

FEDERAL OVERREACH *into* RESOURCE DEVELOPMENT *in* ALASKA

Senate State Affairs Committee

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Alaska Statehood Act

- On July 7, 1958, President Dwight D. Eisenhower approved H.R.7999 to admit the State of Alaska into the Union.
- Under the Statehood Act, the federal government provided Alaska with a 103,350,000-acre land entitlement—an amount that was deemed to be sufficient for the newly formed state to become economically self supporting.
- The Statehood Act gave the state 25 years to select lands for entitlement. That original time period was amended through several pieces of legislation that lengthened the amount of time for the state to select lands.
- Additional entitlements to the original 103,350,000 acres were provided through the Mental Health Trust, ANCSA, ANILCA and other legislation. The state entitlement was finalized at 105.8 million acres and the state was given until January 3, 1994, to submit their final list of nominated lands to the U.S. Department of the Interior. The state provided its selection list in December of 1993.
- The State of Alaska has approximately 5.5 million acres remaining for its entitlement.

ANCSA

- Alaska Native Claims Settlement Act (ANCSA) was signed by President Richard M. Nixon on December 18, 1971
- ANCSA was the largest land claims settlement in U.S. history
- ANCSA entitled Alaska Natives to receive 43.7 million acres of land and monies totaling \$962.5 million in compensation for the extinguishment of any claims to additional lands based on aboriginal title
- ANCSA created 12 land-based regional corporations and 220 village corporations for Alaska Natives; each corporation was granted a land entitlement; a 13th corporation was later added





ANILCA

Overview

- Congress passed the Alaska National Interest Lands Conservation Act (ANILCA) in 1980.
- The Act established more than 100 million acres of federal land in Alaska as new or expanded conservation system units (CSUs).
 - A CSU is any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or a National Forest Monument, including additions and expansions to these systems in the future
- ANILCA challenged federal land managers to balance the national interest in Alaska's scenic and wildlife resources with recognition of Alaska's fledgling economy and infrastructure, and its distinctive rural way of life.



ANILCA

State Coordination

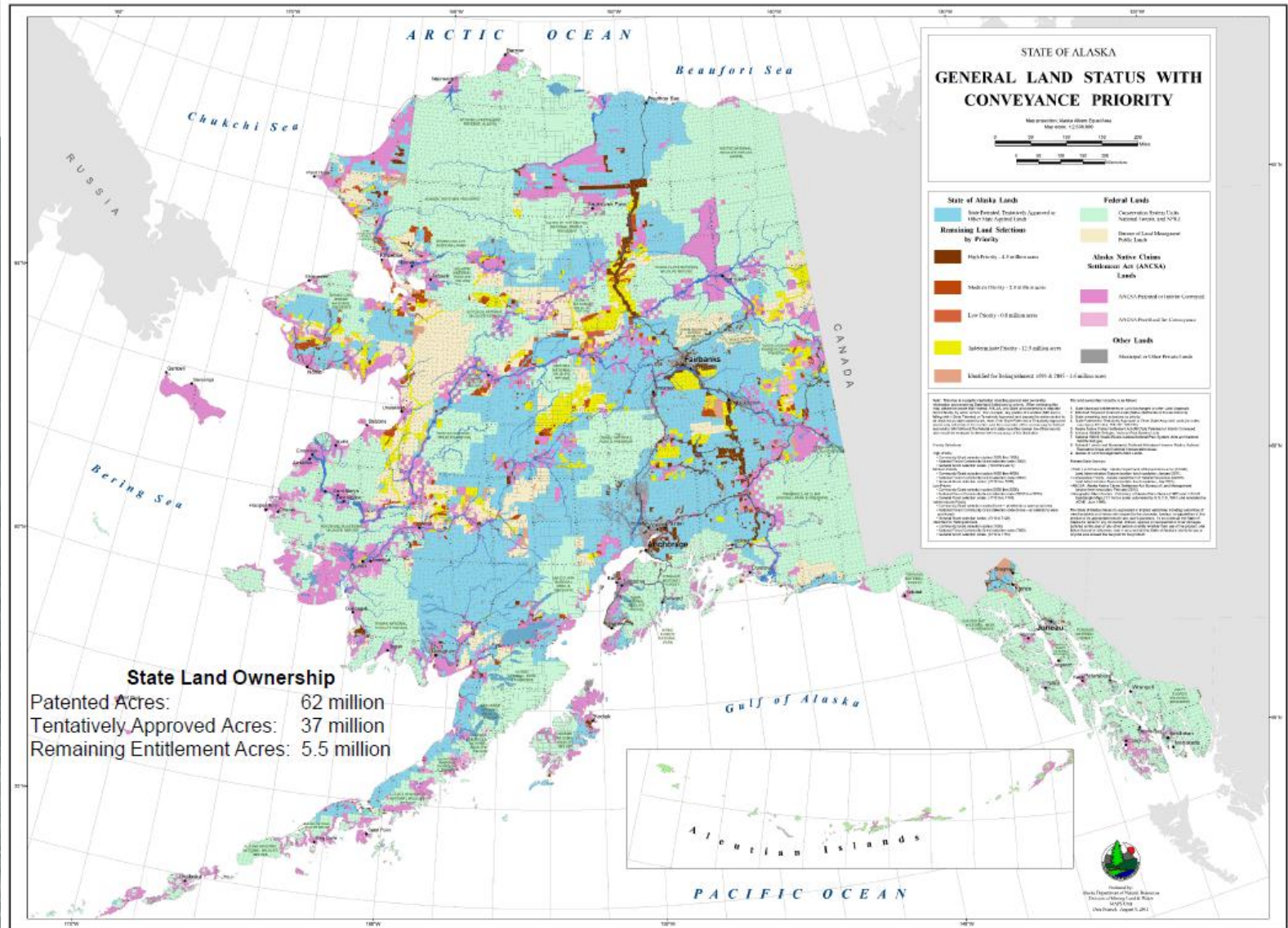
- Over 100 specific provisions of ANILCA require some form of federal agency consultation with the State of Alaska; numerous other federal laws, regulations and policies require state consultation.
- ANILCA issues closely monitored by the State of Alaska include: continued public access for traditional activities; guaranteed access to inholdings; transportation and utility corridors; access for subsistence; recognition of state authorities concerning fish, wildlife, navigable waterways, tidelands, and submerged lands; and recreation and tourism planning
- Successful consultation with the State involves:
 - early communication when issues first arise
 - consultation and cooperation concerning identification of data needs, if any, and subsequent research methodology
 - consideration of state and other non-federal management tools if a management response appears to be necessary
 - internal state review of draft federal proposals that address or affect state management authorities and jurisdictions



OCSLA

- The Outer Continental Shelf Lands Act (OCSLA), created on August 7, 1953, defines the OCS as all submerged lands lying seaward of state coastal waters (3 miles offshore) and those lands are under U.S. jurisdiction.
- The OCSLA was precipitated by the U.S. Submerged Lands Act in 1953, which set the federal government's title and ownership of submerged lands at three miles from a state's coastline.
- Under the OCSLA, the Secretary of the Interior is responsible for the administration of mineral exploration and development of the OCS.
- The Act empowers the Secretary to grant leases to the highest qualified responsible bidder on the basis of sealed competitive bids and to formulate regulations as necessary to carry out the provisions of the Act.
- The Act, as amended, provides guidelines for implementing an OCS oil and gas exploration and development program.
- The Bureau of Ocean Energy Management (BOEM) implements an oil and gas exploration and development program under the Act

State Land Status Map





Building Alliances

- Interstate Mining Compact Commission (Senate Bill 2)
- CERCLA 108(b): EPA's initiative to assume control of bonding for hardrock mining.
- Office of Surface Mining: Enhanced Oversight directive
- Endangered Species Act issues



Wetlands Permitting

- Federal overreach coupled with decreasing resources for the U.S. Army Corps of Engineers is a serious concern to Alaska's economic health.
- Once upon a time, the federal agencies recognized that Alaska's wetland situation was unique in the nation, and agreed to handle permitting here with more flexibility (the Alaska Joint-Memorandum). It is not clear if the federal agencies have been implementing this Memorandum in recent years.
- The governor has introduced House Bill 78 and Senate Bill 27 that establishes the authority for the state to evaluate and seek primacy for wetlands permitting.



The President's Interagency Working Group

- The Interagency Working Group on Coordination of Domestic Energy Development and Permitting in Alaska (IAWG) was established by Executive Order 13580 on July 12, 2011.
- The IAWG consists of Deputy Secretary level staff from all relevant federal agencies.
- EO 13580: “To formalize and promote ongoing interagency coordination, this order establishes a high-level, interagency working group that will facilitate coordinated and efficient domestic energy development and permitting in Alaska while ensuring that all applicable standards are fully met.”
- The IAWG was asked to write a report for the President on an “integrated management approach to the Arctic.” The Governor submitted State comments on November 16, 2012.