REPORT TO CONGRESS

HAZARDOUS SUBSTANCE CONTAMINATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT LANDS IN ALASKA

U.S. DEPARTMENT OF THE INTERIOR

DECEMBER, 1998

Report to Congress

Hazardous Substance Contamination of Alaska Native Claims Settlement Act Lands In Alaska

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Glossary of Acronyms and Abbreviations

AAC	Alaska Administrative Code
ADEC	Alaska Department of Environmental Conservation
AFN	Alaska Federation of Natives
ANA	Administration for Native Americans
ANCSA	Alaska Native Claims Settlement Act
AS	Alaska Statute
ATSDR	Agency for Toxic Substances and Disease Registry
BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CERCLIS	Comprehensive Environmental Response, Compensation, and Liability Information System
CFR	Code of Federal Regulations
CIRI	Cook Inlet Region, Incorporated
COE	Corps of Engineers
DERA	Defense Environmental Restoration Account
DERP	Defense Environmental Restoration Program
DEW	Distant early warning
DOD	Department of Defense
DOI	Department of the Interior
EPA	Environmental Protection Agency
FAA	Federal Aviation Administration
FTE	Full time equivalent
FWS	Fish and Wildlife Service
FUDS	Formerly Used Defense Site(s)
GIS	Geographic Information System(s)
IHS	Indian Health Service
JRETC	Joint Regional Environmental Training Center
LD	Lands Decisions
NPL	National Priorities List(s)
NOAA	National Oceanic and Atmospheric Administration
PCB	Polychlorinated biphenyl
PLO	Public Land Order
POL	Petroleum, oil, lubricants
PRP	Potentially responsible party
RCRA	Resource Conservation and Recovery Act
SARA	Superfund Amendments and Reauthorization Act
U.S.C.	United States Code

EXECUTIVE SUMMARY

Contamination of ANCSA Lands

Section 103 of Public Law 104-42, dated November 2, 1995, directed the Secretary of the Interior to prepare this report on the extent of hazardous substance contamination on lands in Alaska transferred to Alaska Native corporations under the Alaska Native Claims Settlement Act of 1971, (Public Law 92-203, 85 Stat. 688) as amended.

ANCSA was enacted in 1971 to provide a fair and just settlement of aboriginal land claims in Alaska. ANCSA directed the conveyance of 44 million acres of land and payment of $962.5 million to Alaska Natives as compensation for the extinguishment of claimed aboriginal title. As of September 30, 1998, all of the funds and approximately 37.3 million acres of land had been conveyed to ANCSA Native Corporations. (Approximately 6.7 million acres remained to be conveyed.) Over the last several years, the Native community has expressed concerns over health, safety, and economic issues relating to the presence of hazardous materials or other forms of contamination and hazards such as abandoned buildings, bunker structures, abandoned equipment and so forth, on lands conveyed to them under ANCSA. There is no accurate means of knowing precisly the extent of environmental contamination that existed on public lands at the time of conveyance from the United States. The law did not require DOI to conduct physical inspections of Federal lands or property before transferring them to Native corporations; the lands to be conveyed were vast (the equivalent of nearly half the State of California); and the concepts of what constitutes contamination have evolved with the passage of various environmental laws since ANCSA was passed.

Data collected during this and an earlier study indicate that there are at least 383 sites in existing Federal cleanup programs on ANCSA lands (see table, p.18). This represents most known sites. While we believe most hazardous sites have been identified and placed on Federal cleanup program lists, it is difficult to determine the exact number of sites because there is no comprehensive inventory, agencies have not all focused equally as yet on inventory of such sites, and the several existing inventories of Federal and State agencies are incomplete and in incompatible formats, resulting in inaccuracies and duplication. It is also not known how many of these sites existed prior to conveyance. Another problem complicating site identification is the concern of landowners for potential legal liability attached to contamination on their land to which they may not have contributed. Thus, ANCSA landowners[1] are understandably reluctant to report potential sites. We believe that these concerns can be alleviated by a better understanding of EPA's policies concerning transferees of federal property, described further in section 5 and Appendix K.

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[1] For purposes of this report, Native or ANCSA landowner refers to the current owner of land originally transferred to an Alaska Native corporation pursuant to the Alaska Native Claims Settlement Act.

This report recommends an approach to fully identify contaminated sites and cleanup needs on ANCSA lands. With respect to lands yet to be conveyed, we will take all practicable steps to avert the future conveyance of contaminated land. With active involvement by Native, State of Alaska, Federal, and other stakeholders, an accurate inventory will be developed identifying as yet unknown and currently known, but possibly unreported, sites that are not covered by an existing program. This will enable the Department to report back to Congress regarding additional action that may be required for sites that are not covered in current cleanup programs. The report recommends in Section 7.0 that six steps be taken.

1. Establish a forum of ANCSA landowners and Federal, State, local and Tribal agencies for exchanging information, discussing issues, and setting priorities;

2. Compile a coordinated, comprehensive inventory of contaminated sites with input from all parties;

3. Apply EPA policies to ANCSA landowners, not to impose landowner liability to federal transferees for contamination existing at the time of conveyance, where the landowner has not contributed to the contamination;

4. Analyze the data collected and report to Congress on sites not covered in existing programs and recommend whether further Federal programs or actions are needed;

5. Modify policies, where needed, to address contaminants and structures that may affect public health and safety on ANCSA lands; and

6. Continue to develop, under the leadership of the EPA and any other relevant agencies, a process to train and enable local residents to better participate in cleanup efforts.

The Department of the Interior will coordinate implementation of these recommendations, although other agencies such as EPA and the Corps of Engineers may take the lead in certain aspects of the recommendations. See section 7 for further details.

1.0 PURPOSE OF THE REPORT

In November, 1995, Congress passed Section 103 of Public Law 104-42 amending ANCSA.[2] This amendment resulted, in part, from concerns put forward by Alaska Native corporations about the presence of hazardous wastes on lands transferred from Federal ownership to the Native corporations pursuant to ANCSA. In this amendment to ANCSA, Congress directed the Secretary of the Interior, who is responsible for the transfer of ANCSA lands, to examine and report back to Congress on this issue. We regret that for a variety of reasons, including the complexity of the subject matter, the need to search and organize a large amount of information from many scattered sources, the number of agencies involved, and the difficulty of resolving policy considerations and possible cost impacts of the report, the report has taken longer than the established time. Section 103 defined the issues to be addressed in this report.

Public Law 104-42, Section 103
Settlement of Claims Arising from Hazardous Substance Contamination of Transferred Lands

The Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq) is amended by adding at the end the following:

Claims Arising From Contamination of Transferred Lands
Sec. 40. (a) As used in this section the term "contaminant" means hazardous substance harmful to public health or the environment, including friable asbestos.

(b) Within 18 months of enactment of this section, and after consultation with the Secretary of Agriculture, State of Alaska, and appropriate Alaska Native corporations and organizations, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report addressing issues presented by the presence of contaminants on lands conveyed or prioritized for conveyance to such corporations pursuant to this Act. Such report shall consist of:

(1) existing information concerning the nature and types of contaminants present on such lands prior to conveyance to Alaska Native corporations;

(2) existing information identifying to the extent practicable the existence and availability of potentially responsible parties for the removal and remediation of the effects of such contaminants;

(3) identification of existing remedies;

(4) recommendations for any additional legislation that the Secretary concludes is necessary to remedy the problem on the lands; and

(5) in addition to the identification of contaminants, identification of structures known to have asbestos present and recommendations to inform Native landowners on the containment of asbestos.

[2] 43 U.S.C. 1601

2.0 PERSPECTIVE ON ALASKA NATIVE LANDS

When the Alaska Statehood Act was enacted in July, 1958, approximately 99 percent of the land in Alaska was Federally owned.

ANCSA was enacted in 1971 to provide a fair and just settlement of aboriginal land claims in Alaska. ANCSA directed the conveyance of 44 million acres of land and payment of $962.5 million to Alaska Natives as compensation for the extinguishment of claimed aboriginal title. Native corporations formed under ANCSA had to select the lands to which they would obtain title from lands withdrawn from the public domain by the Secretary of the Interior. The majority of the lands received under ANCSA were traditionally used and occupied by the respective Native villages. The land transfer process is administered by the Bureau of Land Management (BLM).

Under ANCSA, the Native village corporations are entitled to receive surface rights to approximately 22 million acres of land. Individual village corporations are entitled to receive between 69,120 to 161,230 acres, depending on the Native population of the village in 1970. The Native regional corporations, generally speaking, hold subsurface rights to the lands selected by the village corporations. Those regional corporations that had small enrolled populations, but covered large land areas, were entitled to select, under a complex "land lost" formula, an additional 16 million acres to which they hold surface and subsurface rights.

Another 4 million acres was conveyed to Village Corporations occupying former reservations. Any village corporation which elected to receive its former reservation did not receive any money or other benefits under ANCSA. Native village corporations were given a three-year period to make their selections and Native regional corporations were given an overlapping four-year period to select their lands. Originally there were 213 village corporations. Because of mergers, there are now 173 village corporations and 13 regional corporations.[3]

A report entitled *Alaska Natives and the Land*, a study mandated by Congress to assess the current status of Alaska Natives, states that in 1966 about 70 percent of Alaska's 53,000 Native people lived in 178 predominantly Native communities. The communities were small, the median size was 155 people. They were remote, with fewer than a dozen on the State's limited road network, and only 23 had telephone service linking them to other places. The people relied on hunting, fishing, trapping, and other food-gathering activities for their livelihood.

The legislative history of ANCSA indicates that it was intended to compensate Alaska Natives for the extinguishment of title to lands they claimed. At the same time, Congress intended to address the social, cultural, and economic history of the Native people. The majority of Native

[3] The thirteenth Native regional corporation is a landless corporation.

communities are remote and the people continue to depend on the lands for their sustenance and cultural traditions.

ANCSA required Native village corporations to select all available public lands within the core townships surrounding their villages. Section 3(e) of ANCSA defines the term public lands as "all Federal lands and interests therein located in Alaska except: 1) the smallest practicable tract, as determined by the Secretary of the Interior, enclosing land actually used in connection with the administration of any Federal installation ..." "Public lands," as defined by Section 3(e), were available for selection by Native corporations, except where such lands were reserved for military or park purposes. To implement Section 3(e), each Federal agency in Alaska with any landholdings was requested by BLM in 1972 to determine which, if any, lands could be relinquished without adversely affecting their programs or goals. In response, the FAA, military departments, and other Federal agencies made some of their holdings available for Native selection. In some instances, Federal improvements were conveyed to Native corporations. Also, some Federal improvements, including former military sites, were conveyed to CIRI, pursuant to a property pool agreement, so that CIRI's land entitlement could be fulfilled (Subsection 12(b)(6) of the Act of January 2, 1976).

Once a Native village corporation receives its land conveyances it is obligated to reconvey up to 1,280 acres of land, unless mutually agreed otherwise by the parties, for present or future municipalities for use as community developments or for future community expansion. In addition, the village must reconvey to individual residents for primary place of residence, business, headquarter sites, reindeer husbandry and subsistence campsites; to nonprofit corporations for hospitals, churches, etc.; and to the State of Alaska for existing airports and air navigation facilities.

ANCSA fashioned a complex settlement for a complex situation. The claims resolution ANCSA formulated was unprecedented in spirit, in scope, and in substance. Nevertheless, few realized at the time of passage how long and difficult the implementation of ANCSA would be. This has necessitated various amendments to ANCSA.

The first ANCSA conveyance occurred in March, 1974. As of September 30, 1998, approximately 37.3 million acres of land had been conveyed to ANCSA Native Corporations. Approximately 6.7 million acres remained to be conveyed.

Over the last several years, the Native community has expressed concerns over health, safety, and economic issues relating to the presence of hazardous materials or other forms of contamination and hazards such as abandoned buildings, bunker structures, abandoned equipment and so forth, on lands conveyed to them under ANCSA. It is hoped that this report will lead to understanding the scope of the problem and its resolution. It is important that local concerns and life-styles be considered in the identification and remediation of contaminated sites, because of the closeness of the Native people to the land in both proximity and ideology. With respect to lands yet to be conveyed, we will take all practicable steps to avert the future conveyance of contaminated land.

Cash and budgets are critical issues. Most communities faced with several important competing priorities and limited resources are not likely to identify contamination issues to be the most critical need requiring attention. For instance, it is estimated by the Indian Health Service that needed water and wastewater projects alone will cost approximately $880 million to complete.

The maps in Appendix B show the extent of ANCSA transferred lands in Alaska. Since priorities for selection may vary by Native corporations over time, it is not feasible to identify lands "prioritized for conveyance."

FIGURE 1

Native Corp. Boundaries

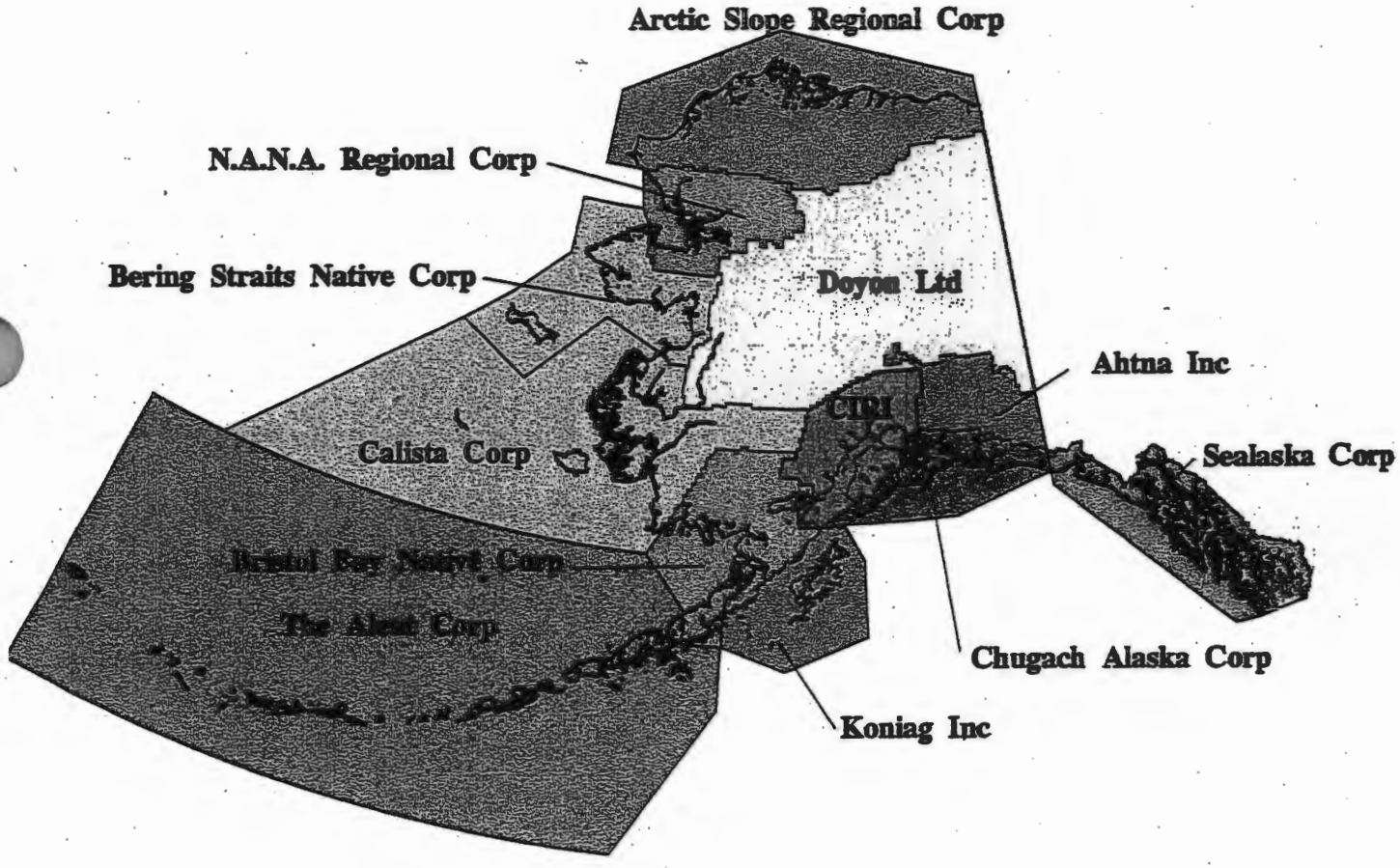

Table 1.

Native Population by ANCSA Region

Source: 1990 Census Data

CORPORATION	NATIVE POPULATION	TOTAL POPULATION (INCLUDING NON-NATIVE)
AHTNA, INC.	592	3,089
ALEUT CORP.	2,118	11,942
ARCTIC SLOPE	4,336	5,979
BERING STRAITS	6,418	8,288
BRISTOL BAY	4,639	7,028
CALISTA CORP.	16,775	19,447
CHUGACH ALASKA	1,550	11,450
COOK INLET REGION	18,581	302,473
DOYON, LTD.	10,793	91,936
KONIAG, INC.	2,126	13,309
NANA	5,209	6,113
SEALASKA CORP.	11,622	67,520
TOTAL	84,489	548,574

Total Native Population is 84,489 or 15.4% of the total State population as of the 1990 Census.

3.0 NATURE AND TYPES OF CONTAMINANTS PRESENT AT THE TIME OF CONVEYANCE

There is no accurate means of knowing precisely the extent of environmental contamination that existed on the public lands at the time of conveyance from the United States to ANCSA Native corporations. Many sites were known. However, the law did not require DOI to conduct physical inspections of Federal lands or property before transferring them to Native corporations; the lands to be conveyed were vast (the equivalent of nearly half the State of California); and the concepts of contamination have evolved with the passage of various environmental laws since ANCSA was passed.

The nature and types of contamination that may exist on ANCSA conveyed lands varies depending on the type of site and previous history of use. It is possible some sites that are now posing contamination issues were not contaminated at the time of conveyance. This could be true in cases involving: storage tanks that may be leaking now but were not at the time of conveyance; buildings containing asbestos that may be friable now but was not friable or damaged at the time of conveyance; or open dump sites that have been established after conveyance.

In many cases, the signs of contamination are obvious; in other cases, it is much less obvious. The detection and measurement of contamination at a site takes place in many steps over a period of time. Determining the nature and size of the problem is the first step toward solving it; however, determining the full cost of environmental cleanup is time consuming and involves an assessment of potential problems at each site.

Contamination of lands is often the result of uses to which the land was put. Section 3.2 discusses military land uses in Alaska, and Section 3.3 discusses civilian uses. The land uses discussed in these sections have the potential for leaving contaminated sites on ANCSA transferred lands. Except for the formerly used defense sites program, many Federal agencies have focused their efforts on inventorying lands they currently manage. Many are just beginning to assess contamination issues on formerly owned or used facilities. Uncertainty remains as to what contaminants lie on the millions of acres of lands conveyed to Native corporations. The possible examinations can be quite difficult and costly, given the great distances, remoteness, and difficult conditions in many cases in Alaska. Deployment alone, even for assessments, can be very costly.

3.1 Potential Types of Contamination

Types of hazardous wastes which may be found on ANCSA conveyed lands include: solvents, mining waste chemicals, PCBs, spilled fuels, explosives (including ordnance), antifreeze, batteries, oil and gas exploration wastes, pesticides, friable asbestos, mercury, arsenic, benzene, lead and leaded paint, dioxin, and POL.

Buildings containing friable asbestos, leaded paint, or other hazardous materials are another source of potential contamination. Some of these buildings are still in use today, and where they have been properly maintained, they do not pose an immediate hazard. If buildings containing asbestos were not maintained after ownership transfer, they may pose a hazard. (Where facilities have been transferred in good condition and have been allowed to deteriorate by the transferee, the Department would maintain that the responsibility for any resulting hazard should rest with the transferee.) In most cases, lands containing improvements or other facilities were conveyed at the request of the respective Native corporation. These types of sites include formerly used defense sites, FAA sites, and former BIA school sites.

Also, naturally occurring mineralized areas in some regions of the State have the potential to form acid and metal-rich waters that can carry high concentrations of toxic metals such as lead, zinc, and cadmium. Mercury-rich mineral deposits are another type of deposit scattered over a wide region in southwestern Alaska. The primary sources of mercury are naturally occurring mineral deposits (cinnabar), rocks, soils, and volcanic eruptions. We do not believe there is liability attached to naturally occurring minerals.[4] See Appendix G.

Causes of contamination can include: above and underground fuel storage tanks, landfills and open dump sites, storage areas (fuels, chemicals, barrels, batteries, and so on), disposal pits (oil and gas exploration and development), surface impoundments and sewage lagoons, improvements with asbestos and/or leaded paint, pipelines, mine sites, formerly used defense sites, and airports.

The extent of contamination is generally of concern in five media, which could impact human health and the environment: ground water, soils, surface water, sediments, and air.

Generally, to begin to investigate a site one must determine the location and boundaries of the site, how the property has been used in the past, the type of hazardous substances that may have been released, and whether there is an obvious or known release that occurred which warrants immediate action. If immediate action is necessary, a removal action should be done according to applicable statute. If a removal action is not needed, a site investigation may need to be done to determine the extent of impacts from any releases. Depending on the magnitude of the potential problems at a site, it may be appropriate to start cleanup actions concurrently with the site investigation work. In more complex cases, a remedial investigation and baseline risk assessment may be needed. Remedial investigations are done to define the extent of contamination. Risk assessments include: 1) an exposure assessment; 2) a toxicity assessment; and 3) risk

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[4] CERCLA §104(a)(3) Limitations on Response

"The President shall not provide for a removal or remedial action under this section in response to a release or threat of release—"

"(A) of a naturally occurring substance in its unaltered form, or altered solely through naturally occurring processes or phenomena, from a location where it is naturally found."

characterization. The risk assessment results are used to make risk management decisions on whether a cleanup is necessary and to help establish cleanup levels. Assessments should analyze potential risks through the subsistence consumption of fish, wildlife, or plants.

Field investigations are necessary to characterize the nature and extent of contamination and to determine if contamination occurred prior to, or after, conveyance to an ANCSA Native corporation. Federal facilities were usually authorized by land withdrawals via PLOs or by Federal appropriations under the principles of 44 LD 513. If a PLO was issued, case file records are available that may provide some information on the Federal agency's use. Past aerial photography may also be helpful to determine contamination at the time of conveyance. However, precisely identifying the sources of particular contaminants can be very difficult in some cases; for instance, in cases of landfill sites in continuous use before and after transfer.

3.2 Military Land Uses

World War II, the Japanese invasion of the Aleutians, and the Cold War had profound influence on military activities in Alaska. The military in Alaska played a significant role in the development of the territory and State. In many areas, military improvements concurrently supported civilian economic development. This was especially true in the areas of highway construction, port construction, airfield/airport expansion, and communications.

The Federal government spent over $1.25 billion in Alaska between 1941 and 1945 in military activities and the construction of installations and facilities for the defense of the nation and in support of offensive operations. The military buildup in Alaska grew rapidly during this time. In addition, the Navy's construction battalions constructed facilities for submarines, aircraft and surface vessels in southeastern Alaska and out along the Aleutian chain. Meanwhile, numerous defense installations in central and southeastern Alaska had been completed and manned with infantry, coast artillery, and supporting branches. Before World War II had ended over 300,000 soldiers had seen duty in Alaska.

Soon after the Alaska National Guard was established in 1949, National Guard Armories were constructed in 48 remote villages, often of surplus World War II Quonset huts.

The end of the Cold War and the accompanying military drawdown has resulted in an increase in the number of closed and abandoned Alaskan military facilities. Even before the collapse of the Berlin Wall and Communism in 1989, there were about 150 closed and abandoned Cold War facilities in Alaska. A report by the General Accounting Office prepared in September, 1980, estimated that about $110 million worth of military improvements were reported as no longer being needed.

According to the EPA, an approximate survey of what was abandoned by the military included over 6,100 Quonset and Pacific huts, 2,100 wood frame buildings, tens of thousands of POL

barrels, and countless bits and pieces of military debris. This debris includes the remains of troop quarters, mess halls, gymnasiums, warehouses, power plants with engines and generators, ammunition magazines and bomb dumps, fuel depots, garages, and workshops, runways, gun emplacements, bunkers, and miscellaneous material including live and detonated ordnance, vehicles and heavy machinery, pierced steel airstrip matting, barbed wire, communications and utility poles, cable, and pipelines. In many cases, it was cheaper to junk surplus material where it was than to remove it.

The numbers given here are statewide totals and do not represent the totals on ANCSA-conveyed lands. The following are examples of the types of facilities and the extent they were constructed throughout the State.

White Alice sites. The White Alice tropospheric communications system was "state of the art" when introduced in 1955 but became obsolete with the introduction of satellite communications in the 1970s. White Alice communications sites were used from 1955 through 1979. There were 23 sites of varying designs. The White Alice stations were deactivated and abandoned.

Alaska Communication System sites. The Alaska Communications System was built by the Army in the early 1900s to provide communications to the military and civilian communities of Alaska. It was transferred to the Air Force in 1962 and sold to RCA Alascom in 1971, pursuant to special legislation. The 24 sites included station buildings (wood frame, concrete, or prefabricated metal), radio towers, and homes for operators.

Aircraft Control and Warning Intelligence Radar sites. The Aircraft Control and Warning Intelligence Radar was used from 1949 through 1984. The design of the 18 sites consisted of a complex of 10 to 15 wood frame buildings. The central features were the radomes and operations building; however a complete complex also included: an administration building, quarters and dormitories, recreation buildings, enclosed walkways, power plant and water systems, garages, shops, warehouses and storage, an airstrip, a weather building, and a tramway. These complexes were too large and inefficient to remain in service, and the U.S. Air Force buried a number of them *in situ*.

DEW Line stations. DEW Line stations were used from 1953 through 1985. There were 19 sites of three types of DEW line stations (Main, Auxiliary, and Intermediate). The features of a main station were: a radome, four module trains of prefabricated plywood panels (for operations and living), a steel power generation building, steel hangars, a steel air terminal, a steel recreation building, a radio building, and storage warehouses and maintenance shops.

Aleutian DEW Line and White Alice Sites. Consisted of: concrete composite buildings, four billboard antennas, a steel garage, two ammunition bunkers, airstrip, a weather/terminal building, and a water pumphouse. There were 8 sites.

Testing and Monitoring Sites. There were several sites used for monitoring and material development, including three nuclear sites and four seismic sites. Nuclear activities in Alaska included nuclear tests, nuclear experiments, and seismic stations to monitor Soviet nuclear explosions.

Airbases, Ports, Loran Stations, and Garrisons. A number of airfields, navy bases, army forts, and related defense sites have been abandoned throughout the State. These sites are potential ANCSA land selections.

The process used to close some former Federal facilities has reduced opportunities for reuse or has driven up environmental restoration costs. For example, when some sites were closed and abandoned, equipment and supplies were sometimes left behind. Among the supplies were containers of hazardous substances such as brake fluid, fuel drums containing petroleum products, antifreeze, and even containers of 100 per cent PCBs. Above and underground fuel tanks containing fuel were sometimes abandoned in place. Left on site were transformers which have since been shot-up or broken open to remove copper from inside, letting cooling oils containing PCBs spill onto the ground. Vandalism, the severe Alaskan climate, and a lack of proper maintenance combined to reduce the value and opportunity for reuse of some sites.

3.3 Civilian Land Uses

Personal and community uses. ANCSA village residents have been living on and using the lands in the vicinity of their village for many years before title transferred to the respective Native corporations. Very few land use permits were ever granted to rural villages for common uses such as dump sites, fuel storage areas, power plants, and so on. In some cases, these uses by individuals, nonprofit organizations, and local governments qualified them to receive title to the land from the respective ANCSA corporation.

Approximately 140 BIA schools were formerly operated in various communities in Alaska. Upon statehood in 1959, the BIA began a process of transferring these sites to the State of Alaska. School sites were also transferred to local governments and school districts, and approximately 13 to Native corporations. These buildings typically contained asbestos and leaded paint, but were in good condition at the time of transfer. They may also have had power plants and fuel storage facilities associated with them. Appendix C provides information on the history of DOI schools in Alaska.

Airports and airstrips. Extensive development began in 1940 throughout Alaska for World War II, including the establishment of landing areas and airstrips under the coordinated effort of the War Department and numerous other federal agencies. The result was a network of airfields and runways. While some later became useful as civilian and military aviation grew, others were transferred to other ownership and use.

Storage tanks. Leaking storage tanks, both above and underground, and related pipelines, can cause ground water contamination. Leaking tanks must be removed. The procedures and technology for removing them are proven. Many small businesses and regulators perform this task on a routine basis. In some cases, even tanks that are not leaking should be removed within a reasonable period of time because of degradation over the years. Underground storage tanks are regulated under RCRA[5] and by ADEC, which also regulates above-ground tanks at bulk fuel storage facilities with a non-crude oil storage capacity of 420,000 or more gallons, or a crude oil storage capacity of 210,000 or more gallons.

Active and Abandoned Mines. The 1872 Mining Law encouraged the exploration and production of minerals from the public lands by providing for minimal governmental involvement. As a result, miners have drilled, blasted, or excavated many areas of public domain without the activity or location being recorded or subject to any permit requirements by the United States. If the mines did not produce any valuable minerals or after production ceased, the miners often left the site with open adits (entrances), pits, tailings, and spoil piles. As the adits and piles are exposed to rain and snow the materials may break down and leach into the surrounding environment. Resulting drainage from these areas may contain heavy metals, sulfur compounds and chemicals, such as mercury and arsenic, used in the mining process. Liquid mercury has been used for the extraction of gold (amalgamation) for many years in placer operations because the gold is fine grained. While gold amalgamation is rarely used today, some liquid mercury may remain in streams near old placer operations because it was sometimes spilled, lost, or discarded.

In Alaska, the mining of gold and other valuable mineral deposits has been a major industry since the early 1900s. Many mine sites have not been located since they did not have to be recorded with the Federal government until October of 1976, at the earliest. Also, because of the vast size of the State, the time and expense of conducting field surveys are prohibitive. The map in Appendix B shows the locations of some known sites with potential mercury. Generally, mine sites are identified when a problem arises, such as pollution of a water course, which causes State or Federal regulatory agencies to investigate an active pollution source. The issue of identification and cleanup of abandoned mine sites is a statewide problem for all lands. See Appendix G for more information about environmental issues related to mineral deposits.

Dumps and solid waste disposal sites. These sites consist of general purpose landfills, as well as sludge ponds, dry wells and hazardous waste disposal areas. Some dump sites contain everything from household wastes, to batteries, pesticides, and industrial chemicals. Some landfills also include building and other debris. Site characterization, waste removal, containment, or on-site treatment are largely technical and financial issues. Typically, landfills are capped with low permeability covers, surface water diversion and leachate collection and treatment may be necessary; and in some cases, removal may be viable. Appropriate institutional controls should be established for inactive disposal sites to minimize future exposure and risks to human health.

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[5] 42 U.S.C. 6901–6992k

The Indian Health Service has identified, in a report to Congress pursuant to the Open Dumps on Indian Lands Act of 1994 (Public Law 103-399), 153 sites that appear to be on ANCSA conveyed lands. Not all of these sites are necessarily contaminated, and, it should be noted, communities will continue to need landfills.

Oil and Gas Exploration. Abandoned oil and gas wells and survey sites are located in various places throughout the State. The primary sources of contamination are the drilling mud and reserve pits, if any exist. Heavy metals, petroleum products, or solvents are the primary contaminants that may be found.

Contaminated Buildings. The primary source of contamination in buildings is leaded paint and asbestos, although some buildings may be found to have been contaminated by other hazardous materials.

3.4 Contaminated Site Inventories

Under Federal law, if anyone has knowledge of, or discovers a release of a hazardous substance as defined in CERCLA[6] or RCRA, that information should be reported to the EPA. The EPA maintains an inventory of those sites. Under Alaska Statutes, hazardous releases are to be reported to ADEC, which also maintains a site inventory. It would be a useful management tool to have a database with mapping capabilities to record every known contaminated site in the State.

The inventories and databases identified below were used, along with the survey of Native corporations, to compile information about the nature and extent of potential contamination on lands transferred to Native corporations pursuant to ANCSA. The tables in Appendix A and maps in Appendix B are based on known information. The information depicted in the maps was acquired from various inventories. Data have not been reviewed for accuracy or field-proofed. These graphics are intended for illustrative purposes only, and do not indicate that there exists contamination at any location depicted.

Developing this information was complicated by the fact there is not a single database in the State that contains a comprehensive inventory of contaminated sites in Alaska. Often, current landowners are not identified and there is duplication between agency listings resulting from overlapping jurisdictions and varying site names.

U. S. Army Corps of Engineers (COE), Formerly Used Defense Sites (FUDS). The COE maintains a database of FUDS on all lands in Alaska, including those on Native corporation lands. The inventory for Alaska currently lists 545 sites and identifies the project name, location (by community), site number, landowner, list of contaminants, and cleanup schedule. There are approximately 112 identified FUDS on lands conveyed to ANCSA corporations. This

[6] 42 U.S.C. 9601–9675

represents 19 percent of the statewide FUDS total. In addition, there are approximately 77 identified FUDS on ANCSA selected lands. The COE has inspected almost all eligible FUDS and has determined that no further action is required relative to hazardous materials cleanup on 80 percent of the total sites, and investigation or cleanup is in progress on most of the remaining sites. Either the COE or the EPA plans to revisit a number of these sites to verify no further action is required. The Environmental Justice Program of the EPA prepared a report in July, 1996, titled *The Alaska Military Sites Project*, (see Appendix F), which used the FUDS database and identified past and present military sites in Alaska. A number of former military sites were sought by and granted to Alaskan Native corporations.

IHS Facility Data System. This system was established by the Office of Environmental Health and Engineering to help identify health service workloads, and it identifies solid waste disposal sites. There are currently 153 open dump sites identified for purposes of compliance with the Indian Lands Open Dump Cleanup Act of 1994 (Public Law 103-399). The system includes facilities or sites where solid waste is disposed of: a sanitary landfill, open dump, and modified landfill that is not a facility for the disposal of hazardous waste. All sites are one-half acre or larger in size. Not all of these pose hazardous material issues or risks. The IHS data provides an inventory and overview of open dump sites on Native lands and does not reflect a comprehensive analysis of each site.

State of Alaska Department of Environmental Conservation—Contaminated Sites Database. Approximately 2,200 open sites are listed in this database. The majority of sites in this database involve petroleum releases, most of which were reported after the lands were conveyed to ANCSA Native corporations. At many sites where historic releases have occurred, it is nearly impossible to accurately determine when the actual release(s) occurred. This database identifies site locations by longitude and latitude coordinates for a community or known geographic area, and does not identify the current landowner. Approximately 317 sites appear to affect ANCSA-conveyed lands. This information includes sites listed in other inventories.

State of Alaska Department of Natural Resources. This list identifies of 586 petroleum exploration/production wells, water wells, injection wells, and gas wells plugged and abandoned that are onshore and not on State land that have been reported or discovered in Alaska over the years. This report lists the operator, well name, legal description, lease number, status, date completed, and other information. It is difficult to know which of these sites are located on ANCSA conveyed lands. It appears the majority are on Federal or State lands.

Environmental Protection Agency Lists. CERCLIS is a database used by EPA to list sites which have the potential for releasing hazardous substances into the environment. EPA learns of these sites through notification by the owner, citizen complaints, State and local government identification, and other EPA programs. Of the 1,676 sites listed in Region 10 EPA, 80 sites are in Alaska. A preliminary review of this list indicates there are not any sites that have been transferred to Native corporations.

EPA maintains the Federal Facilities Hazardous Waste Compliance Docket, which lists Federal facilities that require assessment to determine if they pose a threat to public health or the environment. The Docket, which lists the official name and location of all known contaminated Federal facilities, was created by Section 120(c) of CERCLA and is updated approximately twice each year. All Docket updates are published in the *Federal Register* and only deal with Federal lands, including those that may be selected for transfer to Native corporations.

1991 ANCSA Contaminated Lands Inventory. An earlier survey on this issue resulted in a report to Congress on April 15, 1991. In 1991, Section 326 of Public Law 101-512, The Interior Appropriations Bill, required the Secretary of the Interior to report to Congress information concerning lands and properties which: 1) at the time of transfer were represented or disclosed by the Federal government as being free from contaminants and subsequent to transfer, were discovered to be contaminated; or, 2) were knowingly transferred to Alaska Native corporations with contaminants. The BLM received 22 responses out of more than 200 mail-out inquiries to Native landowners and other interested parties (see Appendix A).

1996 ANCSA Contaminated Lands Inventory. As a result of over 236 mail-out inquiries sent to Native landowners and organizations as part of this project, 98 potentially contaminated sites were generally identified by 14 Native entities. Sixty-seven of these sites were found to actually be located on Native conveyed or selected lands. The reported sites involve a small number of acres situated in close proximity to some villages. Many of these sites have been identified by the COE, EPA, ADEC, other Federal or State agencies (see Appendix A).

Table 2.

Summary of Potentially Contaminated ANCSA Lands[1]

Source: see Appendices A, B, and C

Site Type/Inventory	Estimated Number of Sites on Conveyed Lands
Alaska Department of Environmental Conservation Database	317[2]
Formerly Used Defense Sites (U.S. Army Corps of Engineers)	112[3] 77 (selected lands)
Indian Health Service Open Dump Sites Inventory	153[4]
Mining Sites with Mercury	30[5]
Federal Aviation Administration Database	25[6]
U.S. Air Force Inventory	13[7]
U.S. Coast Guard Inventory	3[8]

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[1] Estimates of known and potential sites are based on an analysis of the inventory databases discussed herein. Duplicate sites may exist. Site investigation may be required to determine whether contamination exists and if it was present at the time of conveyance.

[2] Includes duplicates of other sites, e.g., FUDS.

[3] Included in an active program.

[4] Included in an active program.

[5] Includes naturally occurring instances.

[6] Funding requested for 13 sites in FY 1999.

[7] Included in an active program.

[8] Included in an active program.

Figure 2.
FUDS Project Before Cleanup of 35,000 Drums at Prince of Wales

Figure 3.
FUDS Project After Cleanup of Drums at Prince of Wales

Figure 4.
Former FAA Site
at Middleton Island

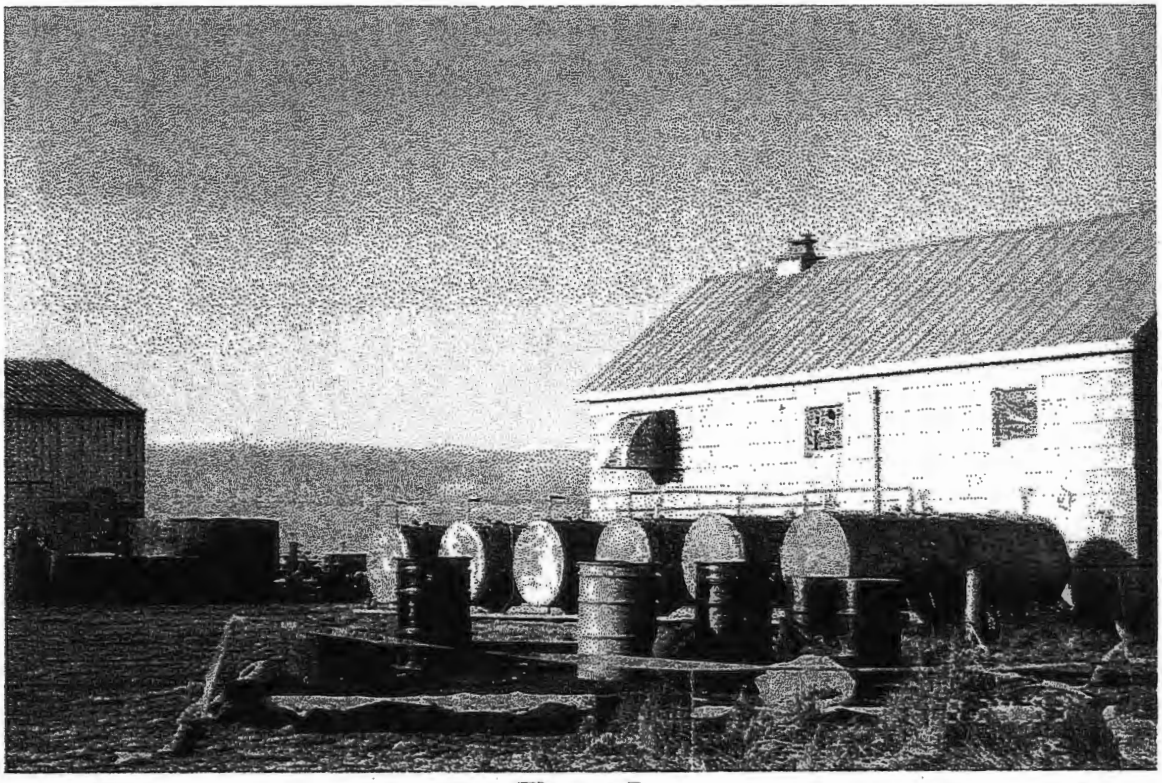

Figure 5.
Tank Farm/Power Generation Building
at Middleton Island

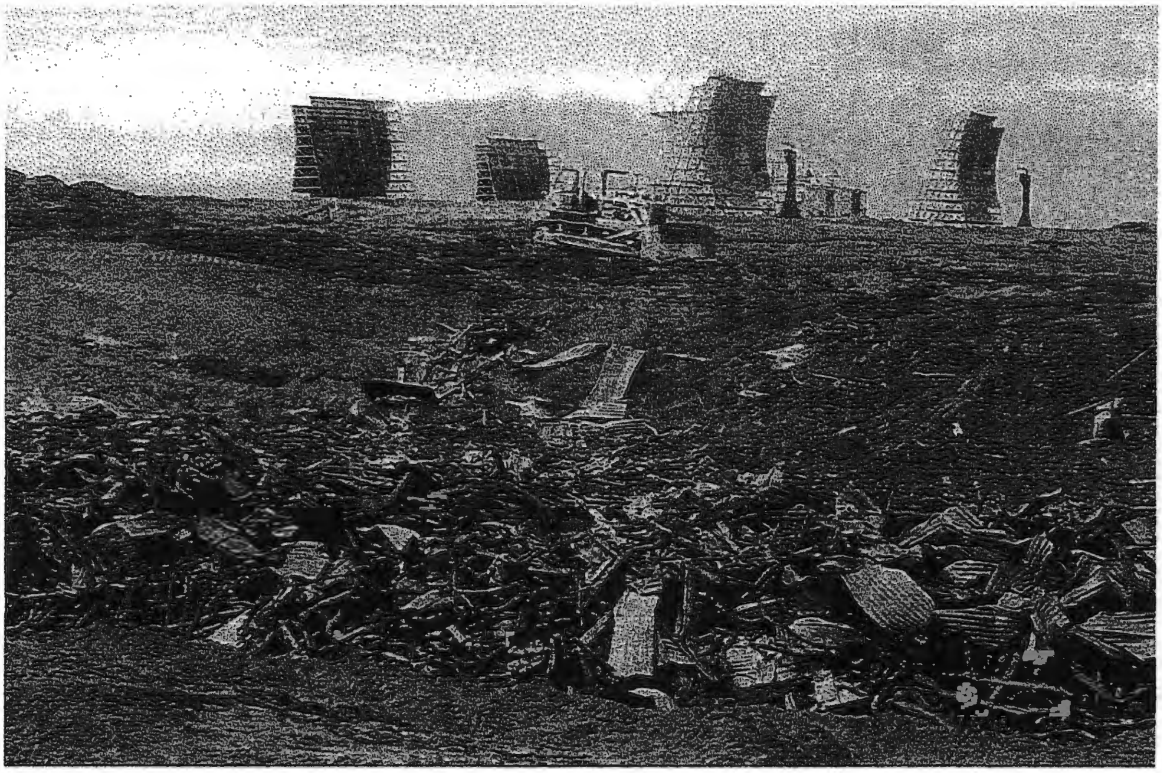

Figure 6.
DEW Line Site at Port Heiden
(ANCSA selected, not conveyed)

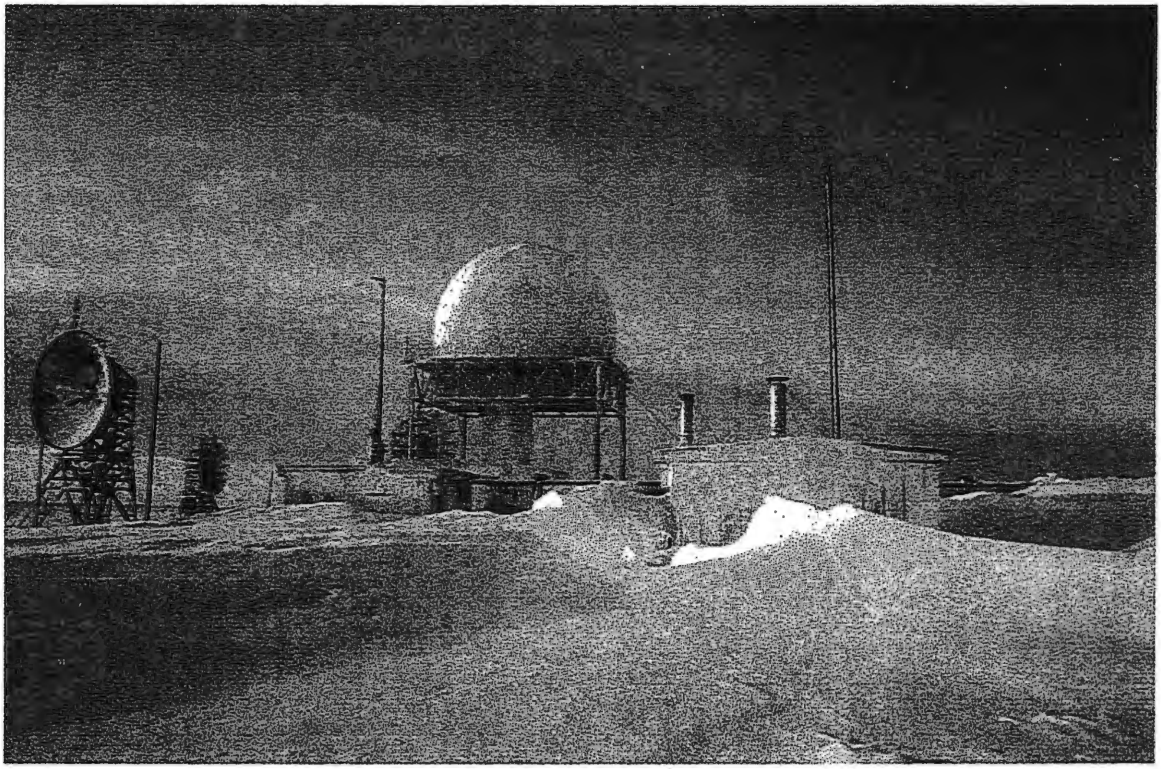

Figure 7.
Typical Radome at a
DEW Line Site in Winter

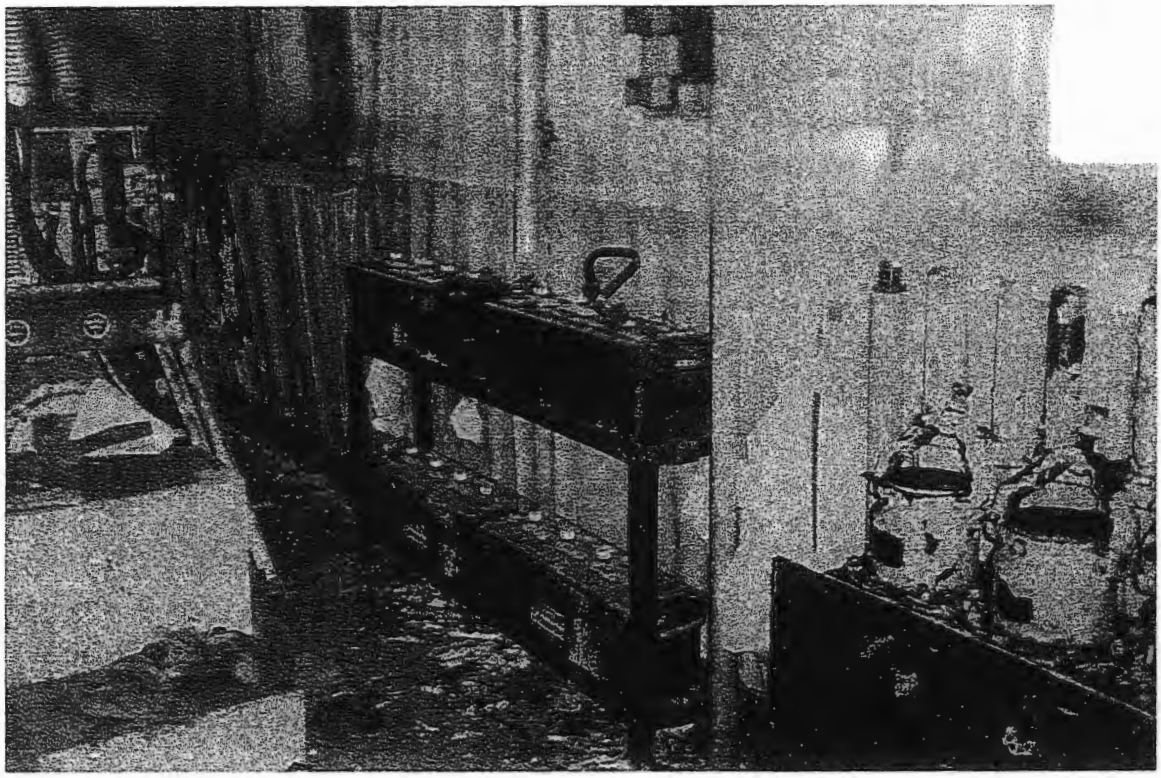

Figure 8.
Batteries inside Building (since removed)
at Middleton Island

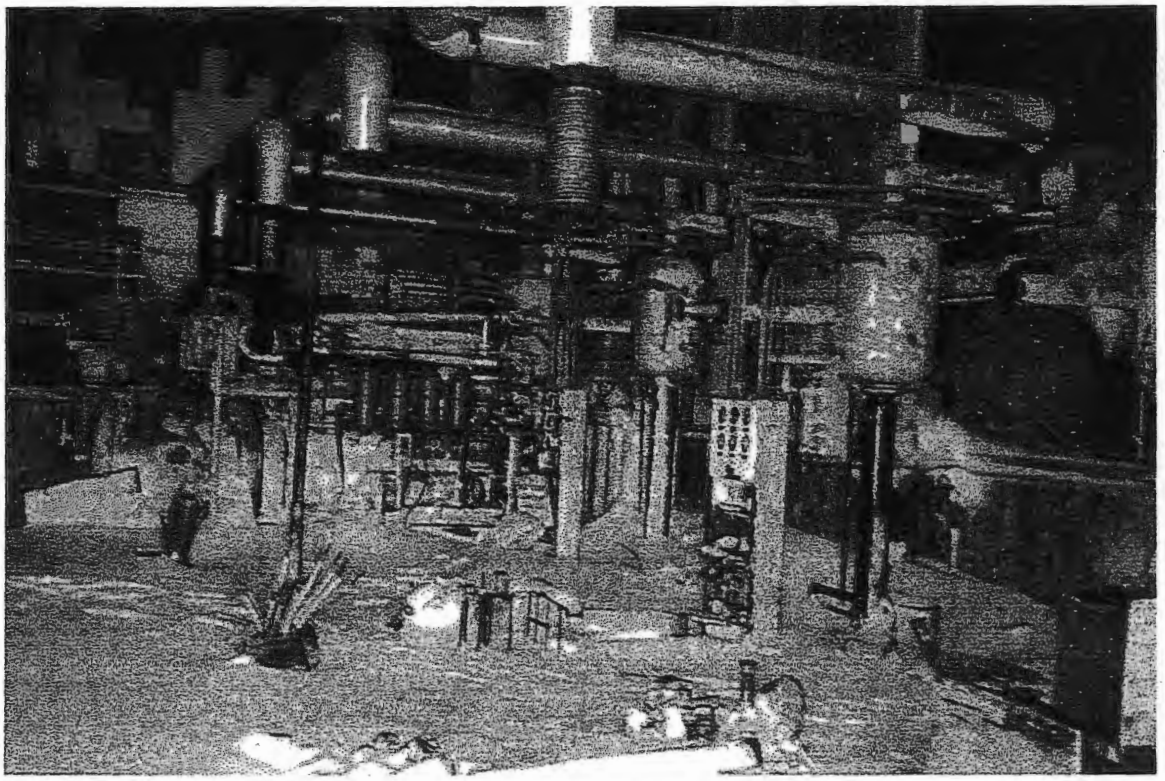

Figure 9.
Transformers Containing PCB's at Driftwood Bay
(ANCSA selected, not conveyed)

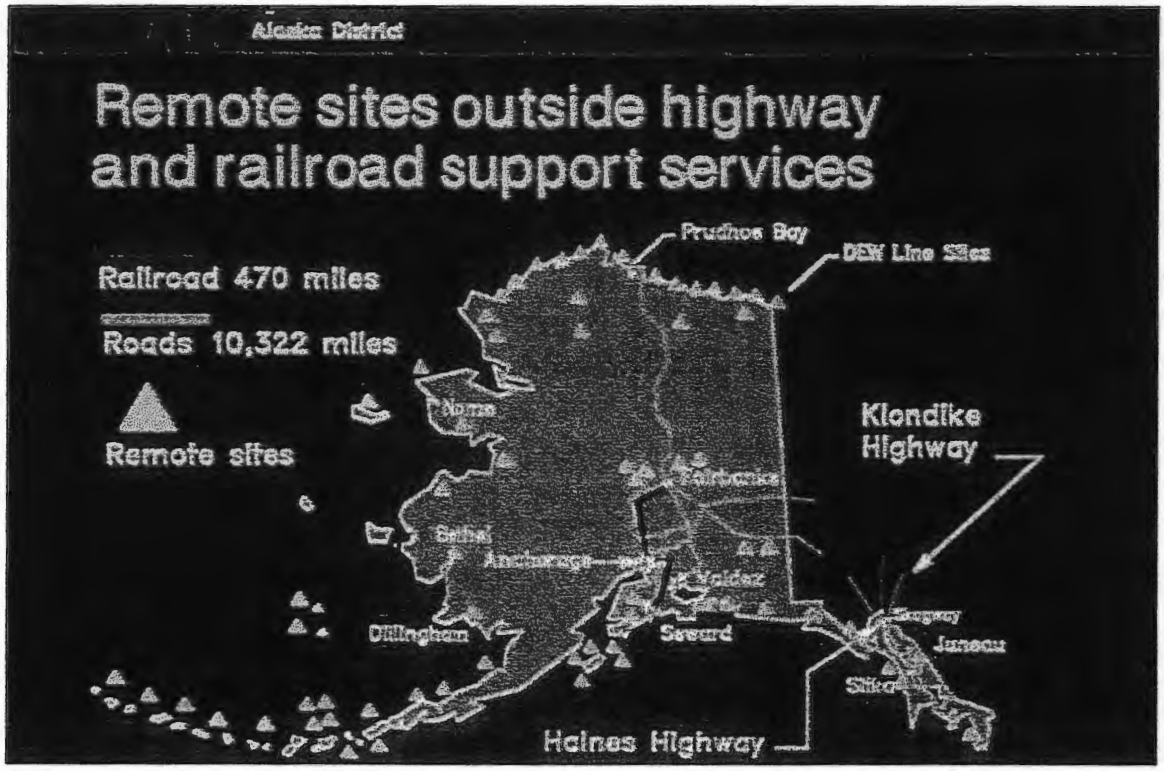

Figure 10.
Remote FUDS in Alaska

Figure 11.
Former FAA Site at Middleton Island
Known to Contain Asbestos

4.0 STRUCTURES KNOWN TO HAVE ASBESTOS

Asbestos is the name for a group of naturally occurring minerals that separate into strong, very fine fibers. Because asbestos is heat resistant and extremely durable, it was commonly used in pipe insulation, wallboards, and floor and ceiling tiles.

The regulations of the EPA and the Occupational Safety and Health Administration regard asbestos that is free in the air as a hazard, but generally do not consider properly used asbestos products to be a hazard. There is generally no remedial responsibility for asbestos that is properly contained or maintained and we believe that generally there should be no Federal responsibility where asbestos was properly contained upon transfer. Responsibility is more likely in the case of a release or potential release to the environment of friable asbestos.

Structures Known to Have Asbestos Present. Most of the buildings in Alaska constructed between the 1940s and the 1970s contain asbestos. Some are still in regular use without violating any law or regulation. It is difficult to give a precise total, but it would be the exception for a building constructed in Alaska between the 1940s and 1970s not to contain some asbestos.

Conveyed to ANCSA corporations, there are at least 13 former BIA school sites, 47 buildings from former FAA sites, and 30 buildings from former defense sites. The 1996 ANCSA contaminated lands survey reported an estimated 45 buildings suspected to contain asbestos.

Recommendations to Inform Native Landowners on the Containment of Asbestos. Native landowners and Corporations were provided general information about asbestos through the mail-out package sent out in April of 1996 (see Appendix I). This mailout contained information prepared by EPA about the nature of asbestos and when it becomes hazardous. Also included was a list of possible products that could be sources of asbestos, and a list of State and Federal agencies that have knowledge of asbestos problems and how to solve them.

Additional information about BIA schools is provided in Appendix C. Most of these school sites have been conveyed to the State of Alaska. Some were also conveyed to municipal corporations and ANCSA Native corporations. The Federal records do not indicate that hazardous materials and contaminants were present on the sites at the time of conveyance. However, asbestos was present in the building materials of the schools, since many of the sites were constructed when asbestos was not known to be hazardous and was commonly used and may now be friable if not properly maintained.

The EPA and other agencies or contractors regularly provide workshops on asbestos management, safety, and abatement. More information about asbestos is available from the EPA Region 10 Asbestos Division.

It is recommended that the EPA consider an agreement with the U.S. Army's Joint Regional Environmental Training Center[7] in Anchorage, Alaska, to make its training programs available to employees or representatives from ANCSA Native corporations and Tribes. Training could be provided on environmental issues, policies, regulations, and practices involving asbestos monitoring, abatement, management, inspection, and assessment.

[7] This training center was established in June of 1994 as a consortium of fourteen Federal, State, and local agencies to train their respective personnel on environmental and hazardous materials matters. The JRETC became operational the fall of 1997. It provides resident and nonresident environmental training in a state-of-the-art multi-media environmental training facility with fully trained and certified faculty members.

5.0 INFORMATION ABOUT POTENTIALLY RESPONSIBLE PARTIES

It is clear from the examination of past civilian and military land uses on ANCSA transferred or selected lands that both government agencies and private parties may have responsibility for cleanup of contaminated sites on ANCSA land.

One problem this study identified is the fact that ANCSA Native corporations were given this land by the United States under ANCSA as an equitable settlement based on historic interests and use, and now, under certain circumstances, ANCSA Native corporations believe they may be responsible as landowners under Federal and State environmental laws for the cleanup of contamination that was present on the lands at the time of conveyance.

However, on June 13, 1997, EPA distributed the "Policy Towards Landowners and Transferees of Federal Facilities." (Copy attached as Appendix K) The policy addresses EPA's intent to exercise their enforcement discretion and not to initiate enforcement actions against landowners and transferees for contamination existing as of the date of the conveyance of the property. The policy provides that where a person or entity acquires property from the United States that is subject to the covenants provided by section 120(h)(3) or (4) of CERCLA, EPA will not take enforcement action against a person or entity, or its transferees or successors to require the performance of response action or payment of response costs incurred to respond to contamination existing as of the date that person or entity acquires the property from the United States. EPA is also aware that even preliminary assessment and evaluation can be burdensome and expensive to a landowner, and will not seek to impose these costs against ANCSA landowners relative to contamination or potential contamination that was on their property at the time of conveyance. (However, EPA may take a CERCLA enforcement action against landowners and transferees who cause, contribute to, or exacerbate the release or threat of release of any hazardous substance, through act or omission, and EPA may seek information and access from any person pursuant to CERCLA.)

Many land transfers under ANCSA were finalized before CERCLA was enacted and the statutory covenants were required. However, EPA applies this policy to transferees and successors that acquired property from the United States in this type of situation in which the property transferred before CERCLA was enacted.[8]

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[8] Other EPA policies concerning enforcement discretion may apply to ANCSA-specific transferred lands and landowners, such as " Final Policy Toward Owners of Property Containing Contaminated Aquifers," May 24, 1995) ; "Interim Policy on CERCLA Settlements Involving Municipalities and Municipal Wastes," (December 6, 1989); "Policy for Municipal and Municipal Solid Waste CERCLA Settlement at NPL Co-Disposal Sites," (February 5, 1998); or "Policy Towards Owners of Residential Property at Superfund Sites," (July 3, 1991).

Generally, under section 107(a) of CERCLA, the following four classes of parties may be held liable for response costs or natural resource damages without regard to fault:

1) The current owner and/or operator of the facility;

2) Past owner(s) or operator(s) of the facility at the time of hazardous substance disposal, or release;

3) Any person who arranged for disposal, treatment or transport of hazardous substances (commonly known as "generators"); and

4) Any person who accepted hazardous substances for transportation to the facility selected by that person.

The potentially responsible party (PRP) search process includes gathering information on the past history and uses of the site with a focus on those activities that may have used or disposed of hazardous substances. Previous owners and/or operators are identified and, if they are extant and can be located, they may be sent a request for information pursuant to CERCLA section 104(e). Federal, State, and local land records and archives will also be examined. If former employees of the facility can be identified, they may be interviewed. All of this information is compiled into a chronological history of the site.

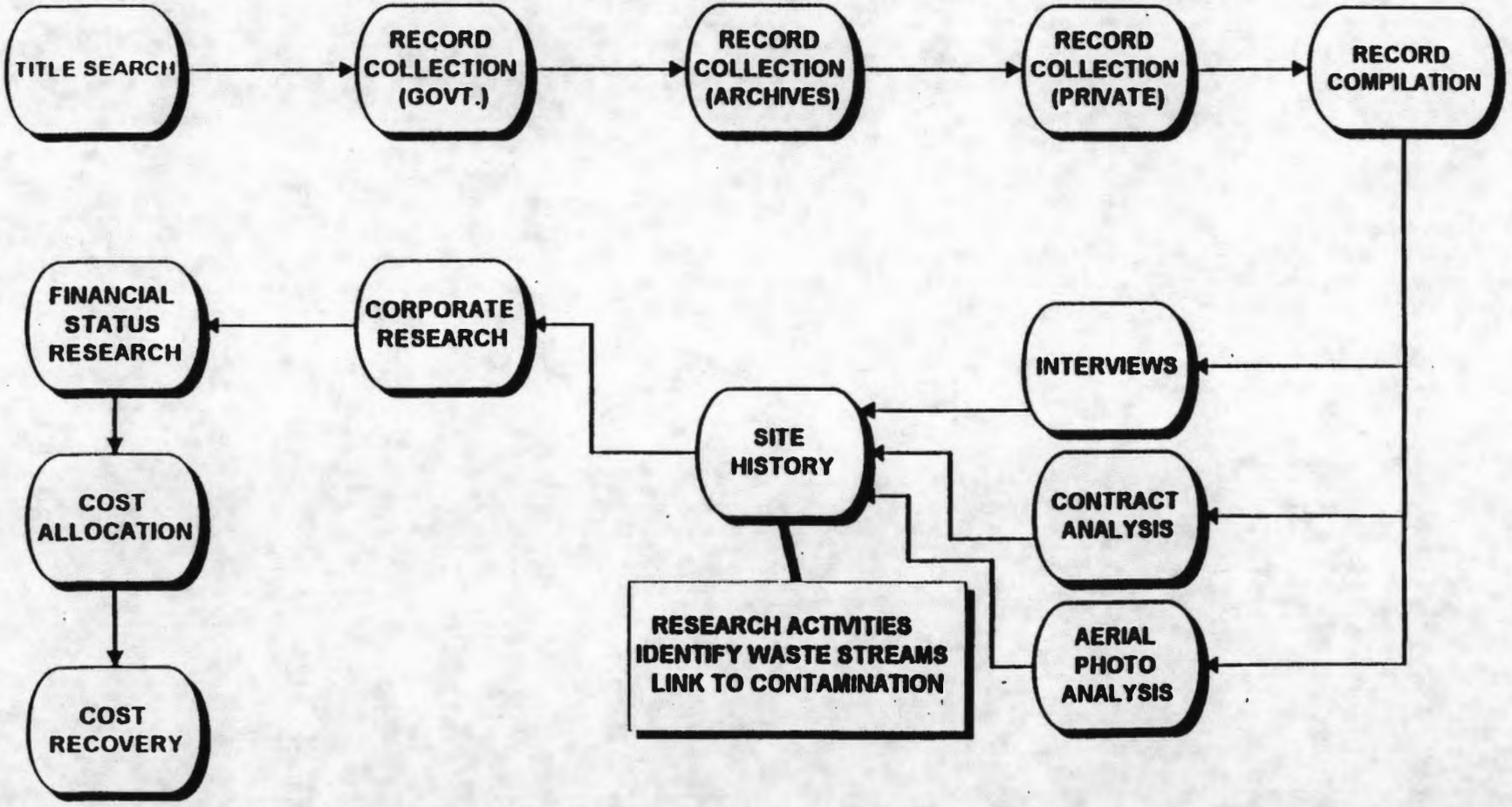
In order to perform a thorough evaluation of responsibility, every party associated with the property should, if possible, be identified and the activities of each party at the site should be determined. These activities can then be evaluated for generation of waste streams that may have resulted in the release or potential release of hazardous substances to the environment. The legal relationship of each party to the site should also be characterized so that legal responsibility can be assigned appropriately.

When contaminated sites are identified, often the party responsible for the contamination is either unknown or economically unviable. The Federal government may not be a PRP for cleanup, for instance, where it had no authority to prevent or deny permission to conduct a polluting activity by another party, such as mining activity under the Mining Law of 1872.

Appendix D includes tables identifying currently available sources of information about PRPs from local and State governments, Federal government agencies, the military, archives and libraries, recording offices, universities, museums and historical societies, and private businesses and organizations.

FIGURE 12

PRP SEARCH ELEMENTS



Source: *Potentially Responsible Party Searches* (February 1995) Techlaw Inc. Prepared for Department of the Interior, Office of Environmental Policy and Compliance.

6.0 EXISTING REMEDIES

The following are the remedies provided by Congress for dealing with hazardous substances cleanup.

CERCLA. In 1980, Congress passed CERCLA to address the cleanup of sites contaminated with hazardous substances. CERCLA has two key components. The first is a program for cleanup of hazardous waste sites. Secondly, CERCLA has a comprehensive liability scheme that enables the government or a private party to recover money spent on the cleanup, or in the case of the government, order cleanup, of a site. CERCLA established a trust fund to allow the government to conduct cleanups of hazardous substance sites. CERCLA was later amended by the SARA of 1986.

For More Information Contact:

U.S. Environmental Protection Agency
Alaska Operations
(907) 271-5083 or Fax (907) 271-3424

RCRA. RCRA was adopted as an amendment to the Solid Waste Disposal Act of 1965. It was passed in order to establish a combined Federal and State regulatory program for hazardous waste sites. RCRA provides for citizen suits to abate some types of pollution.

For More Information Contact:

U.S. Environmental Protection Agency
Alaska Operations
(907) 271-5083 or Fax (907) 271-3424

Alaska Department of Environmental Conservation
South Central Regional Office
(907) 269-7500 or Fax (907) 269-7649

DERP. In 1983, DERP[9] was formally established by Congress. It provides centralized management for the cleanup of DOD hazardous waste sites. DERP also provides for limited activities to reduce the amount of hazardous waste generated and disposed and for building demolition and debris removal at FUDS. DERP is funded by five special accounts, DERA (Army, Navy, Air Force, and Defense) and the FUDS Account. This program covers cleanup of the following contaminants:

1. **Hazardous and Petroleum Waste.** This group covers identification, investigation, and cleanup of contamination at installations (including areas off the installation where

[9] 10 U.S.C. 2701–2707 and 2810

contamination has migrated), and at FUDS. This program is focused on cleanup of contamination associated with past DOD activities to ensure that threats to public health and the environment are eliminated. The term "contaminant" is as defined in CERCLA, and also includes petroleum, oil and lubricants, and unique materials, such as biological/chemical warfare materials. This group also includes toxicological data collection.

2. **Ordnance and Explosive Waste.** This group covers identification, investigation, and removal of DOD owned and abandoned ordnance and explosives wastes that present an explosive hazard to human safety. This does not include targets and ordnance debris. This group is limited to FUDS unless specific approval is obtained. Remediation or cleaning of active ranges/disposal sites are another DOD component's responsibility.

3. **Building Demolition/Debris Removal.** This includes demolition and removal of unsafe buildings or structures at FUDS properties that were unsafe at the time of the transfer and that have not had beneficial use since transfer to State or local governments or Alaska Native corporations.

For More Information Contact:

U.S. Army Corps of Engineers
Alaska District
Formerly Used Defense Sites, Project Manager
(907) 753-5782 or Fax (907) 753-5626

Administration for Native Americans (ANA) and Department of Defense Environmental Mitigation Program. Congress recognized that DOD activities may have caused environmental problems for Indian Tribes and Alaska Native village governments and provided for the ANA to administer an Indian Lands Mitigation Program.

The program was started pursuant to the DOD Appropriations Act of November 11, 1993. This program continues under Public Law 103-335, dated September 30, 1994. Section 8094 of the Act states, "Of the funds appropriated to the DOD for Operations and Maintenance Defense-Wide, not less than $8,000,000 shall be made available until expended to the Administration for Native Americans..."

ANA promotes the goal of social and economic self-sufficiency. ANA, through its policy and programs, supports self-determination and self-governance in accordance with the government-to-government relationship between the Federal government and the Tribes. The ANA administers several national programs and initiatives.

In 1994, Congress made $8 million available through the ANA to provide financial assistance to Tribal entities and corporations for the express purpose of addressing site cleanup issues as a result of DOD activities. In 1995, funds were announced in the ANA's Program Announcement No. 93612-952, *Availability of Financial Assistance for the Mitigation of Environmental Impacts*

to Indian Lands due to Department of Defense Activities. Tribes were not expected to match the funding. The program was divided into four phases, covering research, planning, development, and implementation of an environmental mitigation strategy. The purpose of the announcement was to invite one to three-year proposals to undertake "any or all of the phases" of the program.

Of the 29 applications received under the first program announcement, 20 were funded. Seven grants were awarded to Native organizations in Alaska. They were as follows: Aleutian Pribilof Islands Association, Inc. ($200,000 two year grant); Bethel Native Corporation ($100,000 two year grant); Kuigpagmuit, Incorporated ($100,000 one year grant); Louden Village Council ($99,793 two year grant); Metlakatla Indian Community ($299,020 one year grant); Uwalangin Tribe of Unalaska ($34,945 one year grant); and Tanana Chiefs Conference, Incorporated ($50,000 one year grant). In 1996, funds were announced in the ANA's Program Announcement No. 93612-972. Of the 25 applications receive under the second program announcement, 12 were funded. These grants were awarded to Tribes in Alaska, as follows: Arctic Slope Native Association, Limited ($170,000 two year grant), Hughes Village Council ($50,000 one year grant), and Yakutat Tlingit Tribe ($174,230 one year grant).

For More Information Contact:

Administration for Native Americans
Department of Health and Human Services
(202) 690-7777 or Fax (202) 690-7441

The Indian Lands Open Dump Cleanup Act of 1994. Public Law 103-399, was enacted on October 22, 1994, to: 1) identify the location of open dumps on Indian and Alaska Native lands; 2) assess the relative health and environmental hazards posed by such dumps; and 3) provide financial and technical assistance to Indian Tribal governments and Alaska Native entities, either directly or by contract, to close such dumps in compliance with applicable Federal standards and regulations, or standards promulgated by an Indian Tribal government or Alaska Native entity, if such standards are more stringent than the Federal standards.

The Director of the Indian Health Service, in cooperation with the Administrator of the EPA, is to carry out the functions and purposes of this act. Among other things, the Act required a study and inventory to be completed within 12 months from enactment; annual updates to Congress concerning priorities, funding, and progress on addressing deficiencies; and a 10-year plan addressing Indian and Alaska Native solid waste deficiencies.

For More Information Contact:

Alaska Area Native Health Service
Office of Environmental Health & Engineering
(907) 729-3500 or Fax (907) 271-4734

Department of Commerce—Pribilof Islands. Section 3(a) of Public Law 104-91, dated January 6, 1996, provides that the Secretary of Commerce shall, subject to the availability of appropriations, cleanup landfills, wastes, dumps, debris, storage tanks, property, hazardous or

unsafe conditions, and contaminants, including petroleum products and their derivatives left by the National Oceanic and Atmospheric Administration on the Pribilof Islands, Alaska.

For More Information Contact:

National Oceanic and Atmospheric Administration
Facilities and Logistics Division
Western Administrative Service Center
(206) 526-6191

FAA—Environmental Remediation Program. In accordance with RCRA section 3016, the FAA Alaskan Region has established a continuing program to compile and submit to the EPA an inventory of current and formerly owned or operated FAA sites at which hazardous waste is stored, is treated or has been released. In accordance with CERCLA section 120, preliminary assessments have been and continue to be conducted at sites with suspected contamination. Additional investigations and removal actions are performed when required, within the risk parameters established by EPA and the State of Alaska. To date, the majority of work conducted by this program has been on currently owned or operated FAA sites, with adjacent former sites incorporated when applicable. Because of the nature of established reporting requirements, information gathered to date has not included a designation of whether sites addressed or considered were on ANCSA lands. The FAA Alaskan Region continues to proactively work with EPA, ADEC, and colocated Federal agencies to address all environmental requirements.

For More Information Contact:

Federal Aviation Administration
Alaska Region Program Manager
Environment and Safety
(907) 271- 5373 or Fax (907) 271-4470

FY 1996 Defense Authorization Act. Congress directed the Department of Defense to provide for: "the mitigation of environmental impacts, including training and technical assistance to Tribes, related administrative support, the gathering of information, documenting environmental damage, developing a system for prioritization of mitigation on Indian land resulting from Department of Defense activities."

For More Information Contact: Office of Environmental Security
Conservation Team
(703) 604-0518/1747 or Fax (301) 607-3124

State of Alaska Mini-CERCLA Statute. This statute (AS 46.03.822) was amended in 1990 to address cleanup and damages resulting from the release of oil and other hazardous substances. Unlike CERCLA, Alaska's statute specifically includes liability for releases of oil and other petroleum products. AS 46.03.822 adopts CERCLA categories of parties liable for cleanup costs but also includes the owner of a hazardous substance at the time of release. AS 46.03.822 enables the State or a private party to recover money spent on the cleanup of a site. AS 46.03.822(c)(3) provides for a limited defense to liability for a Native corporation that acquired a contaminated

site under ANCSA, if the corporation begins operations to contain and cleanup the hazardous substance within a reasonable time of learning of the release.

For More Information Contact: Alaska Department of Environmental Conservation
Contaminated Sites Remediation Program
(907) 269-7664 or Fax (907) 269-7649

State of Alaska Oil and Hazardous Substance Release Prevention and Response Fund. The Alaska Legislature created this fund (AS 46.08) to provide, in part, for the cleanup of oil and hazardous substances at sites that pose an imminent and substantial threat to public health or welfare, or to the environment. ADEC can use these funds for cleanup actions, but is required to seek recovery of monies expended for site cleanup from those parties responsible under Federal or State law.

For More Information Contact: Alaska Department of Environmental Conservation
Contaminated Sites Remediation Program
(907) 269-7664 or Fax (907) 269-7649

State of Alaska Underground Storage Tank Requirements. These statutes and regulations (AS 46.03.360–AS 46.03.450, and 18 AAC 78) govern the cleanup of releases from regulated underground storage tanks. There is a financial assistance program in place for owners and operators of underground storage tank systems. The State also updated its Above Ground Storage Tank Master Plan and Issued an August, 1997, report with recommendations for bulk fuel storage improvements throughout the State.

For More Information Contact: Alaska Department of Environmental Conservation
Storage Tank Program
(907) 451-2182 or Fax (907) 451-2188

State of Alaska Solid Waste Disposal. The operation and closure of active and nonactive solid waste disposal sites are regulated by these regulations (18 AAC 60). Limited financial assistance is available in the form of solid waste facility grants (AS 46.03.030).

For More Information Contact: Alaska Department of Environmental Conservation
Division of Environmental Health
(907) 465-5162 or Fax (907) 465-5164

Other sources of information continue to evolve. For instance the University of Alaska Anchorage, Institute of Social and Economic Research, through a grant from the Environmental Protection Agency, is compiling information about contaminants in the subsistence food chain. Part of this project will entail developing a computer data base showing information that is available for each community. The Tanana Chiefs Conference is also gathering contaminants information for Native allotment lands within their region.

Agency for Toxic Substances and Disease Registry. This agency carries out public health activities required under CERCLA section 104(i) for sites where hazardous substances have been released into the environment. These activities include public health assessments and health consultations for individual sites, and, if necessary, follow-up public health studies, health surveillance, and health education for exposed communities and their health care providers.

For More Information Contact: Associate Administrator for Federal Programs
Agency for Toxic Substances and Disease Registry
(404) 639-0730

7.0 RECOMMENDED REMEDIES

Much has been done to identify and cleanup sites under the existing remedies discussed earlier. However, the full extent of the contaminated ANCSA lands cannot be reliably determined today and additional contaminated sites may be identified. A majority of currently known sites are being addressed under existing Federal agency programs, within available funding that must be allocated by agencies with cleanup responsibilities among the contiguous 48 states as well as in Alaska. DOI will continue to work with these programs to ensure that cleanup efforts will continue.

This report represents the compilation of available information through 1996. There is a need to do more. There have been several barriers to more complete information on the extent of the contaminated lands problem. There have been no comprehensive hazardous material surveys conducted on the bulk of the ANCSA conveyed lands. The information systems of the various Federal and State entities involved in the cleanup programs identified in Section 6.0 are not compatible or coordinated. Thus, complete information, even among current programs, may not be fully compiled. Also, under the principles of CERCLA, land ownership alone can carry with it legal responsibility for hazardous waste remediation, ANCSA landowners have been understandably reluctant to even collect, much less report to the Federal government such information concerning lands that have been conveyed to them. We need information from the affected ANCSA landowners in order to develop a suitable program.

This report recommends that the ANCSA landowners be fully informed of EPA's policy toward transferees of Federal property with respect to contamination that was on the land at the time of conveyance. We hope this will make owners more comfortable with participating in the information process. It may be that a comprehensive approach toward resolving the cleanup of ANCSA lands is needed. However, without an accurate inventory it is not possible to know if an additional Federal program is necessary. A common statewide inventory would assist in identifying sites that are not covered by an existing program. If a new program to clean up sites is necessary (phase two), it could be proposed by DOI at the end of the inventory period (phase one).

Therefore, DOI recommends the following (phase one), to be coordinated by DOI with full participation of ANCSA landowners and appropriate Federal and State agencies, to enable development of a program based on accurate data. DOI estimates currently identifiable and unfunded total costs to all Federal agencies over a three fiscal year period to accomplish phase one will be at least $1,200,000, and possibly much more.

1. Establish a forum for ANCSA landowners and Federal, State, local, and Native agencies in Alaska. Members will include representatives of ANCSA landowners, regional and village corporations and, where appropriate, Tribes, and Federal and State regulators and cleanup program managers. DOI will establish and coordinate

this forum. The forum will meet at least four times a year to exchange information on existing cleanup programs; to discuss issues related to identification, assessment, and cleanup of contaminated sites; to identify a funding strategy; and to generally inform Native landowners about contaminants issues. This will not replace other statutory programs in place dealing with cleanup of contamination at existing sites. It is, likewise, consistent with the recommendations for stakeholder participation put forth in the Federal Facilities Environmental Restoration Dialogue Committee Final Report.

Estimated minimum costs to create and operate the ANCSA landowner/government forum (assume 14 members at 4 two-day meetings per year in Anchorage for 3 years at a cost of $10,000 per meeting for travel and *per diem* for non-Federal members, and ¼ FTE DOI staff support at $22,600 per year): $187,800.

2. Create and maintain a coordinated, comprehensive inventory database of contaminated sites in Alaska, based on an existing system, such as the Corps of Engineers database, which is linked to a GIS and has Internet access, and already includes detailed information about several hundred sites, many of which are on ANCSA lands. We suggest that other agencies convert site data on their inventories to a compatible format and provide this for inclusion in the comprehensive inventory. (The integrity of the existing data bases of the participating agencies would, of course, be maintained.) DOI will compile and input ANCSA landowner data into the database. An interagency database offers reduced costs and improved sharing of information by users, as well as reduced duplication of data consistent with the Information Technology Management Reform Act. Randomly sampled site visits to evaluate and verify the database would be established pursuant to the Government Performance and Results Act.

   Estimated minimum costs to compile a coordinated comprehensive inventory of contaminated sites, add sites to an existing GIS database, eliminate duplicate site records, prepare and distribute reports (assume ¼ FTE Federal staff for data input/manipulation at $22,600 per year and $50,000 for software support and computer operations and supplies, site visits and inventory review at $500,000): $617,800.

   Contaminated sites shall be reported to the responsible agency within 18 months after provision of funds for implementation of this recommendation. (The time frame chosen should allow for two summers in order to gain meaningful information.)

3. Provide ANCSA landowners full knowledge of the EPA's policy not to apply CERCLA landowner liability to transferees of federal lands containing contamination at the time of ANCSA conveyance where transferees did not cause, contribute to, or exacerbate the contamination. (Estimated costs, minimal)

Sections 120(h)(3) and (4) of the CERCLA or "Superfund" address contaminated real property owned by the United States and conveyed to another party. The EPA has promulgated a related policy, Policy Towards Landowners and Transferees of Federal Facilities. EPA believes it appropriate to apply this policy to former Federal lands and facilities[10] in Alaska that have been conveyed to ANCSA Native Corporations. See Section 5 for further discussion. A copy of the policy is attached as Appendix K.

4. Direct that within 30 months (12 months after the 18-month reporting period), DOI report back to Congress on sites that were identified and not covered by existing programs, and whether an additional Federal program is necessary to address those sites. Copies of the report should be forwarded to all appropriate agencies and interested parties. If sites are identified during the site inventory period that appear imminently hazardous, an analysis of the situation will be conducted to determine what response is necessary. This analysis will be carried out by the Department or agency which formerly operated the facility; if the release appears to have been created by a private party or if the earlier governmental operator cannot be identified, the analysis will be done by the EPA.

   Estimated minimum costs to provide a DOI point of contact for ANCSA landowners during the project, analyze newly collected site data from the landowners and from agency site visits, coordinate with other agencies, and develop recommendations and a report on the level of program required to cleanup sites not covered in existing programs (assume ½ FTE DOI staff at $45,200 plus $5,000 administrative expenses per year for 3 years): $150,600.

5. Review and, where appropriate, revise relevant policies covering existing programs that clean up contaminated ANCSA lands to address, as appropriate, the remediation of petroleum, oil, and lubricants; leaded paints; friable asbestos; and the removal of unsafe or unwanted buildings, structures, and debris. Policy adjustments to address issues of local concern would be consistent with the Federal government's special relationship with Native Americans.

   Estimated costs for Federal agencies to evaluate and expand cleanup parameters for existing programs: unknown cost.

6. Continue to develop, through the EPA Tribal assistance program and in coordination with EPA and any other appropriate agencies, a process involving technical training, education, and presentation of public information in written, video, and oral formats,

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[10] The term "facility" is defined in CERCLA §101(9) to include "any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located."

to enhance the ability of local residents to participate in cleanup programs. Specific needs will be identified through the Forum.

Estimated minimum costs for EPA to train and educate ANCSA landowners through a variety of media (assume preparation of educational materials and a video at $70,000; and instructors, materials and student travel and *per diem* for 2 classes of 30 persons each in Anchorage per year for 3 years): $250,000.

8.0 CONSULTATIONS

This project was undertaken by the BLM, as the lead bureau for DOI, in cooperation with various Federal agencies, and with a goal of involving all ANCSA Native landowners and related Native organizations.

A Federal working group was formed that consisted of representatives from the Bureau of Indian Affairs, National Park Service, U.S. Fish and Wildlife Service, DOI Regional Solicitor's Office, and DOI Office of Environmental Policy and Compliance. The Department of Agriculture, U.S. Forest Service, also had a representative on the working group. The Federal Aviation Administration, U.S. Army Corps of Engineers, Environmental Protection Agency, and Indian Health Service were also consulted and provided assistance to this project.

Efforts made to notify, consult with, and inform all Native, Federal, and State stakeholders in this matter, Include the following actions: (see also Appendices I and J).

1. A formal press release discussing the legislation (Public Law 104-42) and this project was distributed to all Alaska newspapers and radio stations in the State.

2. A radio interview discussing the project was taped on April 26, 1996, with the Alaska Public Radio Network. This interview was aired during two prime-time slots across more than 300 communities in the State.

3. More than five months were provided for information gathering and input from all ANCSA landowners and Native organizations. More than 236 project surveys were sent (see Appendix I). Responses were received from 18 Native entities; however, only 14 reported specific sites.

4. Before the survey was mailed out, the Alaska Federation of Natives was consulted and briefed on the project; and they reviewed the final draft survey package before it was distributed.

5. Information about the goals and objectives of this project, along with the site surveys were sent to: the Alaska Federation of Natives, the Tanana Chiefs Conference, the Association of Village Council Presidents, the Alaska Intertribal Council, the Bristol Bay Native Association, the Copper River Native Association, the Aleutian/Pribilof Islands Native Association, and many other Native organizations and Tribal entities. An explanation of the project strategy, and time frames, were included, as well as an opportunity for comments and suggestions.

6. Nearly 30 telephone calls were received from ANCSA landowners, attorneys, or individuals to discuss this project. Information packages were distributed upon request.

7. Contact was made with branches of the military (Army, Navy, and Air Force) and the Coast Guard to inform them of this project and seek their assistance in providing data.

8. Contact was made with the Regional Forester's Office, U.S. Forest Service, as representative of the Department of Agriculture.

9. The Alaska Departments of Law, Environmental Conservation, and Natural Resources were consulted.

10. Several meetings were held with the U.S. Army Corps of Engineers.

11. All Alaska Native corporations were contacted.

12. The Alaska Native organizations listed in Appendix I were contacted.

13. Preliminary Draft Report was prepared on February 20, 1997. Copies of this preliminary draft were sent for review and comment to the Federal agency working group, the Alaska Departments of Law and Environmental Conservation, and several Native corporations and associations for review and comment.

14. A meeting with the AFN Land Committee to discuss the preliminary draft report was convened in Anchorage, March 13, 1997 (see Appendix J for a meeting summary).

15. A Federal interagency review of the final draft report was held during the spring and summer of 1997. Review meetings were held with: Environmental Protection Agency, Department of Justice, Department of Health and Human Services, Indian Health Service, Department of Defense, Corps of Engineers, Office of Management and Budget, Federal Aviation Administration, and various DOI bureaus and offices.

16. A January 15, 1998, meeting with the Alaska Department of Environmental Conservation was held to discuss the latest revisions to the draft report.

17. At the January 16, 1998, meeting of the AFN Land Committee, the latest revisions to the draft report recommendations were presented and discussed.

18. February 6 and 12, 1998, Federal interagency reviews of modifications made since August, 1997 were held.

19. February 11 and 12, 1998, meetings with the Environmental Protection Agency were held to discuss report recommendations.

20. March 3–5, 1998, an interagency coordination meeting was held with EPA, ADEC, NOAA, COE, FWS, FAA, BLM, U.S. Air Force, and Department of Defense representatives; followed up by a discussion session with ANCSA landowner and Tribal representatives.

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