

# ALASKA NATIVE VILLAGE CORPORATION ASSOCIATION



## ANCSA CONTAMINATED LAND

### OBJECTIVES

- ✓ Introduce Legislation that will:
  - prioritize the clean-up of ANCSA contaminated lands
  - protect Alaska Native Corporations from legal liability for prior contamination on lands conveyed through ANCSA
  - provide Alaska Native Corporation businesses a preference for contracting to cleanup ANCSA lands

### BACKGROUND

Through the Alaska Native Claims Settlement Act (ANCSA), the Federal government conveyed to Alaska Native Corporations land and money to settle the aboriginal land claims of Alaska Native people. Congress directed the Department of the Interior (DOI) to oversee the transfer of Federal lands to Alaska Native Corporations.

During the 1990s, the Alaska Native community raised concerns that the DOI was conveying contaminated land to Alaska Native Corporations. In 1995, Congress directed the Secretary of the Interior to prepare a report on the extent of contamination on lands conveyed pursuant to ANCSA. In December of 1998, the DOI submitted a report to Congress entitled *Hazardous Substance Contamination of Alaska Native Claims Settlement Act Lands in Alaska*.

In that report, the DOI acknowledged conveying approximately 650 contaminated sites to Alaska Native Corporations with various types of hazardous waste and toxic materials that pose significant health risk to humans, animals and the environment, including arsenic, unexploded ordinances, and PCBs. Recognizing the unjustness of conveying contaminated lands to Alaska Native Corporations in settlement of aboriginal rights to land, the DOI "recommended an approach to fully identify contaminated sites and cleanup needs on ANCSA lands," with six specific recommendations. The recommendations included: establishing a forum of ANCSA landowners and Federal, State, local and Tribal agencies for exchanging information and setting priorities; compiling an inventory of contaminated sites; applying EPA policies not to impose landowner liability to ANCs for prior contamination; and developing a process to train and enable local residents to better

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### ALASKA NATIVE VILLAGE CORPORATION ASSOCIATION (ANVCA)

Representing the nearly 200 Alaska Native Village Corporations established under the Alaska Native Claims Settlement Act of 1971 (ANCSA), ANVCA is a member based nonprofit organization.

#### Mission

ANVCA promotes the success of our Village Corporations and protection of our Native lands.

#### Contact

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participate in cleanup efforts. The DOI stated it would “coordinate the implementation of these recommendations....”

In December 2014, Congress through Public Law 113-235 requested the following information from the DOI:

- (1) A comprehensive inventory of contaminated sites conveyed through ANCSA, including sites identified subsequent to the 1998 report;
- (2) An updated status on the six recommendations listed in the 1998 report; and
- (3) A detailed plan on how the DOI intends to complete cleanup of each contaminated site.

In June 2016, the BLM submitted the 2016 Update to the DOI 1998 Report to Congress. The 2016 update discussed the contaminated sites inventory prepared by the BLM (with input from Federal, State and local entities and Alaska Native stakeholders). The inventory identified 537 sites that require remediation, 94 of which are not in a clean-up program and which the BLM classified as “orphan” sites. The update acknowledged that **BLM has “not taken action on the remaining three steps identified in the 1998 report —**

applying EPA policies to ANCSA landowners; modifying policies, where needed, to address contaminants and structures that may affect public health and safety on ANCSA lands; and developing a process to train and enable local residents to better participate in clean-up efforts.”

The update included three recommended next steps:

- (1) The Alaska Department of Environmental Conservation (ADEC) should finalize the comprehensive inventory and implement a remedial action process.
- (2) The establishment of a formal contaminated lands working group.
- (3) The initiation of a site cleanup process.

In stark contrast to the DOI’s willingness in 1998 to take a leadership role to facilitate the cleanup of ANCSA contaminated lands, the 2016 update proposes that ADEC and EPA oversee cleanup of the sites.

## WHY IS THIS IMPORTANT?

The Federal government conveyed contaminated land to Alaska Native Corporations in return for the extinguishment of certain aboriginal rights to land. Under Federal and State law, Alaska Native Corporations face potential legal exposure for the remediation of those lands. In addition, some of those contaminated lands pose significant health risk to humans, animals and the environment. It is unacceptable that forty-five years after the passage of ANCSA and the extinguishment of certain aboriginal land claims, Alaska Native Corporations continue to face legal exposure for contaminated lands conveyed to them by the Federal government and that many of those sites still do not have a clearly identified responsible party, assessment, or plan for cleanup.



Imupak Lake (Barrow, Alaska) holds debris from a former Naval Arctic Research Laboratory. Photo by Don Gray, UIC, July 2014.