State of Alaska
Department of Natural Resources
Senate Resources Committee
Wetlands Compensatory Mitigation
March 9, 2015

Compensatory Wetlands Mitigation Overview

- The US Army Corps of Engineers (USACE) is responsible for administering Section 404 of the Clean Water Act.
- U.S. EPA develops regulations – USACE must comply and EPA can veto permit decisions.
- Aquatic Site Assessments (ASA) are used by the USACE to determine the appropriate category of wetland impacts for purposes of assigning a mitigation ratio that can be translated into an in-lieu mitigation fee.
- Regulatory guidance and cost

Compensatory Mitigation Overview

Mitigation Preference:

1. Restoration
2. Enhancement
3. Creation
4. Preservation

Three options, preference:

1. Mitigation bank credits
2. In-lieu fee (ILF) program credits
3. Permittee-responsible mitigation, watershed approach

Compensatory Mitigation Definitions

Mitigation Bank: a wetlands area that has been restored, established, enhanced or preserved then set aside to be used to offset unavoidable impacts. Upon approval, permittees purchase credits based on wetlands functions and number of acres of restored. Sponsor responsible, "off-site" mitigation

In-lieu Fee Program (ILF): permittee provides funds to an in-lieu fee mitigation sponsor (non-profit or public agency), used to build and maintain mitigation site. Sponsor responsible, mitigation typically occurs "off-site" and after permitted

Permittee-responsible: on-site or off-site

Compensatory Mitigation definitions

<u>Mitigation Ratio</u>: an aggregate index used to calculate the gain and loss of wetlands to be adjusted based on the functions and qualities of those wetlands

Higher wetlands mitigation ratios require greater numbers of acres for offset purposes, therefore higher total mitigation costs

Mitigations ratios typically range from 1 up to 3:1 in AK depending on wetland category and type of mitigation (Preservation, vs. Restoration and/or Enhancement)

Compensatory Wetlands overview

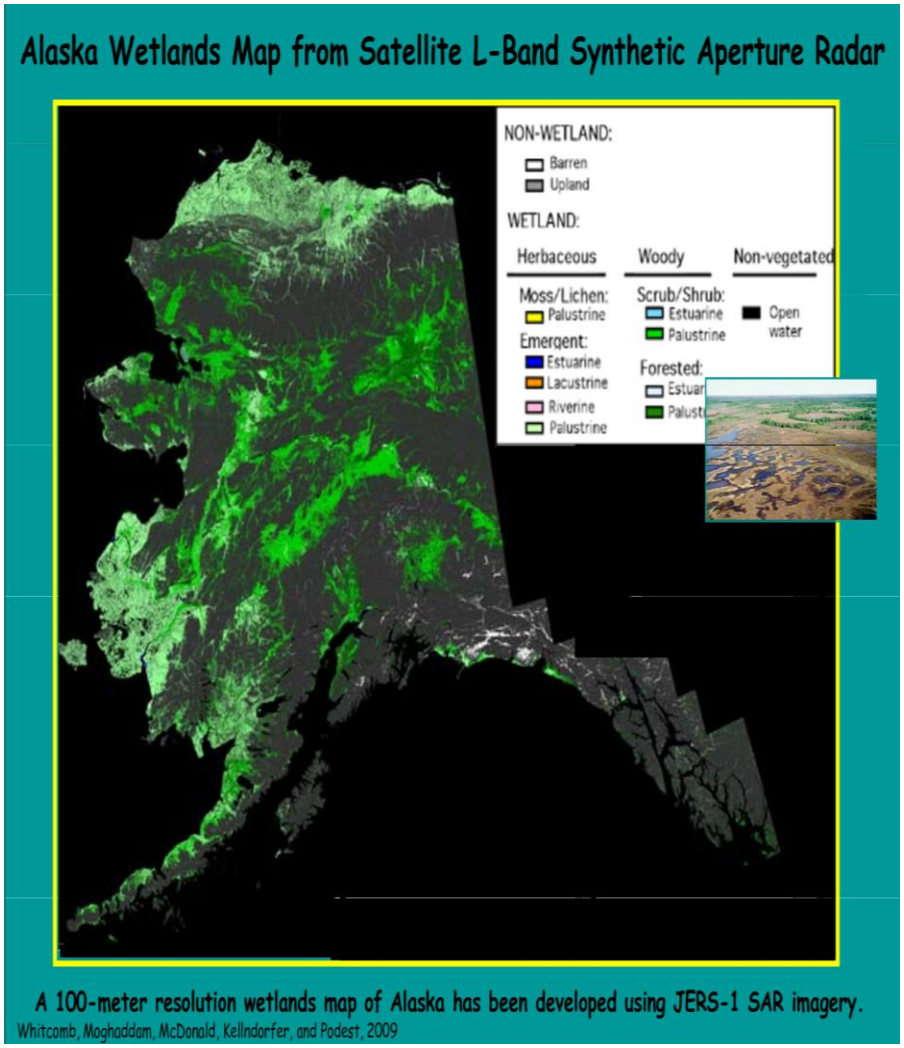
- Current federal “no net loss” policy - - Alaska’s wetlands are ubiquitous and were not rapidly declining as was the case with wetlands in the Lower 48 states.

- In 1994, federal regulators proposed the “Alaska Initiative” describing the unique nature of Alaska’s wetlands

- Report concluded a flexible regulatory framework was necessary, emphasizing the “practicability” and “flexibility” of the regulatory program to reflect circumstances in Alaska - - this initiative is not currently in effect.

Compensatory Wetlands - Alaska

- Alaska's wetlands cover approximately 174 million acres, 43% of Alaska's surface area.
- There are limited available lands eligible for wetlands compensatory mitigation, due to the pristine nature of wetlands and small inventory of previously disturbed wetlands in Alaska.



Compensatory Wetlands - Alaska

- Only one provider of a federally approved in-lieu fee compensatory mitigation program for projects on the Arctic Slope of Alaska.
- In-lieu fee program instruments, cost per acre for gravel could range from $44,000 per acre to $125,000 per acre depending on wetland type, value and geographic area[3].
- Currently, there are 3 in-lieu fee programs (1 proposed) and 5 mitigation banks (4 proposed) in Alaska

Compensatory wetlands mitigation costs

- DOT&PF estimated $8.3 mil since 2009 into banks and ILF programs for statewide airport, highway and maintenance projects
- ARRC estimated $2 mil since 2000
- Proposed and future state funded projects acquiring ACOE 404 permits, wetlands mitigation requirements, high wetlands mitigation costs

Who Owns/Manages Alaska?

Russian traders arrived in Alaska in the mid-1700's and established small, scattered trading posts and settlements. Alaska Natives (the Eskimo, Indian, and Aleut peoples) continued as the primary landowners during this period of Russian occupation. On October 18, 1867, Russia sold Alaska to the United States government. As a result, the federal government owned the Alaska Territory, approximately 373 million acres - about one-fifth the size of the rest of the U.S.

State of Alaska - 89.8 million acres

Under the terms of the Alaska Statehood Act of 1959, the federal government granted the new state 26% ownership of its total area. Approximately 103,350,000 acres were to be elected under three types of grants:

1) Community - 400,000 acres

2) National Forest Community - 400,000 acres

3) General - 102,550,000 acres

Additional territorial grants for schools, university and mental health trust lands, totaling 1.2 million acres were confirmed with statehood.

All grants combined gave the State of Alaska approximately 105 million acres. To date, 89.9 million acres has been granted with the balance expected to be granted by 2009.

ANCSA Native Corporation (Private) 39.3 million acres

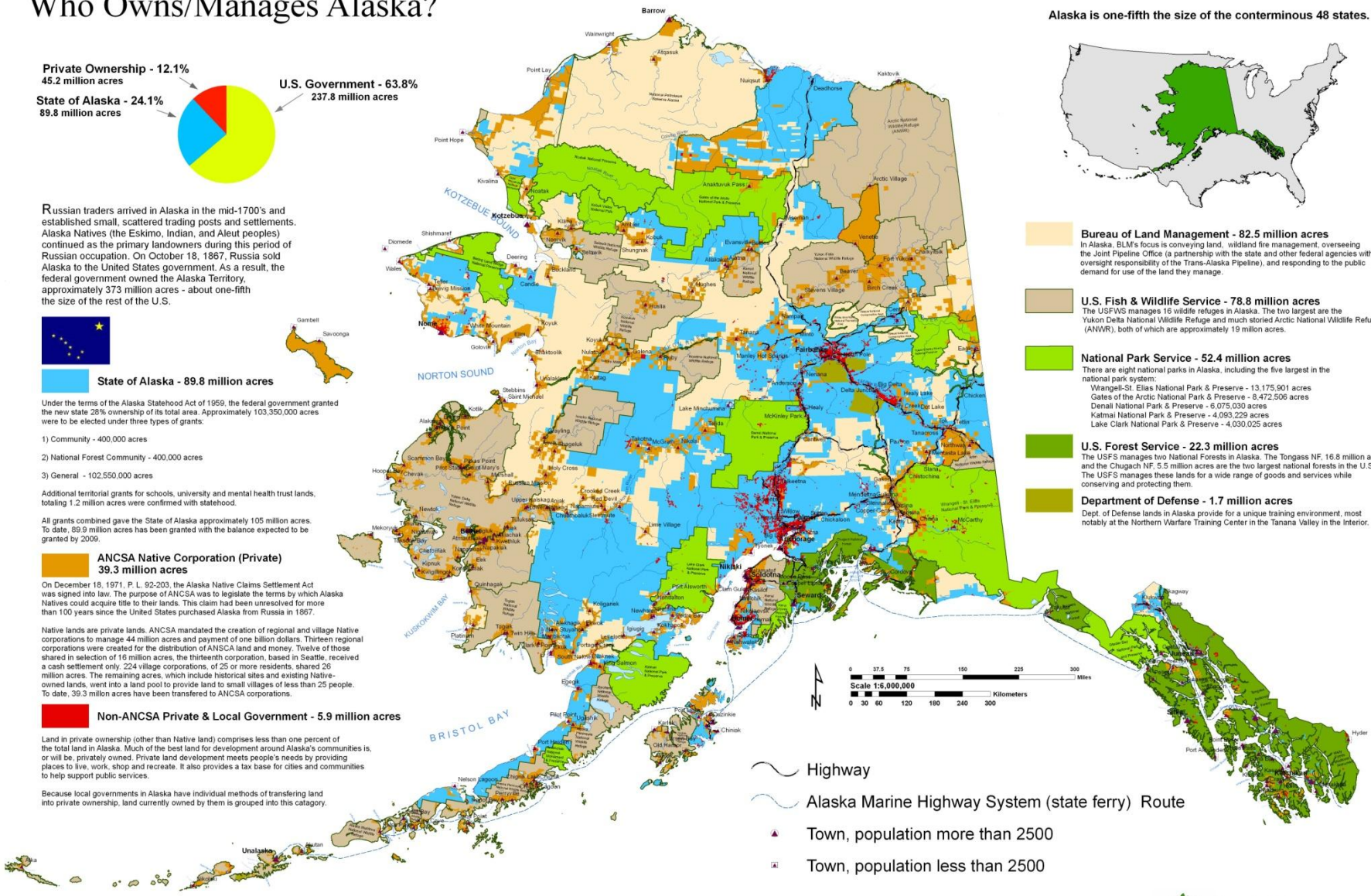
On December 18, 1971, P. L. 92-203, the Alaska Native Claims Settlement Act was signed into law. The purpose of ANCSA was to legislate the terms by which Alaska Natives could acquire title to their lands. This claim had been unresolved for more than 100 years since the United States purchased Alaska from Russia in 1867.

Native lands are private lands. ANCSA mandated the creation of regional and village Native corporations to manage 44 million acres and payment of one billion dollars. Thirteen regional corporations were created for the distribution of ANSCA land and money. Twelve of those shared in selection of 16 million acres, the thirteenth corporation, based in Seattle, received a cash settlement only. 224 village corporations, of 25 or more residents, shared 26 million acres. The remaining acres, which include historical sites and existing Native-owned lands, went into a land pool to provide land to small villages of less than 25 people. To date, 39.3 millon acres have been transfered to ANCSA corporations.

Non-ANCSA Private & Local Government - 5.9 million acres

Land in private ownership (other than Native land) comprises less than one percent of the total land in Alaska. Much of the best land for development around Alaska's communities is, or will be, privately owned. Private land development meets people's needs by providing places to live, work, shop and recreate. It also provides a tax base for cities and communities to help support public services.

Because local governments in Alaska have individual methods of transfering land into private ownership, land currently owned by them is grouped into this catagory.



Alaska is one-fifth the size of the conterminous 48 states.

Bureau of Land Management - 82.5 million acres

In Alaska, BLM's focus is conveying land, wildland fire management, overseeing the Joint Pipeline Office (a partnership with the state and other federal agencies with oversight responsibility of the Trans-Alaska Pipeline), and responding to the public demand for use of the land they manage.

U.S. Fish & Wildlife Service - 78.8 million acres

The USFWS manages 16 wildlife refuges in Alaska. The two largest are the Yukon Delta National Wildlife Refuge and much storied Arctic National Wildlife Refuge (ANWR), both of which are approximately 19 million acres.

National Park Service - 52.4 million acres

There are eight national parks in Alaska, including the five largest in the national park system:

- Wrangell-St. Elias National Park & Preserve - 13,175,901 acres
- Gates of the Arctic National Park & Preserve - 8,472,506 acres
- Denali National Park & Preserve - 6,075,030 acres
- Katmai National Park & Preserve - 4,093,229 acres
- Lake Clark National Park & Preserve - 4,030,025 acres

U.S. Forest Service - 22.3 million acres

The USFS manages two National Forests in Alaska. The Tongass NF, 16.8 million acres, and the Chugach NF, 5.5 million acres are the two largest national forests in the U.S. The USFS manages these lands for a wide range of goods and services while conserving and protecting them.

Department of Defense - 1.7 million acres

Dept. of Defense lands in Alaska provide for a unique training environment, most notably at the Northern Warfare Training Center in the Tanana Valley in the Interior.

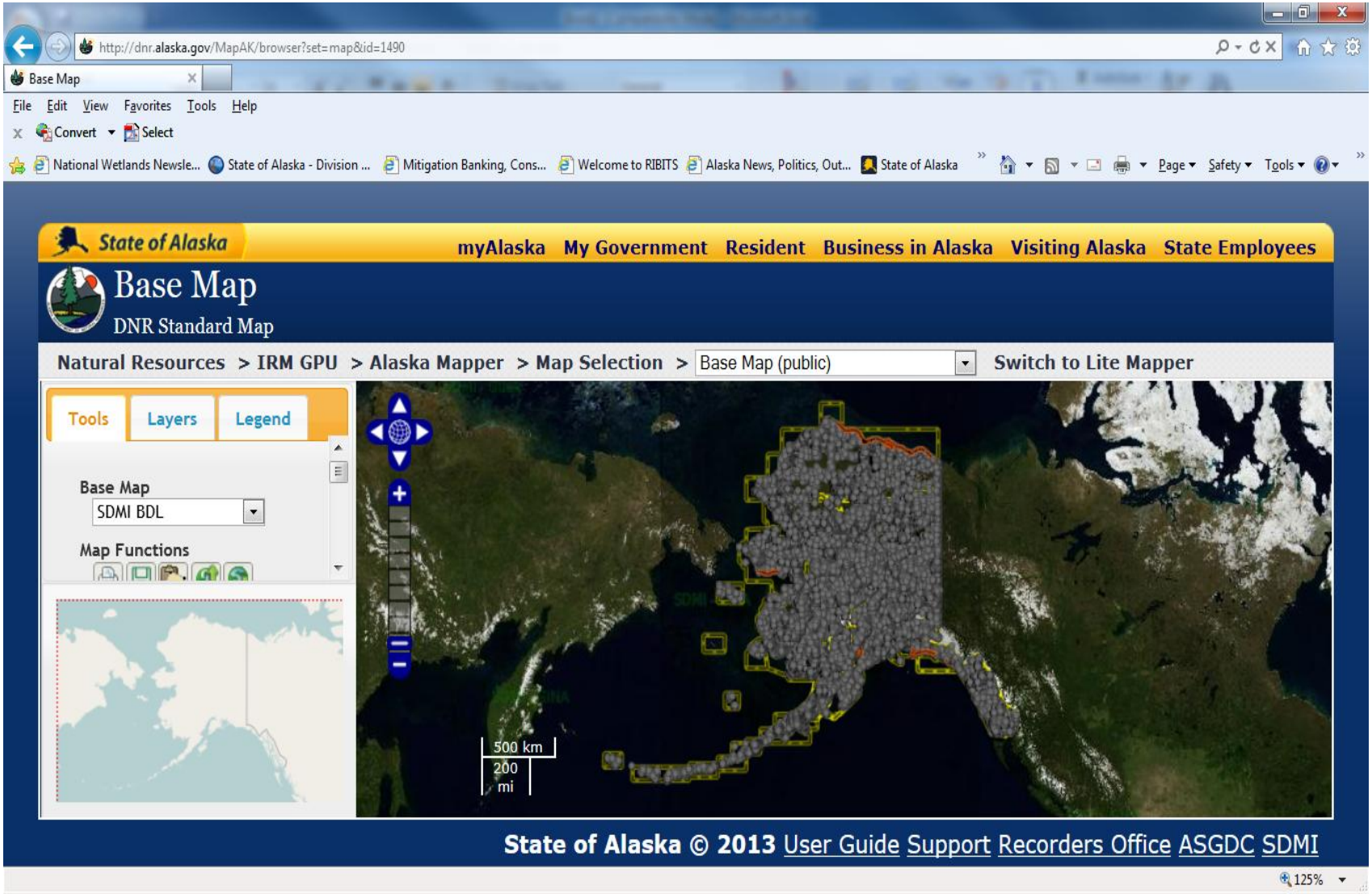
Maps produced by the
Alaska Dept of Natural Resources
Division of Forestry

Current DNR Wetlands Mitigation Efforts

Cooperative opportunities with the Army Corps of Engineers:

- Identify Alaska-specific wetlands compensatory mitigation options
- Collaborate with ACOE to understand process and requirements to establish statewide wetlands mitigation bank options and ILF program
- Inventory state lands through multi-layered screening criteria using GIS audit developed in collaboration with mitigation specialists
- Statewide Inter-agency Review Team (SIRT), IRT and NEPA
- Identify state-wide programmatic permits that Alaska may issue and/or administer

DNR Mapping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Current DNR Wetlands Mitigation Efforts, Future opportunities

- Advantages of non-profit organizations or government agencies acting as third party mitigation sponsors (from the 2008 Rule)
- 31 Lower 48 states involved: 25 run mitigation banks, 12 ILF programs
- EPA Wetland Program Development Grant Funding (WPDG), qualified recipients to develop a comprehensive monitoring and assessment program, improve the effectiveness of compensatory mitigation, refine the protection of vulnerable wetlands and aquatic resources
- Stakeholder outreach and partnership

References and supplemental information

Compensatory Mitigation for Losses of Aquatic Resources; Final Rule. *Environmental Protection Agency*. April 2008. http://water.epa.gov/lawsregs/guidance/wetlands/upload/2008_04_10_wetlands_wetlands_mitigation_final_rule_4_10_08.pdf

Alaska Wetlands Initiative: Summary Report. *Environmental Protection Agency, et al. May 1994.* *http://water.epa.gov/grants_funding/wetlands/facts/upload/alaska.pdf*

Wetlands Compensatory Mitigation. *Environmental Protection Agency*. N.d. http://www.epa.gov/owow/wetlands/pdf/CMitigation.pdf

Mitigation Banking Factsheet: Compensating for Impacts to Wetlands and Streams. *Environmental Protection Agency*.N.d. http://water.epa.gov/lawsregs/guidance/wetlands/mitbanking.cfm

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