 21.7% | 0.0% | $26,750 | $25,500 | 148 |
| 32 | Napaimute | 23 | 0 | 0 | 4 | 3 | 4 | 0.0% | 0.0% | 0.0% | $0 | $0 | 1 |
| 33 | Napakiak | 139 | 190 | 0 | 262 | 318 | 363 | 100.0% | 0.0% | 0.0% | $18,125 | $17,500 | 61 |
| 34 | Napaskiak | 121 | 154 | 259 | 244 | 328 | 406 | 93.0% | 7.0% | 0.0% | $18,750 | $19,375 | 74 |
| 35 | Newtok | 69 | 129 | 114 | 131 | 207 | 284 | 94.9% | 0.0% | 5.1% | $14,844 | $15,000 | 42 |
| 36 | Nightmute | 27 | 237 | 129 | 119 | 153 | 230 | 100.0% | 0.0% | 0.0% | $17,813 | $17,813 | 29 |
| 37 | Nunapitchuck | 125 | 327 | 526 | 299 | 378 | 471 | 87.1% | 0.0% | 9.4% | $17,083 | $21,250 | 67 |
| 38 | Oscarville | 27 | 51 | 41 | 56 | 57 | 64 | 100.0% | 0.0% | 0.0% | $26,250 | $28,250 | 15 |
| 40 | Paimiut | 0 | 0 | 0 | 0 | 0 | 0 | 0.0% | 0.0% | 0.0% | $0 | $0 | 0 |
| 41 | Pilot Station | 52 | 219 | 290 | 325 | 463 | 544 | 72.3% | 21.8% | 5.9% | $18,000 | $18,563 | 100 |
| 42 | Pitka's Point | 84 | 28 | 70 | 88 | 135 | 146 | 66.7% | 24.2% | 6.1% | $17,813 | $19,062 | 37 |
| 43 | Platinum | 72 | 43 | 55 | 56 | 64 | 43 | 100.0% | 0.0% | 0.0% | $23,056 | $18,250 | 22 |
| 44 | Quinhagak | 194 | 228 | 340 | 412 | 501 | 595 | 87.0% | 73.0% | 5.7% | $17,500 | $17,969 | 127 |
| 45 | Red Devil | 0 | 152 | 81 | 39 | 53 | 44 | 66.7% | 26.7% | 6.7% | $25,000 | $18,333 | 18 |
| 46 | Russian Mission | 55 | 102 | 146 | 169 | 246 | 311 | 40.4% | 59.6% | 0.0% | $21,667 | $21,667 | 56 |
| 47 | Saint Mary's | 0 | 260 | 384 | 382 | 441 | 475 | 70.3% | 29.7% | 0.0% | $28,542 | $28,563 | 118 |
| 48 | Scammon Bay | 103 | 115 | 166 | 250 | 343 | 464 | 94.3% | 5.7% | 0.0% | $15,179 | $15,750 | 85 |
| 49 | Sheldon Point | 43 | 125 | 125 | 103 | 109 | 181 | 48.4% | 46.4% | 7.1% | $16,250 | $19,375 | 27 |
| 50 | Sleetmute | 120 | 122 | 109 | 107 | 106 | 103 | 26.8% | 73.2% | 0.0% | $10,000 | $15,625 | 33 |
| 51 | Stony River | 0 | 75 | 74 | 62 | 51 | 35 | 0.0% | 100.0% | 0.0% | $5,156 | $5,261 | 19 |
| 52 | Toksook Bay | 0 | 0 | 257 | 333 | 420 | 513 | 100.0% | 0.0% | 0.0% | $21,875 | $23,125 | 88 |
| 53 | Tuluksak | 116 | 137 | 195 | 236 | 358 | 443 | 45.6% | 54.4% | 0.0% | $20,446 | $20,227 | 74 |
| 54 | Tuntutuliak | 66 | 144 | 158 | 216 | 300 | 350 | 98.7% | 0.0% | 1.3% | $14,444 | $15,000 | 70 |
| 55 | Tununak | 112 | 183 | 274 | 298 | 316 | 331 | 100.0% | 0.0% | 0.0% | $18,750 | $22,708 | 78 |
| 56 | Umkumiute | 0 | 0 | 0 | 0 | 0 | 0 | 0.0% | 0.0% | 0.0% | $0 | $0 | 0 |
| 57 | Upper Kalskag | 139 | 147 | 122 | 129 | 172 | 268 | 39.2% | 54.9% | 5.9% | $18,250 | $20,000 | 48 |
| | TOTAL | 6,073 | 10,424 | 11,313 | 18,442 | 19,688 | 23,356 | | | | | | |

| Number | Community | Average Persons Per Household | Percent Unemployment | Percent Lack Plumbing | Percent Lack Sewer/Septic | Percent Lack Phone | Bulk Fuel Private | Storage in School | Gallons Village | Electric Co. | Other Gov | Total Fuel Storage |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Akiachak | 4.2 | 12.7% | 98.6% | 88.6% | 82.4% | 67,500 | 169,000 | 26,750 | 76,500 | 0 | 335,750 |
| 2 | Akiak | 4.2 | 16.0% | 47.5% | 56.3% | 61.3% | 58,000 | 78,850 | 0 | 58,000 | 0 | 194,850 |
| 3 | Alakanuk | 4.5 | 28.8% | 94.2% | 94.2% | 69.1% | 0 | 132,300 | 4,000 | 117,029 | 164,000 | 417,029 |
| 4 | Andreafsky | 3.9 | 18.6% | 44.2% | 26.1% | 50.7% | | | | | | |
| 5 | Aniak | 3.4 | 9.7% | 27.4% | 22.3% | 23.4% | 469,330 | 142,000 | 1,500 | 195,000 | 3,800 | 811,630 |
| 6 | Atmautluak | 4.8 | 25.3% | 98.6% | 96.7% | 52.2% | 0 | 65,250 | 57,500 | 53,750 | 0 | 176,500 |
| 7 | Bethel | 3.1 | 9.0% | 25.0% | 27.2% | 22.3% | 6,600,000 | 0 | 0 | 51,000 | 44,000 | 6,695,000 |
| 9 | Chefornak | 5 | 6.2% | 97.5% | 100.0% | 52.5% | 93,445 | 119,230 | 48,310 | 0 | 4,300 | 265,285 |
| 10 | Chevak | 4 | 17.8% | 92.4% | 93.7% | 66.5% | 28,000 | 119,300 | 294,140 | 136,700 | 2,500 | 580,640 |
| 11 | Chuathbaluk | 3.4 | 8.6% | 80.0% | 73.3% | 50.0% | 0 | 33,745 | 37,500 | 0 | 0 | 71,245 |
| 12 | Chuloonawick | 0 | 0.0% | 0.0% | 0.0% | 0.0% | 0 | 0 | 0 | 0 | 0 | 0 |
| 13 | Crooked Creek | 3.2 | 27.3% | 72.5% | 82.4% | 54.9% | 54,000 | 25,450 | 6,300 | 17,000 | 0 | 102,750 |
| 14 | Eek | 3.5 | 23.9% | 100.0% | 100.0% | 38.0% | 65,000 | 45,000 | 8,000 | 70,750 | 0 | 191,750 |
| 15 | Emmonak | 3.9 | 34.6% | 44.6% | 44.1% | 36.7% | 153,000 | 168,000 | 552,648 | 172,247 | 0 | 1,045,895 |
| 17 | Goodnews Bay | 3.6 | 3.1% | 94.4% | 94.4% | 63.9% | 123,400 | 43,200 | 16,600 | 67,300 | 2,200 | 252,700 |
| 19 | Hooper Bay | 4.4 | 41.7% | 93.8% | 65.2% | 63.2% | 227,722 | 145,400 | 20,000 | 160,900 | 8,200 | 562,222 |
| 21 | Kasigluk | 4.7 | 34.8% | 99.0% | 95.0% | 44.1% | 0 | 95,250 | 131,500 | 0 | 0 | 226,750 |
| 22 | Kipnuk | 4.7 | 12.9% | 100.0% | 98.5% | 44.7% | 0 | 71,960 | 44,000 | 54,000 | 0 | 169,960 |
| 23 | Kongiganak | 4.9 | 16.3% | 100.0% | 100.0% | 36.1% | 12,670 | 74,100 | 77,634 | 53,470 | 3,700 | 221,574 |
| 24 | Kotlik | 4.5 | 36.6% | 94.5% | 94.5% | 51.8% | 15,000 | 48,955 | 238,100 | 50,000 | 0 | 352,055 |
| 25 | Kwethluk | 4.3 | 11.8% | 93.5% | 93.5% | 55.8% | 0 | 95,390 | 144,400 | 0 | 0 | 239,790 |
| 26 | Kwigillingok | 4.4 | 9.2% | 100.0% | 100.0% | 46.8% | 0 | 113,250 | 122,000 | 30,000 | 0 | 265,250 |
| 27 | Lime Village | 3 | 13.6% | 89.5% | 89.5% | 78.9% | 0 | 9,800 | 5,000 | 0 | 0 | 14,800 |
| 28 | Lower Kalskag | 4.3 | 37.9% | 55.6% | 36.1% | 55.6% | 0 | 16,000 | 74,770 | 103,500 | 0 | 194,270 |
| 29 | Marshall | 1.9 | 19.0% | 58.1% | 31.4% | 59.3% | 103,000 | 46,000 | 14,200 | 76,300 | 0 | 239,500 |
| 30 | Mekoryuk | 2.8 | 16.7% | 100.0% | 96.9% | 41.5% | 111,030 | 90,400 | 34,700 | 84,900 | 3,000 | 324,030 |
| 31 | Mountain Village | 4.5 | 36.7% | 41.9% | 34.4% | 40.9% | 195,045 | 206,045 | 33,550 | 194,700 | 0 | 629,340 |
| 32 | Napaimute | 3 | 0.0% | 100.0% | 100.0% | 100.0% | 0 | 0 | 0 | 0 | 0 | 0 |
| 33 | Napakiak | 3.9 | 33.3% | 65.4% | 94.2% | 57.7% | 2,500 | 73,000 | 61,500 | 0 | 2,800 | 139,800 |
| 34 | Napaskiak | 4.4 | 22.7% | 100.0% | 100.0% | 82.5% | 0 | 107,400 | 0 | 40,000 | 0 | 147,400 |
| 35 | Newtok | 4.9 | 25.9% | 97.4% | 100.0% | 51.3% | 7,125 | 121,070 | 52,200 | 55,955 | 2,500 | 238,850 |
| 36 | Nightmute | 5.2 | 26.9% | 100.0% | 100.0% | 34.3% | 44,750 | 27,500 | 0 | 89,900 | 3,000 | 165,150 |
| 37 | Nunapitchuck | 4.3 | 12.3% | 96.8% | 100.0% | 48.3% | 0 | 84,750 | 116,750 | 167,750 | 3,000 | 372,250 |
| 38 | Oscarville | 3.8 | 0.0% | 100.0% | 80.0% | 33.3% | 0 | 0 | 0 | 0 | 0 | 0 |
| 40 | Paimiut | 0 | 0.0% | 0.0% | 0.0% | 0.0% | 0 | 0 | 0 | 0 | 0 | 0 |
| 41 | Pilot Station | 4.6 | 35.1% | 52.4% | 38.3% | 49.2% | 0 | 47,725 | 118,690 | 96,340 | 0 | 262,755 |
| 42 | Pitka's Point | 3.6 | 5.1% | 90.7% | 90.7% | 72.1% | 0 | 22,320 | 15,000 | 0 | 0 | 37,320 |
| 43 | Platinum | 2.9 | 8.0% | 75.0% | 51.9% | 65.4% | 67,100 | 7,000 | 0 | 5,600 | 0 | 79,700 |
| 44 | Quinhagak | 3.9 | 5.9% | 100.0% | 95.9% | 49.2% | 103,530 | 100,500 | 31,200 | 99,400 | 8,020 | 342,650 |
| 45 | Red Devil | 2.9 | 14.3% | 71.4% | 61.9% | 66.7% | 15,000 | 18,100 | 42,500 | 0 | 0 | 75,600 |
| 46 | Russian Mission | 4.3 | 21.0% | 83.1% | 22.0% | 42.4% | 0 | 29,830 | 44,560 | 58,830 | 11,530 | 144,750 |
| 47 | Saint Mary's | 3.7 | 19.2% | 49.7% | 32.0% | 55.6% | 693,300 | 46,500 | 316,250 | 215,751 | 70,430 | 1,342,231 |
| 48 | Scammon Bay | 4 | 18.4% | 47.5% | 22.8% | 57.4% | 1,000 | 60,100 | 143,600 | 81,200 | 3,000 | 288,900 |
| 49 | Sheldon Point | 4 | 13.0% | 82.4% | 88.2% | 44.1% | 95,423 | 67,240 | 0 | 0 | 3,000 | 165,663 |
| 50 | Sleetmute | 3.2 | 12.8% | 89.1% | 69.6% | 63.0% | 0 | 30,000 | 25,500 | 17,000 | 0 | 72,500 |
| 51 | Stony River | 2.6 | 26.7% | 100.0% | 100.0% | 76.0% | 0 | 26,250 | 22,550 | 23,960 | 0 | 72,760 |
| 52 | Toksook Bay | 4.7 | 25.5% | 19.8% | 9.4% | 50.0% | 120,020 | 34,460 | 26,000 | 147,475 | 5,000 | 332,955 |
| 53 | Tuluksak | 4.8 | 2.5% | 89.5% | 89.5% | 89.5% | 0 | 130,000 | 88,500 | 0 | 0 | 218,500 |
| 54 | Tuntutuliak | 4.2 | 6.4% | 100.0% | 100.0% | 40.2% | 0 | 70,000 | 122,000 | 0 | 0 | 192,000 |
| 55 | Tununak | 4 | 14.0% | 95.4% | 96.4% | 50.6% | 120,400 | 70,300 | 15,600 | 79,800 | 6,300 | 292,400 |
| 56 | Umkumiute | 0 | 0.0% | 0.0% | 0.0% | 0.0% | 0 | 0 | 0 | 0 | 0 | 0 |
| 57 | Upper Kalskag | 3.5 | 25.5% | 66.7% | 61.1% | 46.2% | 37,780 | 49200 | 36,200 | 0 | 2,500 | 125,680 |
| | TOTAL | | | | | | 9,687,070 | 3,327,620 | 3,271,702 | 3,002,007 | 356,780 | 19,694,379 |

Average Fuel Storage gallons per individual for 1999 = 843

Average Fuel Storage gallons per individual w/o Bethel for 1999 = 729

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Frank J. Bettine is an attorney-at-law and a professional engineer with over twenty years of management, design and legal experience in the Alaska utility industry.

**EDUCATION**

J.D. (1991), College of Law, University of Idaho
M.S. (1978), Electrical Engineering, University of Oklahoma
B.S. (1970), Electrical Engineering, Oklahoma State University

**ATTORNEY AT LAW** - ALASKA

**PROFESSIONAL REGISTRATION, ENGINEERING** - ALASKA, IDAHO

**EXPERIENCE SUMMARY**

∝ LAW OFFICES OF BETTINE - SELF-EMPLOYED, ANCHORAGE, AK (1991- Present)

**Attorney at Law/Engineer**. Sole Proprietor - Provide legal representation and mediation/arbitration services for clients. Construction Claims Management Service, Planning and Environmental Studies and Compliance. Performed legal research, prepared legal briefs, memoranda, pleadings, motions and other legal documents. Represent clients in Alaska District and Superior Court proceeding, in civil and criminal matters. Represent client before in the U.S. District Court, U.S. Bankruptcy Court, and before the Alaska Public Utilities Commission. Provided contract document preparation and review, contract negotiations and claims avoidance, and construction claims management services to local utilities and engineering firms. Provide engineering and legal assistance to an Calista Regional Native Corporation on matters related to development of regional electric and telecommunications utilities.

∝ DRYDEN & LARUE, INC., ANCHORAGE, AK (1991-1993)

**Project Manager**, Part-time. Served as project manager and design engineer for substantial portion of a 14 million dollar Static Var Compensation project, which consisted of two static var compensation stations, constructed for the Alaska Energy Authority. Provided design engineering and served as project manager for design phase of a 10 million dollar, 30 mile, 138kV transmission line for Golden Valley Electric Association. Provided contract document preparation and review, contract negotiations and claims avoidance, and construction claims management services to local utilities.

∝ COPPER VALLEY ELECTRIC ASSOCIATION, INC., GLENNALLEN, AK (1985-1988)

**Manager of Engineering Services.** Supervised engineering and power production departments for REA Cooperative. Responsibilities included the preparation of power requirement studies, integrated resource plans, planning and design of system improvements and replacements for hydroelectric, diesel and oil fired turbine generation, and high voltage transmission facilities. Prepared construction work plans and feasibility studies which included environmental assessment sections in which environmental concerns related to system replacements, improvements and environmental remediation issues were addressed. Prepared annual budget for engineering and production departments. Prepared tariff documents, contract documents and specifications. Awarded contracts and provided contract administration for various engineering, construction and equipment related contracts awarded by the Association.

∝ CHUGACH ELECTRIC ASSOCIATION, ANCHORAGE, AK (1983-1985)

**Electrical Engineer.** Duties included development of design, specifications and construction management for high voltage transmission facilities. Assisted in the preparation of power requirement studies, construction work plans and feasibility studies which included environmental assessment sections in which environmental concerns related to system replacements, improvements and environmental remediation issues were addressed. Provided contract documentation preparation, contract award, contract administration, and project inspection.

∝ INTERNATIONAL ENGINEERING COMPANY, ANCHORAGE, ALASKA (1978-1982)

**Electrical Engineer.** Responsibilities included development of design, specifications and construction management of high voltage transmission facilities and small diesel plants in rural Alaska. Prepared or assisted with preparation of power requirement studies and least-cost plans, environmental assessment and impact studies for transmission line routing alternatives. Prepared alternative energy integrated resource studies covering various rural villages throughout Alaska. Sections of these studies addressed environmental concerns associated with developing the economically feasible energy alternatives. Responsible for the design and construction of the experimental 40 KV Single Wire Ground Return Transmission System installed in western Alaska between Bethel and the village of Napakiak.

∝ UNITED STATES AIR FORCE (1970-1976)

**Pilot, F4-E Phantom Aircraft.** Graduate of USAF Fighter Weapons School; combat duty 1971/72 Southeast Asia, awarded Silver Star and three Distinguished Flying Crosses for meritorious combat duty. Responsibilities included training of aircrew members in weapons delivery and combat tactics, F4-E Aircraft. Honorable discharge in 1976 with rank of Captain.

**RELEVANT TECHNICAL REPORTS**

- "Power Requirements Study, Bethel Area," Alaska Village Electric Coop., 1/95
- "Integrated Resource Plan," Alaska Village Electric Cooperative, 11/93
- "1993 Power Requirements Study", Alaska Village Electric Cooperative, 6/93.
- Oil Spill Prevention, Control and Countermeasure Plan;
  Oil Spill Contingency Plan for the Alaska Energy Authority, 1992
- "Calista Regional Electric Utility Feasibility Report," Calista Corp., 7/93.
- "Bethel - NYAC Transmission Line Feasibility Report," Calista Corp., 1992.
- "Reconnaissance Study of the Kisaralik River Hydroelectric Power Potential and Alternate Electric Energy Resources in the Bethel Area," Alaska Power Authority, 1980.
- "Energy Alternatives for Thirteen Western Alaskan Villages", Alaska Power Authority, 1981
- "1979 Unalaska Electrification Plan, City of Unalaska, 1979

**PUBLICATIONS**

- "Single Wire Ground Return Transmission for Rural Alaska", Proceedings of the ASCE Specialty Conference, Seattle Washington, April 8-11, 1981.
- "The Earth Connection (A Study Of Earth Electrode Systems)", Graduate Thesis, University of Oklahoma, 1978. (Presently pending commercial publication.)

**LEGAL PAPERS**

- Transmission Access, 1990
- FERC and the National Environmental Protection Act, 1991

# PRELIMINARY EVALUATION OF POWER SUPPLY ALTERNATIVES FOR DONLIN CREEK MINE

By Frank Bettine, P.E., Esq.

## Introduction

Calista Corporation through its non-profit "subsidiary" Nuvista Light & Power Co. is preparing a regional energy needs study to identify and evaluate energy resource alternatives for supplying the future energy need of the Calista region. The study is titled "Regional Energy Need's Study for Southwestern Alaska - Calista Region."

The primary purpose of this Regional Energy Need's Study is two fold. First the study will identify the regional electrical power and energy requirements of the Calista region both with and without the development of the proposed Donlin Creek gold mine project; and second the study will identify the least cost alternatives for providing electric power and energy to the mine project and/or the villages. As part of the regional study, an analysis will be completed to determine if it is feasible for Nuvista to provide power to the proposed Donlin Creek mine, and how providing such a service might be used to benefit the region as a whole.

At the request of Placer Dome, Inc., the company investigating the feasibility of developing the Donlin Creek gold mine project, Nuvista has directed its efforts at conducting a preliminary analysis of power supply alternatives for the Donlin Creek Mine gold mine project. The results of Nuvista's initial efforts are summarized in the following pages. These initial results will be refined and incorporated into the overall energy needs study.

# POWER SUPPLY ALTERNATIVES
# DONLIN CREEK MINE

**Summary**

A preliminary analysis has been conducted of several power supply alternatives to determine which alternative could provide 65 megawatts of power to the proposed Donlin Creek gold mine project, at the lowest cost. Alternatives were investigated at interest rates of zero, five and eight percent and for financing periods of 15, 20 and 30 years. Spreadsheets detailing the cost breakdown for each of the nine alternatives investigated and the total cost per kWh can be found in the appendices. The alternatives can be grouped according to the cost of power, as shown in Table 1. Alternatives contained in Group 1 represent the lowest cost for power. Group 5 alternatives the highest. Each grouping consists of alternatives in which the cost of power does not vary from others in the group by more than a few tenths of a cent.

| Table 1<br>Cost of Power in $/kWh - 20 Year Financing (1) | | | Interest Rates | | | |
|---|---|---|---|---|---|---|
| Group | Alt. | Description | Capital Costs x $1000 | 0% | 5% | 8% |
| 1 | 1<br>2 | Coal Plant at Bethel+T-Line<br>Coal Plant at Railroad City+T-Line | $265,402<br>$200,994 | $0.06 | $0.075 | $0.085 |
| 2 | 3<br>4<br>5 | Transmission Line from Beluga along Route B + firm power at 4.5 cents per kWh Turbine Plant Bethel - Syn-Gas +T-Line<br>Turbine Plant RR City - Syn-Gas+T-Line | $247,390<br>$222,848<br>$150,887 | $0.075 | $0.09 | $0.095 |
| 3 | 6 | Turbine Plant at Mine Site - Oil Fired | 104616 | $0.085 | $0.09 | $0.095 |
| 4 | 7<br>8 | Turbine Plant Bethel - Oil Fired+T-Line<br>Turbine Plant RR City - Oil Fired+T-Line | $200,979<br>$133,427 | $0.085 | $0.10 | $0.105 |
| 5 | 9 | Transmission Line from Nenana + firm power at 5.5 cents per kWh | $283,690 | $0.085 | $0.105 | $0.115 |

(1) Cost per kWh are rounded to nearest one-half cent. To obtain approximate cost of power for 15 and 30 year financing, add .7 cents to power cost for 15 year financing and subtract .7 cents from power cost for 30 financing.

From the standpoint of a preliminary analysis, the cost of power for alternatives contained in each grouping can be considered equivalent.

The preliminary analysis reveals that two alternatives, listed in Group 1, provide the lowest cost power. These two alternatives are: Alternative 1 - construction of a coal fired power plant at Bethel and a 175 mile long transmission line, along Transmission Line Route D, to the mine site; and Alternative 2 - construction of a coal fired power plant at Railroad City and a 50 mile long transmission line, along Route E, to the mine site. A description of transmission line routes along with a map illustrating the various transmission line routes is attached.

Group 2 contains the next lowest cost power supply alternatives, which are synthetic gas fired combined-

cycle turbine generation, at either Bethel or Railroad City and construction of a transmission line along Route D and E, respectively to the mine site and construction of a 330 mile long transmission line from near Chugach Electric Association's Beluga Power Plant, located on the western shores of Cook Inlet, to the mine site, along Route B and the purchase of firm power from Chugach at 4 cents per kWh. The cost of power per kWh for these three alternatives is between 1 and 1-1/2 cents greater than for the coal fired generation alternatives. Power cost for Group 2 alternatives assume 47-percent combined cycle generation efficiency. Synthetic gas or Syn-Gas is the name given to a mixture of propane and other combustible gases that duplicate the heating properties of natural gas.

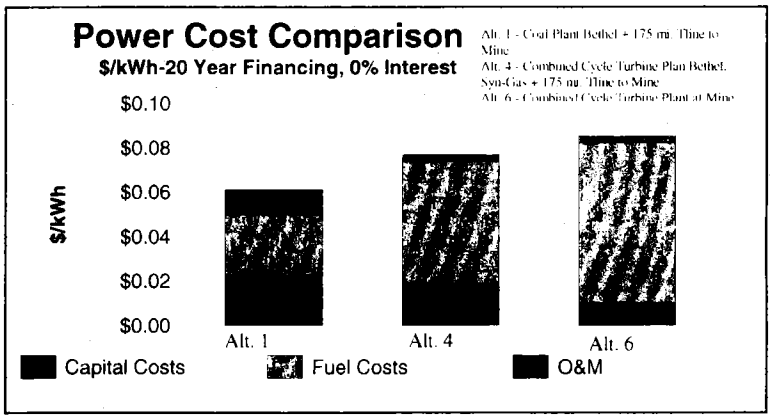


**Figure 1**

While Alternative 5, at first blush, appears equal to the other two alternatives it is not. The transmission line built along Route B would not be very reliable, as it must traverse 40 miles of the rugged and inhospitable Alaska Range, in an area that is 100 miles for the nearest road system, and has very limited accessibility, except by helicopter. Periodic damage from avalanches is likely to occur and such damage could take weeks if not months to repair. Route D and Route E traverse no such inhospitable terrain. Therefore, Alternative 5 cannot be considered an equivalent alternative from a reliability perspective.

The alternatives using oil fired combined-cycle turbine generation are found in Group 3 and 4, which includes generation at the mine site. It is also assumed these plants generate at forty-seven percent efficiency. The cost of power for these two alternatives is 1 to 2-1/2 cents per kWh greater than for the coal fired generation alternatives. The cost of power for the single alternative listed in Group 5 is between 2-1/2 to 3 cents per kWh greater than for coal-fired generation.

Coal fired generation produces the lowest cost power, even though the combined capital cost

for constructing a coal plant at Bethel and a 175 mile long transmission to the mine site is over **twice** the capital cost of constructing a power plant on-site at the mine ( $265 million versus $104 million). Coal fired generation produces the lowest cost power, because equivalent fuel cost s for coal are 3.5-5 times less per million BTU (MMBTU) than for syn-gas or fuel oil. Alaska Interstate Gas Co. estimates it can deliver syn-gas to Bethel at a price of $7.50 per MMBTU, assuming a benchmark price for Alaska North Slope crude oil of $30.00 per barrel. Diesel #2 can be delivered to Bethel a price of $9.05 per MMBTU, $9.78 per MMBTU to Railroad City and $10.15 per MMBTU to the mine site, assuming this same bench mark price for Alaska North Slope crude oil of $30.00 per barrel. Coal, however, can be delivered to Bethel at a price of $2.05 per MMBTU and to Railroad City at a price of $2.35 per MMBTU. The relationship between capital cost, fuel costs and operating costs is shown in Figure 1 for Alternatives 1, 4 and 6. Figure 1 clearly illustrates the predominant factor that determines the cost of power, is the cost of fuel. Low capital costs cannot offset high fuel costs.

Power supply Alternatives 1 and 2 provide the lowest cost and most reliable power of the nine alternatives investigated. If power costs and reliability were the only factors to consider, these two alternatives would be equivalent. However, there are numerous other factors, which should be considered, when attempting to decide whether Alternative 1 or 2, is the preferred alternative. These factors include, but are not limited to, the availability of infrastructure at the plant site, availability of housing, restriction on barge sizes, and economic benefits to region. Examination of the above factors strongly suggest Alternative 1, construction of coal fired generation plant at Bethel in combination with a 175-mile-long transmission line to the mine, is the preferred alternative.

Bethel is a thriving community with a population of approximately 5500 people with a substantial infrastructure. It has road system, electricity utility, port facilities, an all weather airport capable of landing jet airlines, mail service, hotels, restaurants, housing developments, a hospital, schools, and most of the amenities of a large community, but on smaller scale. None of these facilities exist at Railroad City on the Yukon. The nearest town to Railroad City is Holy Cross, population of approximately 260 people, is located across the Yukon River. Holy Cross is a small native village and simply cannot provide the quantity and quality of services that can be provided in Bethel.

Bethel is also superior to Railroad City for barge service. Ocean-going barges can be brought into Bethel; they cannot at Railroad City. There is a shoal at the mouth of the Yukon River that prevents the deeper draft ocean going barges from entering the river. Cargo destined for Railroad City would need to be transferred from ocean going barges to medium size river barges, adding to costs of operating and maintaining the power plant.

A power plant built at Railroad City, in combination with a 50-mile long transmission line to the mine site would serve no other load except for the mine project. On the other hand, if an 80 megawatt power plant were built at Bethel, the power plant would serve not only the mine load, but the community of Bethel, which has a peak load of approximately 6000 kW, including the villages of Napakiak and Oscarville, which are supplied electricity from Bethel over distribution lines. The electrical power demand of Bethel equates to roughly one-half the entire electric demand of the Calista region. In addition, the transmission line would pass near eight villages that could be served from the transmission line. These would include, Akiachak, Akiak, Tuluksak, Lower and Upper Kalsag, Aniak,

Chuathbaluk, and Crooked Creek. The present day total combine peak load of these villages is approximately 1000 kW. Furthermore, if the power plant is built at Bethel, distribution lines can be built to other near by communities located to the south and west of Bethel, such as Atmautluak, Nunapitchuck, Kasiglug, and Napaskiak, to provide them with low cost power.

The transmission line between Bethel and the mine site would proceed northeasterly from Bethel along the north bank of the Kuskokwim River to the Donlin Creek mine. The transmission line would be operated at a voltage of 138,000 volts. It initially appears, that with carefully routing, the transmission line, while within the boundaries of the Yukon-Delta Wildlife Refuge, can be built entirely on conveyed or interim conveyed lands. There is a section located approximately halfway between Tuluksak and Lower Kalsag that must cross 8-10 miles of interim conveyed lands. After exiting the boundaries of the Refuge, the reminder of the transmission line can be built on either convey lands or State of Alaska lands.

It is estimated that electric power could be sold to the mine, Bethel and villages for between one-half cent and one-cent above cost. Assuming a twenty-year financing period and zero percent interest loan, this analysis establishes that power could be sold to the mine and the communities/villages for between 6-1/2 to 7 cents per kWh. This rate compares favorable to the effective rate of 7.2 cents per kWh that the Fort Knox gold mine, located east of Fairbanks, purchases power from Golden Valley Electric. According to Golden Valley engineers, the mine has a constant demand of approximately 35 megawatts. It is estimated that if power could be delivered to the above listed communities and villages for between 6-1/2 and 7 cents per kWh, it would reduce their combined annual generation costs between 2 and 2-1/2 million dollars.

Disposal of solid waste in Bethel and other communities in western Alaska represents a significant environmental problem. The coal fired plant built at Bethel could be readily designed to use burnable municipal solid waste as a fuel. The proposed coal plant could readily burn 25,000 tons of municipal waste, annually, with only minor modifications to the plant. For estimating purposes, it can be assumed that the average individual generates or causes to be generated about one ton of solid waste annually. Therefore, the coal plant would have the capacity to burn the solid waste generated by approximately 25,000 individuals. This suggest, that in addition to the solid waste generated in Bethel and nearby villages being burned as fuel in the power plant, solid waste from other large communities in western Alaska, such as Dillingham, Naknek, Nome, and Kotzebue, with a combined population of approximately 8500 residents, could be processed, bailed and barged to Bethel and used as fuel. Burning municipal solid waste at the coal plant would have two immediate benefits. First it would reduce the amount of waste buried at land fills and secondly, it could reduce the amount of coal required to operated the plant by as much as $500,000, annually.

Finally, waste heat could be captured from the power plant and distributed throughout Bethel via a district heating system. Presently jacket water waste heat is captured from Bethel Utilities diesel power plant and it is used to provide waste heat for several building near the power plant. However, waste heat captured from diesel jacket water is classified as a "low grade" waste heat, because it is generally at a low temperature, between 180-200 degrees Fahrenheit.. The jacket water is run through a heat exchanger where it heats a water/glycol mixture to

temperature of approximately 180 degrees Fahrenheit. This water/glycol mixture is pumped through insulated pipes to various buildings to provide space heating. Since the water/glycol temperature is so low it cannot be transported long distance. Waste heat captured from the coal plant would be in the form of steam and, therefore, it can be transported for substantial distances. Waste heat from the coal plant could, most likely, be used to heat the majority of all building in Bethel. It is estimated, that at a minimum, the community of Bethel uses 2.5 million gallons of fuel oil annually for space heating purposes. The wholesale cost for heating fuel oil in Bethel is estimated to cost $1.35 per gallon or $9.78 per MMBTU, assuming a benchmark price for North Slope crude oil of $30.00 per barrel. This compares to a costs of $2.05 per MMBTU for coal. Therefore, it is apparent that waste heat captured from a coal plant represents a substantial resource that could be used for lowering the cost of space heating in the community of Bethel. [1]

The coal plant would burn approximately 330,000 tons of coal per year. Coal prices used in the study assume coal is purchased from the Quinsam Mine in British Columbia.[2] The coal would be loaded in to a CSL self - unloading freighter at MiddlePoint Barge Loading Facilities, B.C. The coal is then transported to a location approximately 90 miles south of the mouth of the Kuskokwim River, where it would be off-loaded into a 10,000-ton self- unloading barge (Sea Bulk-Transfer Vessel) and barged into Bethel.[3] The coal plant would generate approximately 35-40 thousand tons of ash each year. This ash would be back hauled to Vancouver, B.C. and provided to cement and other interested companies.

**Conclusion**

A conceptual level analysis has been completed on several power supply alternatives to identify which alternative(s) could provide the lowest cost power. This analysis has determined that, Alternative 1, construction of an 80 megawatt coal fired power plant at Bethel in combination with a 175 mile long transmission line to the mine site, produces the lowest cost power.

**Recommendations**

As a result of this analysis a preferred alternative has been identified - construction of an 80 megawatt coal fired power plant at Bethel in combination with a 175-mile-long transmission line to the mine site. It is recommended that preliminary feasibility analysis be performed on this alternative to further refine construction and operational costs and to more fully examine permitting requirements. This would include a visit to Bethel to met with community and native leaders and to identify potentially suitable sites for constructing the coal plant, coal storage facilities, coal off-loading facilities and to identify an acceptable transmission line route. It is estimated that such a preliminary feasibility analysis would cost approximately $50,000.

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[1] Potential costs savings will be quantified in the completed energy needs study.
[2] The use of northwest arctic coal as a fuel source is being evaluated and will be fully addressed in the completed energy needs study.
[3] Water depth in the Kuskokwim Bay is so shallow that a ocean going freighter can only approach to within 90 miles of the river's mouth.

Route C - 385 Miles
Route C-Alternative
Route B - 330 Miles
Route A - 290 Miles
Route E - 50 Miles
Route D - 175 Miles
Transmission Line Alternatives

**TRANSMISSION LINE ALTERNATIVES**
**FROM ANCHORAGE OR FAIRBANKS REGIONS**
**to Donlin Creek Mine**

Three transmission line alternatives were investigated for providing power, to the Donlin Creek mine site, from either Anchorage or the Fairbanks region. These are displayed as Routes A, B and C, on the attached map titled Transmission Line Alternatives. A more detailed description of each route as well as a discussion of the advantages and disadvantages of each route is as follows:

**Route A**

The transmission line would originate at Chugach Electric Association's Beluga power generation substation and proceed westerly through Merrill Pass. After traversing Merrill Pass the route would turn southwesterly to intersect the head waters of the Stony River. The route would then turn northwesterly following the Stony River, past Lime Village, to the confluence of the Kuskokwim and Stony River. At this location the line would span the Kuskokwim River and proceed more westerly, paralleling the north bank of the Kuskokwim River, to the village of Crooked Creek and then on to Donlin Creek Mine. Route length is approximately 290 miles.

Unfortunately, Route A cannot be utilized due to both political and statutory reasons. That portion of the route which exits Merrill Pass on the west side of the Alaska Range, must pass through northern most portion of the Lake Clark Wilderness Area. Construction of a transmission line is not considered a use that is compatible with a Wilderness Area designation. In order to construct a transmission line through the Lake Clark Wilderness Area it would be necessary to file an application for rights-of-way and permits with and obtain approval from the National Park Service. The applicant must show it would be in the public's best interest that (1) the transmission line was compatible with the purpose of the wilderness area; and (2) there is no economically feasible and

prudent alternative route for the transmission line. (See 16 USC 3166). Assuming the National Park Services approved the application, it must subsequently receive approval by the President of the United States and both the U. S. Senate and House of Representatives. Given the difficulty of demonstrating that Route A is the only viable transmission line route, much less, the only viable alternative for providing power to the Donlin Creek project, it is highly improbable that the Park Service, the President and Congress would all approve the application.

Therefore, while Route A was illustrated and described for the purposes of discussion, it cannot be considered a viable alternative and will be dismissed from further consideration.

**Route B**

Route B would originate about ten miles north of Chugach Electric's Beluga power generation station where a substation would be built under or adjacent to the three Chugach Electric transmission lines. These three lines transport power from the Beluga power plant to Anchorage. For reliability purposes the substation could be supplied from two, 230,000 volt lines. The route would first proceed a short distance in northerly direction along the eastern flank of Mt. Susitna before turning to a northwesterly direction. Upon reaching the Alaska Range the route would shift to a westerly direction to traverse Portage Pass. Once through the pass the line would turn north and follow the South Fork of the Kuskokwim River to the vicinity of Farewell Lake. At this point the route would proceed southwest, paralleling the northern flank of the Alaska Range and would continue in a southwest direction until reaching the Kuskokwim River a few miles upstream of the village of Stony River. From this location the line would span the Kuskokwim and proceed westerly, paralleling the north bank of the Kuskokwim River, to the village of Crooked Creek and then on to Donlin Creek Mine. Route length is approximately 330 miles.

The primary advantage of this route is that, with carefully routing, the transmission line can be built entirely on State of Alaska lands to within a few miles of the village of Stony River. At this point the route would cross a combination of native owned and State owned lands to reach the Donlin Creek mine project. Following this routing, the transmission line would pass near five villages that could potentially be served from the transmission line. These would include, Skwentna, Stony River, Sleetmute, Red Devil, and Crooked Creek. The present day total combined peak load of these five villages is less than 250 kW. However, because the transmission line will be operating at a voltage of 230 kV, it may not be technically or economically feasible to construct the small substations which are required to step-down the transmission voltage to distribution voltage level that can be used in these communities.

The primary disadvantage of this route is that any transmission line built along this route must past through approximately 40 miles of the rugged and inhospitable Alaska Range, in an area that is 100 miles for the nearest road system, and has very limited accessibility, except by helicopter. Furthermore, the transmission line is likely to encounter periodic damage from avalanches and such damage could take weeks if not months to repair.

The transmission line would be supplied from Chugach Electric's Beluga power plant. Chugach estimates firm power could be supplied to the mine project at a cost of 4 cents per kWh.

The above costs for power **do not** include the cost of constructing or maintaining the transmission line or substations. The above costs represent the cost-of-power supplied to the originating substation located approximately ten miles north of Chugach's Beluga power plant.

**Route C**

Route C would originate near the community of Nenana where a substation would be built

adjacent to the existing 138 kV transmission line which forms part of the Anchorage-Fairbanks intertie. The primary route would proceed southwesterly toward the community of McGrath located on the Kuskokwim River. Prior to reaching McGrath the route would turn south-southwest and proceed in this direction until once again intersecting the Kuskokwim River, at a point upstream of the village of Stony River. From this location the line would span the Kuskokwim and proceed westerly, paralleling the north bank of the Kuskokwim River, to the village of Crooked Creek and then on to Donlin Creek Mine. This final leg of the route is identical to that described for Route B. Route length is approximately 385 miles. This route is the shortest distance between Nenana and Donlin Creek, that avoids National Park/Preserve and Wildlife Refuge designated lands. There are two apparent disadvantages of this route. First, the route is 55 miles longer than Route B. Secondly, the route traverses state, federal and native lands, which would of course, complicate the permitting process.

There is, however, an alternative route available, that can be used to avoid crossing federal lands. This is labeled as Route C-Alternative on the Transmission Line Alternatives map. Route C-Alternative differs from Route C in that it turns south at a point about two-thirds the distance from Lake Minchumina to McGrath. From this point the route would proceed south to the vicinity of Farewell Lake where it would intersect and follow the same routing as the previously described Route B. Route C-Alternative is approximately 400 miles in length. The disadvantage of Route C-Alternative is that it is even longer than Route C.

Route C would pass near eight villages that could potentially be served from the transmission line. These are Lake Minchumina, Medfra, Nikolai, McGrath, Stony River, Sleetmute, Red Devil and Crooked Creek. Total combine load of these villages is 850 KW. Route C-

Alternative would bypass

Medfra, Nikolai, McGrath reducing the combine village load to less than 200 KW.

A significant advantage of both Route C and Route C-Alternative is that they do not pass through an mountain ranges and, therefore, as compared to Route B, a transmission line build along either of these routes should, at least in theory, be more reliable.

Golden Valley Electric Association would supply power to the transmission line. However, at the present time, Golden Valley would have significant difficulty serving the mine load. Golden Valley simply does not have enough generation capacity to reliably serve an additional 65 megawatt load. Nor does the Anchorage-Fairbanks intertie, in its present configuration, have enough excess capacity to allow Chugach Electric to transmit this additional amount of power, north, to the proposed substation located at Nenana. At present approximately 70 megawatts of power are shipped, north, over the intertie from Anchorage to Fairbanks. With the addition of a static var compensation station an additional 20 megawatts of power could be shipped north. However, this falls far short of the 65 megawatts required by the mine load.

Golden Valley engineers have indicated that a proposed natural gas pipeline may, within the next 3-5 years, be constructed that would deliver low cost North Slope natural gas to Fairbanks. If this should occur then Golden Valley could economically install combined-cycle gas turbine generation to supply the mine load.

Golden Valley sells approximately 35 megawatts of power to Fort Knox gold mine located east of Fairbanks at an effective rate of approximately 7.2 cents per kWh. There is little reason to believe that Golden Valley could economically sell power to the Donlin Creek project at a price significantly below this rate.

The above cost of power **does not** include the cost of the constructing or maintaining the transmission line or substations. The above costs represent the cost-of-power supplied to the originating substation located at Nenana.

**Voltage Selection**

The transmission line length for Route B is 330 miles and for Route C is 385-400 miles. Based on delivering 65 megawatts of power to the Donlin Creek mine project, preliminary calculations were performed to determine the appropriate transmission voltage. The calculations reveal that transmission line voltage for both Routes B and C should be 230,000 volts, a standard transmission voltage presently used in Alaska. The same calculations also reveal the following conditions: (1) significant receiving end over-voltages can be expected at no-load conditions; and (2) the receiving end voltage varies significantly with load power factor. These conditions suggesting that substantial amounts of compensation must be added to the lines to stabilize the receiving-end voltage. These conditions are not unexpected, in long transmission lines, operating at 230,000 volts.

**Cost Estimates**

1. Transmission Line

Cost estimates for constructing 230 kV transmission line were obtained both from the engineering firm of Dryden and LaRue and from Chugach Electric. Dryden and LaRue is the engineering firm that designed the 230 kV overhead line between Healy and Fairbanks, for Golden Valley Electric Association. According to the engineers at Dryden and LaRue the cost for constructing this line, inclusive of engineering, permitting, construction management and construction costs is $500,000 per mile. Cost estimates provided by Chugach Electric engineers for constructing a new 230 kV line from the Kenai Peninsula to Anchorage is $600,000 per mile.

Therefore, it is not unreasonable to use an all inclusive cost estimate of $600.000 per mile. for constructing a 230 kV transmission line along either Route B or C. Especially considering the vast majority of the two routes under consideration are located in remote areas inaccessible from any road or river system

2. Substations

Basic substations at either end of the transmission lines are estimated to cost $3,000,000 each for a total of $6,000,000. Furthermore, as discussed in the preceding section, substantial amounts of compensation must be added to stabilize receiving-end voltages conditions. Voltage stabilization can readily be provided by a static-var compensation system. The cost estimate for installing such a system is estimated at $14,000,000.

**Permitting**

Various federal and state agencies were contacted to determine if they could, at this preliminary stage of review, identify any obvious impediments that would prevent the permitting of a transmission line along either Routes B, C or C-Alternative. None could be readily identified.

**TRANSMISSION LINE ALTERNATIVES**
**FROM BETHEL OR RAILROAD CITY**
**to Donlin Creek Mine**

Two transmission line alternatives were investigated for providing power, to the Donlin Creek mine site, from the Yukon/ Kuskokwim Region. These are displayed as Routes D and E, on the attached map titled Transmission Line Alternatives. A more detailed description of each route as well as a discussion of the advantages and disadvantages of each route is as follows:

**Route D**

The transmission line would originate at the new 80 plus megawatt power plant build in Bethel. The line would proceed northeasterly along the north bank of the Kuskokwim River to the Donlin Creek mine. Route length is approximately 175 miles. The transmission line would be operated at a voltage of 138,000 volts.

It initially appears, that with carefully routing, the transmission line, while within the boundaries of the Yukon-Delta Wildlife Refuge, can be built entirely on conveyed or interim conveyed lands.[1] After exiting the boundaries of the Refuge, the reminder of the transmission line can be built on either convey lands or State of Alaska lands. The advantages of building the transmission lines on these private lands, within the Yukon-Delta Wildlife Refuge, is that Fish and Wildlife Service has no jurisdiction over private lands. Therefore, the necessity of filing for a rights-of-way permit to construct the transmission line and obtaining subsequent approval from federal Fish and Wildlife Service is eliminated. However, should it become necessary to cross Refuge lands, Title 11 to ANILCA provides a mechanism to file for and obtain the necessary rights-of-way permit. If it

[1]There is a section located approximately halfway between Tuluksak and Lower Kalsag that must cross 8-10 miles of interim conveyed lands.

can be shown that there is no economically feasible and prudent alternative route for the transmission line, then Fish and Wildlife must grant the permit. Should the route cross any native allotment, the Bureau of Indian affairs will represent the interest of the native allotment owner.

The transmission line would pass near eight villages that could potentially be served from the transmission line. These would include, Akiachak, Akiak, Tuluksak, Lower and Upper Kalsag, Aniak, Chuathbaluk, and Crooked Creek. The present day total combine peak load of these villages is approximately 1000 kW. The new Bethel power plant would also serve the community of Bethel which has a peak load of approximately 6000 kW, including the villages of Napakiak and Oscarville, which are supplied electricity from Bethel over distribution lines. The electrical power demand of Bethel equates to roughly one-half the entire electric demand of the Calista region.

One primary of Route D is that it is considerable shorter than either Routes B or C. A second important advantage is that the route is more accessible, as it parallels the Kuskokwim River, a major transportation artery for the region.

**Route E**

The transmission line would originate at the new 80 plus megawatt power plant build at a location on the Yukon River, across from the village of Holy Cross, known as Railroad City. The line would proceed southeasterly to the Donlin Creek mine. Route length is approximately 50 miles. The transmission line would be operated at a voltage of 138,000 volts.

The primary advantage of Route E is that it is only 50 miles long. The primary disadvantage is that it would serve no other load except for the mine project and thus, would be less politically desirable than Route D. This routing would also cross, native, federal and state owned lands.

**Voltage Selection**

The transmission line length for Route D is 175 miles and for Route E is 50 miles. Based on delivering 65 megawatts of power to the Donlin Creek mine project, preliminary calculations were performed to determine the appropriate transmission voltage. The calculations reveal that transmission line voltage for both Routes D and E should be 138,000 volts, a standard transmission voltage presently used in Alaska. The same calculations also reveal that due to the length of the line for Route D, the receiving end voltage will vary significantly with load power factor. This condition suggesting that compensation, such as a static var compensation system, must be added to the line to stabilize the receiving-end voltage. No compensation is required for Route E.

**Cost Estimates**

1. Transmission Line

The cost estimate for constructing 138 kV transmission line along Route D or Route E is estimated at $400,000, inclusive of engineering, permitting, construction management and construction costs.

2. Substations

Basic substations at either end of the transmission lines are estimated to cost $3,000,000 each for a total of $6,000,000. Furthermore, as discussed in the preceding section, compensation must be added to stabilize receiving-end voltages conditions on Route D. Voltage stabilization can readily be provided by a static-var compensation system. The cost estimate for installing such a system for Route D is estimated at $7,000,000.

**Permitting**

Various federal and state agencies were contacted to determine if they could, at this preliminary stage of review, identify any obvious impediments that would prevent the permitting of a transmission line along either Routes D or E. None could be readily identified.

**Parameters Used In Evaluation**

1. Power and Energy Requirements

Assumes Mine load of 65 megawatts operating at .95 load factor and .95 power factor.

Assumes combined community load of 15 megawatts at .65 load factor for those alternatives where power plant is built in Bethel.

Transmission line losses based on 795 MCM, ACSR conductor.

2. Generation Capacity

A. Coal Fired Plant at Bethel and Railroad City

Quantity 2 - 40 Megawatt coal fired units operating with 94% availability with continuous 15% overload capability and a heat rate of 11,000 BTU per kWh. See PES report, Appendices.

Quantity 1- 23 Megawatt, standby, simple cycle combustion turbine generator such as GE LM2500 operating at a heat rate of 9800 BTU per kWh utilizing Diesel #2 fuel.

Quantity 1 - 3 Megawatt, standby, simply cycle combustion turbine generator with a heat rate of 11,000 BTU per kWh utilizing Diesel #2 fuel, located at mine site.

B. Combined Cycle Turbine Plant at Bethel, Railroad City

Quantity 3 - 23 Megawatt combined cycle turbine plant utilizing GE LM2500 aeroderivative turbine generator or equivalent, operating at a combined heat rate of 7100 BTU per kWh utilizing Syn-Gas or Diesel #2 fuel.

Quantity 1 - 3 Megawatt, standby, simply cycle combustion turbine with a heat rate of 11,000 BTU per kWh utilizing Diesel #2 fuel.

C. Combined Cycle Turbine Plant at Mine Site

Quantity 3 - 23 Megawatt combined cycle turbine plant utilizing GE LM2500 aeroderivative turbine generator or equivalent, operating at a combined heat rate of 7100 BTU per kWh utilizing Diesel #2 fuel

D. Transmission Lines from Anchorage or Fairbanks areas.

Quantity 1 - 3 Megawatt, standby, simply cycle combustion turbine with a heat rate of 11,000 BTU per kWh utilizing Diesel #2 fuel.

3. Generation kWhs

kWhs generated from coal plant assumes .94 availability for each unit. KWH generated at mine assumes 120 hours of generation, annually, for alternatives involving a power plant at either Bethel or Railroad City; and 240 hours of generation, annually, for alternatives involving transmission lines to Anchorage or Fairbanks area.

4. Plant Costs

$1,750 per KW for coal fired generation - See PES report, Appendices.
$500 per KW for simple cycle turbine generation - provided by S&S Energy Products, a GE Power Systems Business
$675 per KW for combine cycle generation - provided by S&S Energy Products, a GE Power Systems Business

Transmission line cost at $400,000 per mile for 138 kV construction and $600,000 for 230 kV construction. - Costs obtained from Dryden $ LaRue Consulting Engineers and Chugach Electric. These costs estimates include construction costs, engineering, permitting and construction management.

5. Fuel Storage Requirements

Assumes fuel storage capacity equal to 9 months usage for alternatives utilizing Combined Cycle Turbine Plant at Bethel, Railroad City or Mine site. Otherwise fuel storage capacity equal to annual requirements.

6. Fuel Storage Cost in $/Gallon

$1.25 per gallon figure provided by Bristol-Alliance Fuels and Alaska Interstate Gas Co. Per gallon cost to construct fuel storage is approximately equal for either fuel oil or propane.

7. Fuel Costs

Coal - $43.50 per ton delivered to Bethel; Thermal value - 10,600 Btu/lb
See PES report, Appendices.

Additional transportation cost per ton to deliver to Railroad City estimated at $6.50.

Coal prices used in the study assume coal is purchased from the Quinsam Mine in British

Columbia. The coal would be loaded in to a CSL self -unloading freighter at MiddlePoint Barge Loading Facilities, B.C. The coal is then transported to a location approximately 90 miles south of the mouth of the Kuskokwim River, where it would be off-loaded into a 10,000 ton self- unloading barge (Sea Bulk-Transfer Vessel) and barged into Bethel. Water depth in the Kuskokwim Bay is so shallow that a ocean going freighter can only approach to within 90 miles of the river's mouth. The coal plant would generate approximately 35-40 thousand tons of ash each year. This ash would be back hauled to Vancouver, B.C. and provided to cement and other interested companies.

Fuel Oil- $1.25 per gallon Diesel #2 delivered to Bethel, $1.35 per gallon delivered to Railroad City and $1.40 per gallon delivered to mine site. Assumes benchmark price of $30.00 per barrel for Alaska North Slope Crude. Fuel price estimates provided by Wave Fuel and Tesoro, Alaska . Thermal value of 138,000 Btu/gal. Analysis assumes that fuel storage tanks will be insulated, and heated with waste heat from power plant, so that diesel #2 can be used throughout the year.

Syn-Gas - $7.50 per MMBTU, provide by Alaska Interstate Gas Co. Syn-Gas is a mixture of propane and other combustible gas that provide same heating value as natural gas. Thermal value of 1000 Btu/cuft.

Purchased Power Costs

Firm power available from Chugach at estimated cost of 4.5 cents per kWh. Provided by Tom Lovis at Chugach.

Although 65 megawatts of firm power is not presently available from Golden Valley Electric, it is estimate, for the purpose of this study, that firm power could be supplied for 5.5 cent per kWh if a proposed gas pipeline was built to connect the Fairbanks area with the North Slope gas fields.

8. O&M

Coal Plant - $0.011 per kWh - See PES report, Appendices

Combustion Turbines - $0.003-$0.005 per kWh - provided by S&S Energy Products, a GE Power Systems Business

Routine transmission line maintenance estimated at $1000 per mile.

POWER GENERATION ALTERNATIVES

| | Bethel 80 MW CFB Coal Plant 23 MW Turbine Oil Fired | Bethel 100 MW Turbine Plant Oil Fired | Bethel 100 MW Turbine Plant Syn-Gas | Railroad City 80 MW CFB Coal Plant 23 MW Turbine Oil Fired | Railroad City 100 MW Turbine Plant Oil Fired | Railroad City 100 MW Turbine Plant Syn-Gas | Mine Site 100 MW Turbine Plant Oil Fired | 230 KV Tline from Anchorage 330 Miles Firm Power | Bethel from Nenana 385 miles Firm Power |
|---|---|---|---|---|---|---|---|---|---|
| **Power Requirements** | | | | | | | | | |
| KWs | | | | | | | | | |
| Donlin Gold Mine | 65,000 | 65,000 | 65,000 | 65,000 | 65,000 | 65,000 | 65,000 | 65,000 | 65,000 |
| Communities | 15,000 | 15,000 | 15,000 | 0 | 0 | 0 | 0 | 0 | 0 |
| KWHs | | | | | | | | | |
| Donlin Gold Mine | 540,930,000 | 540,930,000 | 540,930,000 | 540,930,000 | 540,930,000 | 540,930,000 | 540,930,000 | 540,930,000 | 540,930,000 |
| Communities | 85,410,000 | 85,410,000 | 85,410,000 | 0 | 0 | 0 | 0 | 0 | 0 |
| T-Line losses | 39,794,407 | 39,794,407 | 39,794,407 | 11,369,831 | 11,369,831 | 11,369,831 | 302,747 | 27,014,717 | 31,517,170 |
| Total | 666,134,407 | 666,134,407 | 666,134,407 | 552,299,831 | 552,299,831 | 552,299,831 | 541,232,747 | 567,944,717 | 567,944,717 |
| | | | | | | | | | |
| Generation Capacity KWs | | | | | | | | | |
| CFB Coal Plant | 80,000 | 0 | 0 | 80,000 | 0 | 0 | 0 | 0 | 0 |
| Combustion Turbine | | | | | | | | | |
| Bethel | 23,000 | 100,000 | 100,000 | | | | 0 | | |
| RR City | | | | 23,000 | 100,000 | 100,000 | | | |
| Mine | 3,000 | 3,000 | 3,000 | 3,000 | 3,000 | 3,000 | 100,000 | 3,000 | 3,000 |
| Total Capacity in KWs | 106,000 | 103,000 | 103,000 | 106,000 | 103,000 | 103,000 | 100,000 | 3,000 | 3,000 |
| | | | | | | | | | |
| Generation KWHs | | | | | | | | | |
| Coal Plant | 621,560,878 | 0 | 0 | 525,217,322 | 0 | 0 | 0 | 0 | 0 |
| Combustion Turbine | | | | | | | | | |
| Bethel | 44,213,529 | 665,774,407 | 665,774,407 | 26,722,508 | 551,939,831 | 551,939,831 | | | |
| RR City | | | | | | | | | |
| Mine | 360,000 | 360,000 | 360,000 | 360,000 | 360,000 | 360,000 | 541,232,747 | 720,000 | 720,000 |
| Purchased Power | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 567,224,717 | 567,224,717 |
| | | | | | | | | | |
| Plant Cost | | | | | | | | | |
| KWs | | | | | | | | | |
| Coal Plant | $1,750 | 0 | 0 | $1,750 | 0 | 0 | 0 | 0 | 0 |
| Combustion Turbine | | | | | | | | | |
| Bethel | $500 | $675 | $675 | $500 | $675 | $675 | | $0 | $0 |
| Mine | $500 | $500 | $500 | $500 | $500 | $500 | $675 | $500 | $500 |
| T-Line per Mile | $400,000 | $400,000 | $400,000 | $400,000 | $400,000 | $400,000 | $0 | $600,000 | $600,000 |
| | | | | | | | | | |
| **Capital Cost ($1000)** | | | | | | | | | |
| Generation | | | | | | | | | |
| Coal Plant | $140,000,000 | $0 | $0 | $140,000,000 | $0 | $0 | $0 | $0 | $0 |
| Combustion Turbine | | | | | | | | | |
| Bethel | $11,500,000 | $67,500,000 | $67,500,000 | $0 | | | $0 | $0 | $0 |
| RR City | | | | $11,500,000 | $67,500,000 | $67,500,000 | | | |
| Mine | $1,500,000 | $1,500,000 | $1,500,000 | $1,500,000 | $1,500,000 | $1,500,000 | $67,500,000 | $1,500,000 | $1,500,000 |
| Total | $153,000,000 | $69,000,000 | $69,000,000 | $153,000,000 | $69,000,000 | $69,000,000 | $67,500,000 | $1,500,000 | $1,500,000 |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Transmission Line | | | $138,000,000 | | | | | | |
| Length In Miles | 175 | 175 | 175 | 50 | 50 | 50 | | 330 | 385 |
| T-Line Cost | $70,000,000 | $70,000,000 | $70,000,000 | $20,000,000 | $20,000,000 | $20,000,000 | | $198,000,000 | $231,000,000 |
| Substations | $13,000,000 | $13,000,000 | $13,000,000 | $6,000,000 | $6,000,000 | $6,000,000 | $1,500,000 | $20,000,000 | $20,000,000 |
| Total | $83,000,000 | $83,000,000 | $83,000,000 | $26,000,000 | $26,000,000 | $26,000,000 | $1,500,000 | $218,000,000 | $251,000,000 |
| | Bethel 60 MW CFB Coal Plant 23 MW Turbine Oil Fired | Bethel 100 MW Turbine Plant Oil Fired | Bethel 100 MW Turbine Plant Syn-Gas | Railroad City 60 MW CFB Coal Plant 23 MW Turbine Oil Fired | Railroad City 100 MW Turbine Plant Oil Fired | Railroad City 100 MW Turbine Plant Syn-Gas | Mine Site 100 MW Turbine Plant Oil Fired | 230 KV Tline from Anchorage 330 Miles Firm Power | Bethel from Nenana 385 miles |
| Fuel Storage Gallons | | | | | | | | | |
| Bethel | 3,139,801 | 25,690,208 | 39,391,652 | | | | 0 | 0 | 0 |
| RR City | | | | 1,897,685 | 21,297,678 | 32,656,440 | | | |
| Mine | 1,080,000 | 1,080,000 | 1,080,000 | 1,080,000 | 1,080,000 | 1,080,000 | 20,884,524 | 4,320,000 | 4,320,000 |
| Fuel Storage Costs $/Gallon | | | | | | | | | |
| Bethel | $1.25 | $1.25 | $1.25 | | | | | $0.00 | $0.00 |
| RR City | | | | $1.25 | $1.25 | $1.25 | $0.00 | | |
| Mine | $1.25 | $1.25 | $1.25 | $1.25 | $1.25 | $1.25 | $1.25 | $1.25 | $1.25 |
| Fuel Storage Costs | | | | | | | | | |
| Bethel | $3,924,752 | $32,112,760 | $49,239,566 | $0 | $0 | | $0 | $0 | $0 |
| RR City | $0 | $0 | $0 | $2,372,107 | $26,622,098 | $40,820,550 | $0 | $0 | $0 |
| Mine | $1,350,000 | $1,350,000 | $1,350,000 | $1,350,000 | $1,350,000 | $1,350,000 | $26,105,656 | $5,400,000 | $5,400,000 |
| Total Fuel Oil Storage | $5,274,752 | $33,462,760 | $50,589,566 | $3,722,107 | $27,972,098 | $42,170,550 | $26,105,656 | $5,400,000 | $5,400,000 |
| Total Capital Costs | $241,274,752 | $185,462,760 | $202,589,566 | $182,722,107 | $122,972,098 | $137,170,550 | $95,105,656 | $224,900,000 | $257,900,000 |
| Operating Reserves, Spare Parts and Contingency at 10% | $24,127,475 | $18,546,276 | $20,258,957 | $18,272,211 | $12,297,210 | $13,717,055 | $9,510,566 | $22,490,000 | $25,790,000 |
| Total Costs | $265,402,227 | $204,009,036 | $222,848,522 | $200,994,317 | $135,269,308 | $150,887,605 | $104,616,221 | $247,390,000 | $283,690,000 |
| **Operating Costs** | | | | | | | | | |
| Annual Fuel Requirements | | | | | | | | | |
| Coal Tons | 322,508 | 0 | 0 | 272,518 | 0 | 0 | 0 | $0 | $0 |
| #2 Fuel Oil Gallons | 3,168,497 | 34,282,306 | 28,696 | 1,926,381 | 28,425,600 | 28,696 | 27,846,033 | 57,391 | 57,391 |
| Syn Gas MMCF | | | 4,726,998 | | | 3,918,773 | | | |
| Coal $/Ton | $43.50 | $43.50 | $0.00 | $50.00 | $0.00 | $0.00 | 0 | 0 | 0 |
| #2 Fuel Oil $/Gallons | $1.25 | $1.25 | $1.25 | $1.35 | $1.35 | $1.35 | $1.40 | $1.40 | $1.40 |
| Syn Gas $/MMBTU | | | $7.50 | | | $8.00 | | | |
| Cost of Purchased Pwr $/kWh | $0.000 | $0.000 | $0.000 | $0.000 | $0.000 | $0.000 | $0.000 | $0.040 | $0.055 |
| Annual Fuel Costs | | | | | | | | | |
| Coal | $14,029,098 | $0 | $0 | $13,625,921 | $0 | $0 | $0 | $0 | $0 |
| #2 Fuel Oil Gallons | $3,960,621 | $42,852,883 | $35,870 | $2,600,614 | $38,374,560 | $38,739 | $38,984,446 | $80,348 | $80,348 |
| Syn Gas | $0 | $0 | $35,452,487 | $0 | $0 | $31,350,182 | $0 | $0 | $0 |
| Cost of Purchased Pwr | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $22,688,989 | $31,197,359 |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Total | $17,989,719 | $42,852,883 | $35,488,357 | $16,226,535 | $38,374,560 | $31,388,922 | $38,984,446 | $22,688,989 | $31,277,707 |
| O&M | | | | | | | | | |
| Coal Plant $/kWh | $0.011 | $0.000 | $0.000 | $0.011 | $0.000 | $0.000 | $0.000 | $0.000 | $0.000 |
| Combustion Turbine $/kWh | $0.005 | $0.003 | $0.003 | $0.005 | $0.003 | $0.003 | $0.003 | $0.005 | $0.005 |
| Diesel $/kWh | | | | | | | | | |
| Coal Plant | $6,837,170 | $0 | $0 | $5,777,391 | $0 | $0 | $0 | $0 | $0 |
| Combustion Turbine | $222,868 | $1,998,403 | $1,998,403 | $135,413 | $1,656,899 | $1,656,899 | $1,623,698 | $3,600 | $3,600 |
| Total | $7,060,037 | $1,998,403 | $1,998,403 | $5,912,803 | $1,656,899 | $1,656,899 | $1,623,698 | $3,600 | $3,600 |
| T-Line @ $1000/mi | $175,000 | $175,000 | $175,000 | $50,000 | $50,000 | $50,000 | $0 | $330,000 | $385,000 |
| Total O&M | $25,224,757 Bethel 80 MW CFB Coal Plant 23 MW Turbine Oil Fired | $45,026,286 Bethel 100 MW Turbine Plant Oil Fired | $37,661,760 Bethel 100 MW Turbine Plant Syn-Gas | $22,189,339 Railroad City 80 MW CFB Coal Plant 23 MW Turbine Oil Fired | $40,081,459 Railroad City 100 MW Turbine Plant Oil Fired | $33,095,821 Railroad City 100 MW Turbine Plant Syn-Gas | $40,608,144 Mine Site 100 MW Turbine Plant Oil Fired | $23,022,589 230 KV Tline from Anchorage 330 Miles Firm Power | $31,666,307 Bethel from Nenana 385 miles |
| Interest During Constuction | | | | | | | | | |
| 0% | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| 5% | $13,270,111 | $10,200,452 | $11,142,426 | $10,049,716 | $6,763,465 | $7,544,380 | $5,230,811 | $12,369,500 | $14,184,500 |
| 8% | $21,232,178 | $16,320,723 | $17,827,882 | $16,079,545 | $10,821,545 | $12,071,008 | $8,369,298 | $19,791,200 | $22,695,200 |
| Total Capital Cost | | | | | | | | | |
| 0% | $265,402,227 | $204,009,036 | $222,848,522 | $200,994,317 | $135,269,308 | $150,887,605 | $104,616,221 | $247,390,000 | $283,690,000 |
| 5% | $278,672,338 | $214,209,488 | $233,990,948 | $211,044,033 | $142,032,773 | $158,431,985 | $109,847,032 | $259,759,500 | $297,874,500 |
| 8% | $286,634,405 | $220,329,759 | $240,676,404 | $217,073,863 | $146,090,852 | $162,958,613 | $112,985,519 | $267,181,200 | $306,385,200 |
| **Amortized Capital Costs** | | | | | | | | | |
| **15 Year Financing** | | | | | | | | | |
| 0% | $17,693,482 | $13,600,602 | $14,856,568 | $13,399,621 | $9,017,954 | $10,059,174 | $6,974,415 | $16,492,667 | $18,912,667 |
| 5% | $26,847,931 | $20,637,432 | $22,543,223 | $20,332,465 | $13,683,762 | $15,263,700 | $10,582,914 | $25,025,824 | $28,697,911 |
| 8% | $33,487,367 | $25,741,025 | $28,118,115 | $25,360,641 | $17,067,728 | $19,038,381 | $13,200,047 | $31,214,658 | $35,794,843 |
| Capital Cost $/kWh | | | | | | | | | |
| 0% | $0.028 | $0.022 | $0.024 | $0.025 | $0.017 | $0.019 | $0.013 | $0.030 | $0.035 |
| 5% | $0.043 | $0.033 | $0.036 | $0.038 | $0.025 | $0.028 | $0.020 | $0.046 | $0.053 |
| 8% | $0.053 | $0.041 | $0.045 | $0.047 | $0.032 | $0.035 | $0.024 | $0.058 | $0.067 |
| O&M $/kWh | $0.040 | $0.072 | $0.060 | $0.041 | $0.074 | $0.061 | $0.075 | $0.043 | $0.059 |
| Total Cost $/kWh | | | | | | | | | |
| 0% | $0.069 | $0.094 | $0.084 | $0.066 | $0.091 | $0.080 | $0.088 | $0.073 | $0.094 |
| 5% | $0.083 | $0.105 | $0.096 | $0.079 | $0.099 | $0.089 | $0.095 | $0.089 | $0.113 |
| 8% | $0.094 | $0.113 | $0.105 | $0.088 | $0.106 | $0.096 | $0.099 | $0.100 | $0.126 |
| **20 Year Financing** | | | | | | | | | |
| 0% | $13,270,111 | $10,200,452 | $11,142,426 | $10,049,716 | $6,763,465 | $7,544,380 | $5,230,811 | $12,369,500 | $14,184,500 |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| 5% | $22,381,389 | $17,188,724 | $18,776,039 | $16,934,719 | $11,397,077 | $12,712,992 | $8,814,410 | $20,843,774 | $23,902,221 |
| 8% | $29,194,347 | $22,441,073 | $24,513,423 | $22,109,452 | $14,879,678 | $16,597,695 | $11,507,825 | $27,212,995 | $31,206,009 |
| | | | | | | | | | |
| Capital Cost $/kWh | | | | | | | | | |
| 0% | $0.021 | $0.016 | $0.018 | $0.019 | $0.013 | $0.014 | $0.010 | $0.023 | $0.026 |
| 5% | $0.036 | $0.027 | $0.030 | $0.031 | $0.021 | $0.024 | $0.016 | $0.039 | $0.045 |
| 8% | $0.047 | $0.036 | $0.039 | $0.041 | $0.028 | $0.031 | $0.021 | $0.050 | $0.058 |
| | | | | | | | | | |
| O&M $/kWh | $0.040 | $0.072 | $0.060 | $0.041 | $0.074 | $0.061 | $0.075 | $0.043 | $0.059 |
| | | | | | | | | | |
| Total Cost $/kWh | | | | | | | | | |
| 0% | $0.061 | $0.088 | $0.078 | $0.060 | $0.087 | $0.075 | $0.085 | $0.065 | $0.085 |
| 5% | $0.076 | $0.099 | $0.090 | $0.072 | $0.095 | $0.085 | $0.091 | $0.081 | $0.104 |
| 8% | $0.087 | $0.108 | $0.099 | $0.082 | $0.102 | $0.092 | $0.096 | $0.093 | $0.117 |
| | Bethel 60 MW CFB Coal Plant 23 MW Turbine Oil Fired | Bethel 100 MW Turbine Plant Oil Fired | Bethel 100 MW Turbine Plant Syn-Gas | Railroad City 60 MW CFB Coal Plant 23 MW Turbine Oil Fired | Railroad City 100 MW Turbine Plant Oil Fired | Railroad City 100 MW Turbine Plant Syn-Gas | Mine Site 100 MW Turbine Plant Oil Fired | 230 KV Tline from Anchorage 330 Miles Firm Power | Bethel from Nenana 385 miles |
| | | | | | | | | | |
| 30 Year Financing | | | | | | | | | |
| 0% | $8,846,741 | $6,800,301 | $7,428,284 | $6,699,811 | $4,508,977 | $5,029,587 | $3,487,207 | $8,246,333 | $9,456,333 |
| 5% | $18,128,036 | $13,934,635 | $15,221,447 | $13,728,717 | $9,239,436 | $10,306,228 | $7,145,707 | $16,897,728 | $19,377,184 |
| 8% | $25,460,999 | $19,571,327 | $21,378,667 | $19,282,114 | $12,976,875 | $14,475,195 | $10,036,214 | $23,733,020 | $27,215,411 |
| | | | | | | | | | |
| Capital Cost $/kWh | | | | | | | | | |
| 0% | $0.014 | $0.011 | $0.012 | $0.012 | $0.008 | $0.009 | $0.006 | $0.015 | $0.018 |
| 5% | $0.029 | $0.022 | $0.024 | $0.025 | $0.017 | $0.019 | $0.013 | $0.031 | $0.036 |
| 8% | $0.041 | $0.031 | $0.034 | $0.036 | $0.024 | $0.027 | $0.019 | $0.044 | $0.051 |
| | | | | | | | | | |
| O&M $/kWh | $0.040 | $0.072 | $0.060 | $0.041 | $0.074 | $0.061 | $0.075 | $0.043 | $0.059 |
| | | | | | | | | | |
| Total Cost $/kWh | | | | | | | | | |
| 0% | $0.054 | $0.083 | $0.072 | $0.053 | $0.082 | $0.070 | $0.082 | $0.058 | $0.077 |
| 5% | $0.069 | $0.094 | $0.084 | $0.066 | $0.091 | $0.080 | $0.088 | $0.074 | $0.095 |
| 8% | $0.081 | $0.103 | $0.094 | $0.077 | $0.098 | $0.088 | $0.094 | $0.086 | $0.110 |

**1. Power Plant Permits**

To obtain basic information on what permits would be required to construct a power plant, the State of Alaska, Department of Environmental Conservation, interactive online Permitting and Plan Questionnaire was completed and submitted. A listing of needed authorizations, based on the answers submitted was provided. This listing is attached following this page.

Bethel, RailRoad City and the Donlin Creek Mine site are all located in a Class II Attainment area. Therefore, it should be possible to construct a coal plant at either Bethel or RailRoad City or combustion turbine plant power plant, at any of the three locations, that can readily comply with the applicable air quality standards.

**2. Transmission Line Permits**

As discussed in the text of the report, Route A passes through a portion of Lake Clark Wilderness Area and, from a practicable standpoint, would be impossible to permit.

Routes B and C, with carefully routing can be built entirely on state owned lands and conveyed native lands To build on state owned lands a rights-of-way permit is necessary. These permits are issued or denied by the State of Alaska Department of Natural Resources (DNR), after full public review and input. While DNR does not require an "Environmental Impact Statement" (EIS) it does require a best interest findings. The information generally required by DNR, before it will issue a permit, is, however, for all practicable purposes equivalent to that normally contained in an Environmental Impact Statement or, at a minimum, an Environmental Assessment.

Route D can be build entirely on conveyed or interim conveyed native lands while within the confines of the Yukon-Delta Wildlife Refuge. Once outside the boundary of the Refuge, the remainder of the transmission line can be build on either conveyed native lands and/or a few miles of State of Alaska lands. The advantage of building on private lands, within the confines of the Refuge, is that Fish and Wildlife Service has no jurisdiction on private lands. In theory no EIS would be required, only a rights-of-way permit from the State of Alaska and, of course, permission of private land owners. However, it is possible that an EIS or, at a minimum, an Environmental Assesment (EA) would be required to address any adverse impact the transmission line may pose to birds and wildlife within the Refuge area.

Route D traverse federal, State of Alaska and conveyed native lands. Therefore, it is highly probable that an EIS or, at a minimum, an Environmental Assesment (EA) would be required to address any adverse impact the transmission line may pose to birds and wildlife.

# Donlin Creek Project, Southwestern Alaska[1]

May 2, 2001

Jeffrey Y. Foley, Senior Exploration Geologist, Calista Corporation

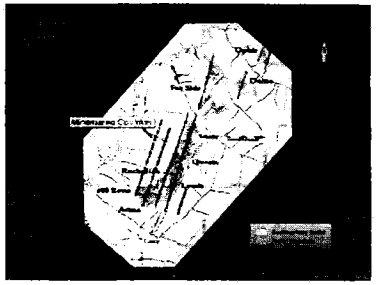
The Donlin Creek Project

Donlin Creek is a major gold exploration project in the Calista Native Corporation Region, in southwestern Alaska. The project site is near the Kuskokwim River, 300 miles west of Anchorage and 12 miles upstream from the village of

Location of the Donlin Creek Project in southwestern Alaska.

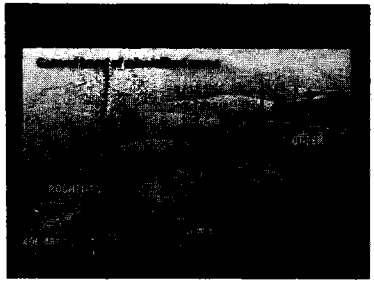
Crooked Creek. The project is operated by Placer Dome Exploration, Inc. and is on land owned by Calista Corporation and The Kuskokwim Corporation (TKC). Calista is one of 13 Regional Native Corporations created by the 1971 Alaska Native Claims Settlement Act (ANCSA). TKC is a corporation formed by the merger of 10 ANCSA Village Corporations and owns the surface estate where Calista owns the subsurface. Placer Dome has been exploring the property since 1995 under an Exploration and Mining Lease with Calista.

The geology of the Donlin Creek Project area consists of northeast- and northwest-trending Late Cretaceous-early Tertiary felsic igeneous dikes and sills that intruded Cretaceous sandstone and shale of the Kuskokwim Group.



Simplified geologic map showing the distribution of felsic igneous rocks and associated gold-mineralized corridors.

Gold is associated with disseminated sulfide minerals, sulfide veinlets and quartz-carbonate veinlets in both altered igneous and sedimentary rocks over an area measuring 4 miles in length.



Aerial view to north showing mineralized trends in the Donlin Creek area.

Metallurgical tests indicate that gold mineralization at Donlin Creek is refractory and would require oxidation of sulfide concentrate to recover the gold. Based on commercially available technology, pressure oxidation in autoclaves would be required to process

the concentrate. Substantial electrical power, on the order of 50-65 megawatts, would be required to fulfill the project needs. Power needs will include electricity for crushing and grinding of large volumes of ore to liberate the sulfide minerals for sulfide flotation, oxygen generation for pressure oxidation of sulfide concentrate to liberate fine gold particles, and other mill, facilities and camp requirements.

As of January 2001, Placer Dome has spent $33 million and has delineated a 12.9 million troy ounce gold resource in 136 million tones of potential ore, with an average grade of 2.95 grams of gold/tonne. Of the 12.9 million ounce resource, 6.9 million ounces are currently included in the *Measured and Indicated Category*, and are likely to be recovered if the deposit is mined. With continued exploration, a substantial portion of the remaining delineated resource and any yet-to-be-delineated resources are likely to be elevated to the *Measured and Indicated Category*, and ultimately, to the *Mineable Reserves* classification.

Since 1995, Placer Dome has explored the deposit in great detail and advanced it well along its way to development. Accomplishments by Placer Dome include construction of a 75-person camp, 17 miles of roads and a 5,000-ft-long airstrip, more than 287,000 ft of diamond drilling, 36,000 ft of trenching and 26 line miles of ground geophysical survey. Additionally, an airborne magnetic survey, mapping and ore deposit modeling, metallurgical testing, 4 years of environmental baseline studies, preliminary mine and facilities design and economic evaluation of the project have been completed.

As a result of evaluation by Placer Dome, the Donlin Creek Project is uneconomic at the current gold price of less than $300 per troy ounce. Engineering and economic evaluation has shown that, because of remoteness and physical setting of the project, logistical costs would be disproportionately high, on the order of those for a foreign project. In order for the project to become economic and meet the financial criteria required by a major mining company, gold prices would have to increase to a sustainable level of at least $325 per troy ounce. At any reasonably anticipated, elevated gold price, the project would only be economic if electrical power were available at a reasonable cost, on the order of $0.05 to $0.06 per kilowatt/hour (kWh). If, on the other hand, low-cost power were available and gold prices recovered to the $325-350 range, a feasibility study would likely be commissioned. Concurrent with an in-fill drilling program, this would be the final step in the mineral property evaluation process. Positive results from the feasibility study with parameters equaling or exceeding return-on-investment criteria would encourage the operating mining company to proceed with the decision to build a mine at a cost of greater than $700 million.

Kuskokwim Region Economy

Southwestern Alaska is an underdeveloped, mineral-rich region with sufficient population and natural resources to sustain a viable economy. However, because of a lack of energy and transportation infrastructure, economic growth is stifled and the 56 villages rely heavily upon State and Federal assistance for basic needs. The Calista Region contains the highest

concentration of rural native communities in the state. With about 23,000 residents, the population is predominately Yupik and Cupik Eskimo and Athabascan Indian. Significant numbers of non-natives also live in the region.

Limited industry and commerce, high unemployment, low per capita income and poverty characterize the region. There is virtually no agricultural, manufacturing or timber industry. No energy resources have been developed. Fishing and hunting are the basis of the traditional subsistence lifestyles. This subsistence lifestyle is typically difficult and often arduous, to a degree seldom appreciated by modern western society. Well-paying jobs are limited and are dominated by public service payrolls. Commercial fishing is the only significant exporter. Unemployment among Alaska Natives in the region is on the order of 70-85 pct and average income is about $8,000. Consequences of these circumstances include well-documented and disproportionate incidence of virtually every ill known to modern society. Domestic violence, alcoholism, suicide, shootings, accidental death, sexual abuse, incarceration, and other tragic incidents are alarmingly commonplace.

Throughout much of the twentieth century, mining had a positive effect on the economy and social well being in the region. The platinum mine at Goodnews Bay and the Red Devil mercury mine were leading North American mineral producers in their days. Placer gold mining in several districts, including Iditarod, Flat, Marshall and Nyac supported communities much larger than the typical southwestern Alaska village of today. Construction material production, including sand, gravel and quarry rock is of growing importance and, with better transportation facilities, could grow even more. The real mineral potential of the region, however, has not yet been realized. Recent discoveries and developments in economic geology have shown that world-class hard rock gold deposits exist in the region. Unfortunately, in spite of favorable size and grade, distance from infrastructure negatively influences their economic viability. Although abundant gold prospects and resources have been identified in the region, it is unlikely most of these will be developed under current conditions.

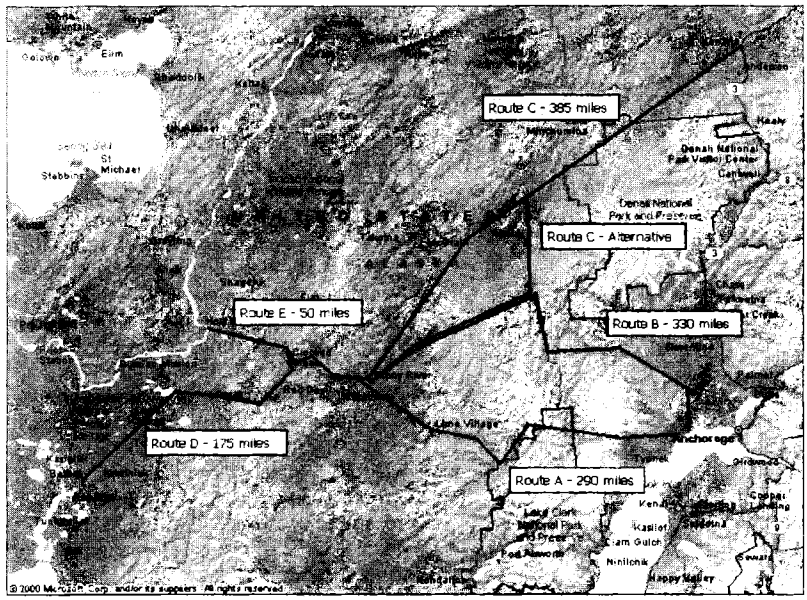
In recent years, the Donlin Creek Project has been the single largest economic stimulus in the Kuskokwim Region. During exploration of the property, Placer Dome has paid as much as $1 million per year in direct payroll, almost $4 million total to Calista and TKC shareholders. Advanced Minimum Royalty and Disturbance Fees have been paid to the landowners. Significant

portions of the remaining expenditures were paid to local and other Alaskan businesses, some of them joint ventures between Natives and non-native entities.

Energy Assessment

An energy needs study is currently being conducted for the Calista Region by Nuvista Light and Power Company, a non-profit entity formed by Calista to assist in powering the region. The major goals of the study are (1) to identify the regional electrical requirements with and without the development of the Donlin Creek Project and (2) to identify the least-cost and most practical alternatives for providing electric power to the project and/or the villages.

One of many Calista shareholders employed by Placer Dome at the Donlin Creek Project.




Power transmission alternatives investigated by Nuvista Light and Power.

As part of the regional study, Nuvista investigated the concept of providing power to the Donlin Creek Project. At the request of Placer Dome, Inc., parent company to Placer Dome Exploration, Nuvista further directed its efforts to analyze power supply alternatives to the

mining project[1]. The latter provided the first comprehensive comparison of various power scenarios suggested, to date, for the region and the Donlin Creek Project.

A coal-fired power plant in Bethel, with a 175-mile-long, 138 Kv transmission line to the mine site was identified as the lowest cost and most practical alternative. Furthermore, this alternative would have many advantages and avoid the engineering and physical barriers that characterize the other analyzed alternatives. This alternative would benefit from the Bethel Port facility and villages along the way to the mine site could be energized. Inefficient power plants and leak-prone storage tanks in these villages could be eliminated. Power costs could be reduced several-fold for affected residents, agencies and businesses and Power Cost Equalization (PCE) subsidies eliminated. With the availability of reasonably priced power, villagers' limited cash could be spent on other essentials and quality of life would generally be improved. All industries and power consumers would benefit from improved communications, health care, education and other electricity-dependent services.

Potential Benefits of the Donlin Creek Project and power grid – Sustainable Development

Many of the problems that characterize the region would experience substantial relief by the advent of lower cost electricity and the economic and social benefits of a world-class gold mine.

During a 2-year mine construction period, there would be on the order of 450 jobs at the site. During the 10 plus year operation period there would be about 300 jobs at the mine. Given that many of the mine employees will be from surrounding villages, this will have enormous economic impact on the local and regional economy.

Royalties to landowners, increased tax base, increased business and vocational opportunities will have more global effects on the economy. Improved transportation and communications, better education, improved health, strategic defense benefits, economic growth, reduced transfer payments, and other sustainable development issues will be realized. Social benefits will go hand in hand with the economic benefits.

Given the remote location and lack of infrastructure, economic development in the Calista region will depend on natural resource development. Whereas any single mining project will ultimately have a finite life, there are more long-term and sustainable benefits to be achieved. The region has a history of mineral development and many prospects remain to be explored. World-class mineral deposits seldom occur by themselves; usually a single large deposit is indicative of more substantial mineral endowment in the region.

Vocational training and occupational experience that accompany exploration, mine construction and operation provide marketable skills that are useful in other industries. Skills that would be developed during a mining project include heavy equipment operation, drilling, explosives handling, construction, engineering practices, mechanics, electronics and electrical tasks, environmental technology,

[1] Preliminary Evaluation of Power Supply alternatives for Donlin Creek Mine (DRAFT). Prepared for Nuvista Light & Power, Inc. by Frank Bettine, P.E., Esq., November 16, 2000

plumbing, catering, computer and communications. These skills are marketable in other industries and are useful anywhere in the world. Such vocational development would give residents the opportunity to participate, rather than be isolated from the global business community. Other emerging mining and development projects around the state would provide additional employment for this trained work force.

For the Donlin Creek and other natural resource-based projects to become realities, it is necessary that energy development be made a priority by all interested in the social and economic welfare of the region. State and Federal Agencies are encouraged to combine efforts and resources to make these projects feasible.

# The Arctic National Wildlife Refuge: A Gwich'in Perspective

by Adeline Peter Raboff

Over the course of the last year the Arctic National Wildlife Refuge (ANWR) has become a household word. If it had not been for the pro-development stance that the Bush administration ushered in, perhaps it would have taken longer for the issues that surround ANWR to come to the public's full attention. As it is, what with the California power shortages, the constant watch on the world oil reserves, and two oil men as President and Vice-President, we have ANWR in the spotlight

From the Gwich'in perspective this is a good thing.

The Gwich'in people have since 1987 actively and collectively worked for the Wilderness designation of the Arctic National Wildlife Refuge. Our reasoning has been based on the age-old traditional belief of our ancestors that everything (animals, plants, and minerals) and every place (geographically) is imbued with the Spirit of the Creator. Secondly, we have through centuries of living in northeastern Alaska and northwestern Yukon Territory Canada been dependent upon the Porcupine Caribou herd (PCH) as our main subsistence resource. We have a <u>real</u> vested interest in the welfare of the PCH. And thirdly, our elders unanimously charged us, the present and future generations of Gwich'in people, to do everything in our power to protect our land and our resources, but most vigorously the Porcupine Caribou Herd.

Many have said, "You don't live on the Arctic Coastal Plain, why should this concern you?"

As you may know the PCH calves on the Arctic Coastal Plain. The Arctic Coastal Plain in the area of the PCH calving activity is about 25 to 40 miles from the mountains to the Beaufort Sea and about 150 miles long. Since this is in the heart of ANWR, yes we are concerned. We have a vested interest in the welfare of the Porcupine Caribou Herd.

We also appreciate the wildlife that ANWR supports in all of its seasons. We also harvest ducks that nest there on Gwich'in lands. We are concerned about the amount of fresh water that will be diverted from rivers and lakes. Where will the birds and fish go? Where will the mosquitos spawn? We need all the mosquitos we can get! They are at the bottom of a food chain that absolutely depends upon them to be there.

The oil industry cannot be expected to behave any differently than it has in the past. Oil spills continue, rusty pipes break, the industry has been granted rights that no other industry in the State of Alaska has been granted. There are no environmental impact statements for any oil rig in operation on the North Slope. The State Legislature is considering allowing unlimited usage of water from lakes and rivers for periods of up to five years with automatic renewals. And the State of Alaska has given $2 million dollars to Arctic Power (a lobby group) to promote the opening of ANWR at our nations capital. As much as we would like to see it, no the oil industry will not change.

As Native Americans and as Gwich'in people we also have another perspective that has placed us in a unique position. The Arctic National Wildlife Refuge has become an international symbol; a symbol of how 21st Century America has reviewed their regard for the environment. For centuries the white fathers have taught exploitation, exploitation of people and natural resources without regard for the future consequences to others But over the years a growing number of people, who are a part of the American landscape, have gradually come forth and expressed their love for the environment, appreciate its' intrinsic value, and see the need to protect it. This is being expressed by those who design, engineer, and implement new technologies, who design homes that are energy efficient, those who recycle, who volunteer, and who contribute to environmental issues. We sincerely hope that the Arctic National Wildlife Refuge is a turning point for all of us, and want to extend our gratitude to all.

## Gwich'in Niintsyaa

**Resolution to Prohibit Development in the Calving and Post-Calving Grounds of the Porcupine Caribou Herd**

**WHEREAS:** For thousands of years our ancestors, the Gwich'in Athabascan Indians of northeast Alaska and northwest Canada, have relied on caribou for subsistence, and continue today to subsist on the Porcupine Caribou Herd which is essential to meet the nutritional, cultural and spiritual needs of our people; and

**WHEREAS:** The Gwich'in have the inherent right to continue our own way of life; and that this right is recognized and affirmed by civilized nations in the international covenants on human rights. Article I of both the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights read in part:

> "...In no case may a people be deprived of its own means of subsistence."; and

**WHEREAS:** The health and productivity of the Porcupine Caribou Herd, and their availability to Gwich'in communities, and the very future of our people are endangered by proposed oil and gas exploration and development in the calving and post-calving grounds in the Arctic National Wildlife Refuge - Coastal Plain; and

**WHEREAS:** The entire Gwich'in Nation was called together by our chiefs in Arctic Village June 5-10 to carefully address this issue and to seek the advice of our elders; and

**WHEREAS:** The Gwich'in people of every community from Arctic Village, Venetie, Fort Yukon, Beaver, Chalkyitsik, Birch Creek, Stevens Village, Circle, and Eagle Village in Alaska; from Old Crow, Fort McPherson, Arctic Red River, Aklavik and Inuvik in Canada have reached consensus in our traditional way, and now speak with a single voice.

**NOW THEREFORE BE IT RESOLVED:**

That the United States Congress and President recognize the rights of our Gwich'in people to continue to live our way of life by prohibiting development in the calving and post-calving grounds of the Porcupine Caribou Herd; and

**BE IT FURTHER RESOLVED:**

That the 1002 area of the Arctic National Wildlife Refuge be made Wilderness to achieve this end.

**Passed this 10th day of June, 1988, in Arctic Village, Alaska.**

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