

Testimony of
Sandra Moller
Director, Division of Community and Regional Affairs
Department of Commerce, Community & Economic Development
State of Alaska
550 W 7th Ave, Suite 1640
Anchorage, AK 99501

Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forest and Mining

Hearing on S. 2615
Alaska Native Village Municipal Lands Restoration Act of 2023
October 25, 2023

Making lands available for Alaskans to develop has been a priority of Governor Dunleavy's throughout his administration. The Commissioner of Commerce, Community and Economic Development is the trustee for the Municipal Lands Trust (MLT) a land trust established under the federal legislation that created the Alaska Native Claims Settlement Act (ANCSA). The MLT has in trust approximately 11,550 acres that is nearly impossible to transfer into private hands.

This blocks the lands from development, and under the current trust arrangement in ANCSA, is expected to continue to do so into perpetuity unless the trust responsibilities and mission are eliminated in federal statute.

The Alaska Native Claims Settlement Act (ANCSA) requires conveyance of certain lands by village corporations to municipalities or to the State in trust for future municipalities. The Department has administered this program for nearly 50-years and there have been only 8 ANCSA villages that have formed a new municipality, the last in 1995.

This legislation will put land in the hands of Alaskans who can use it for housing, economic development, and other ways to improve their communities.

The department has identified the following additional provisions that it believes would improve the bill and allow the full transfer of MLT lands and protect the State:

- Make reversion of the lands to the village corporation subject to all valid and existing rights created by the trust.
- Ensure that lands reverted to the village corporation are "where-is" and "as-is" with no warranty or covenants from the State.
- All previously disposed of land by the State pursuant to its regulations should be deemed lawful and approved.
- The State should be released from all liability in its role as trustee.



ALASKA FEDERATION OF NATIVES
2023 ANNUAL CONVENTION
RESOLUTION 23-17

TITLE: URGING CONGRESS TO RESTORE LANDS CONVEYED UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT 14(C)(3) PROVISION

WHEREAS: The Alaska Federation of Natives (AFN) is the largest statewide Native organization in Alaska, and its membership includes 179 federally recognized tribes, 154 village corporations, 9 regional corporations, and 10 regional nonprofit and tribal consortiums that contract and compact to run federal and state programs; and

WHEREAS: The mission of AFN is to enhance and promote the cultural, economic, and political voice of the entire Alaska Native community; and

WHEREAS: The Alaska Native Claims Settlement Act (ANCSA) was enacted by the United States Congress in 1971 to resolve the land claims of Alaska Native peoples; and

WHEREAS: Section 14(c)(3) of ANCSA required every Native Village Corporation to convey a portion of the lands it received to the State of Alaska to be held in trust for the eventual creation of a municipal government in the community without recognition of Tribal Councils; and

WHEREAS: There were originally 101 villages covered by the 14 (c) State Municipal Land Trust (MLT) program, and according to the State of Alaska, a total of eight villages have been incorporated into a municipality, the last one in 1995; and

WHEREAS: This leaves 83 communities that are still covered under the MLT program, with approximately 11,500 acres currently held in trust by the State; and

WHEREAS: These lands are now being managed in apparent perpetuity by the State Municipal Land Trust (MLT), an office that is underfunded and overtasked and reluctant to accept lands for certain municipal functions such as community landfills; and

WHEREAS: The 14(c)(3) provision was drafted over 50 years ago and now leads to significant and detrimental impacts on the ability of Alaska Native corporations and communities to engage in economic development activities and utilize their lands to their fullest potential; and

WHEREAS: The underfunding and overtasking of the MLT office has created unnecessary bureaucratic hurdles and obstacles, hindering the economic self-determination and self-sufficiency of Alaska Native people; and

WHEREAS: Removing the 14(c)(3) provision will empower Alaska Native corporations and communities to make informed decisions about how to best utilize their lands and resources, leading to greater economic prosperity and self-sufficiency.

NOW THEREFORE BE IT RESOLVED that the delegates of the 2023 Annual Convention of the Alaska Federation of Natives request Congress to support the economic empowerment and self-sufficiency of Alaska Native people by supporting efforts to sunset and the ANCSA 14(c)(3) provision and revert lands held in the MLT program to our Alaska Native Village Corporations.

SUBMITTED BY: BAAN O YEEL KON CORPORATION

COMMITTEE ACTION: DO PASS AS AMENDED

BOARD ACTION: DO PASS

CONVENTION ACTION: ADOPTED ON SATURDAY, OCTOBER 21, 2023



January 30, 2024

The Honorable Forrest Dunbar
Alaska State Senate
State Capitol, Room 125
Juneau, AK
99801

Dear Senator Dunbar,

I write this letter on behalf of the Alaska Native Village Corporation Association (ANVCA) in support of the introduction of Senate Joint Resolution (SJR) 13. ANVCA is a State-wide organization that represents the 176 Village Corporations that were created by Congress over 50 years ago, including a shareholder base of over 140,000 Alaska Native individuals and their families. A departure from status quo, the Alaska Native Claims Settlement Act served as the modern-day Indian Treaty between Alaska Native People and The United States and was intended to provide Native Alaskans the tools and resources necessary for economic and cultural self-determination. The Act settled long standing land claims that dated back over one hundred years, beginning with the sale of Alaska to the United States from Russia and accelerating with the passage of the Alaska Statehood Act (1958) and a significant discovery of oil deposits on Alaska's North Slope. ANCSA was signed into law on December 18, 1971.

In extinguishing aboriginal claims, Alaska Natives were compensated with fee simple title to land and money for lands lost to state, federal and private interests. The Act created 13 regional for-profit corporations and more than 200 village corporations to receive and oversee the land and monetary entitlements, each charged with providing for their people's economic, social, and cultural wellbeing in perpetuity. One of the matters addressed in the statute was what to do with the individual localities, the individual villages, cities, and the private property interests of individuals who had created homes in some of the unincorporated portions of the state. Section 14(c) of ANCSA sought to address many of these concerns.

Section 14(c)(3) of ANCSA required every Native Village Corporation formed under the Act to turn a portion of the lands it received in its village under the Act over to the State of Alaska to be held in trust for the eventual creation of a municipal government in the area. Many Village Corporations, but less than half, came to agreement with the State on lands to be turned over to the trust, and in only a few instances has that land become municipal lands as anticipated by Congress. For most of these rural Village Corporations, however, the land is still being managed in apparent perpetuity by the State Municipal Land Trust (MLT). The State has administered this program for nearly 50 years and there have been only 8 ANCSA villages that have formed a new municipality, the last in 1995 nearly 30 years ago. It is time to return these lands to those Villages Corporations so they can own and manage the lands for community development and the benefit of their Native shareholders as ANCSA intended.

There are 83 villages across Alaska still included in the MLT program with the trust holding approximately 11,550 acres that are nearly impossible to transfer into private hands or put to Village Corporation use due to restrictions on use imposed on the State by ANCSA. This blocks

the lands from needed development and is expected to continue to do so into perpetuity unless the trust responsibilities and mission are eliminated in federal statute. Several MLT communities have indicated a desire to have the lands they transferred to the State returned to their communities. Many communities in all regions of the state could eventually see the benefits of land "locked up" in the Trust being transferred to Village Corporations within the community for residential, commercial, and other economic development. S.2615, introduced by Senators Murkowski and Sullivan, the "Alaska Native Village Municipal Lands Restoration Act of 2023", and the companion bill H.R. 6849, introduced by Representative Peltola, finally address this issue in ANCSA that has left core village lands locked up in perpetuity without purpose by dissolving the municipal land trust and empowering Alaska Native Village Corporations and their communities to make informed decisions about how to best utilize their lands and resources in the future, leading to greater economic prosperity and self-sufficiency.

We greatly appreciate your introduction and consideration of a resolution in support of the passage of this federal legislation. This is an over 50-year-old legislative loose-end that needs to be addressed to fulfill the promise made of self-determination embodied in the 1971 ANCSA settlement and, importantly, free up community land for needed economic development and housing.

Sincerely,

A handwritten signature in black ink that reads "Curtis J. McQueen". The signature is written in a cursive style with a large initial 'C' and 'M'.

Curtis J. McQueen

Executive Director, Alaska Native Village Corporation Association

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Governor Mike Dunleavy STATE OF ALASKA

March 29, 2023

Senator Lisa Murkowski
522 Hart Senate Office Building
Washington, D.C. 20510

Senator Dan Sullivan
302 Hart Senate Office Building
Washington, D.C. 20510

Representative Mary Peltola
153 Cannon House Office Building
Washington, D.C. 20515

Dear Senator Murkowski, Senator Sullivan, and Representative Peltola:

Our state and its citizens remain burdened by the loose-ends that Congress left behind, 52 years after the passage of the Alaska Native Claims Settlement Act (ANCSA) and 43 years after the enactment of the Alaska National Interest Lands Conservation Act (ANILCA). The instances in which the failure of Congress to sunset measures once their purpose had been met are particularly troublesome and have continued to frustrate the state and Alaska Native Corporations from receiving and using their lands. Ripe for resolution are the revocation of the ANCSA 17(d) land withdrawals, the revocation of the public land withdrawn for the construction of the Trans-Alaska Pipeline System, and the dissolution of the ANCSA imposed municipal land trust.

Prior to the change in administrations, the Secretary of the Interior signed five Public Land Orders (PLOs) revoking the nearly 50-year-old ANCSA Section 17(d)(1) withdrawals of 28.5 million acres of Bureau of Land Management (BLM)-managed public lands in the Bering Sea – the Western Interior region, the Kobuk-Seward region, the Dillingham/Bay region, the Ring of Fire region, and the East Alaska region. When added to the 1.6 million acres of withdrawals revoked in the Eastern Interior region in 2019, over 30 million acres were finally made available by the Secretary of the Interior to mineral entry, recreation access, Native allotment selection, and completion of Alaska's statehood land entitlement. The purpose of these withdrawals was satisfied by the 1980 passage of ANILCA that set aside more than 100 million acres of conservation lands, and so the withdrawal should have been revoked at that time.

The Honorable Lisa Murkowski
The Honorable Dan Sullivan
The Honorable Mary Peltola
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The final decisions to revoke the withdrawals were based on many years of land use planning and environmental analysis that began in response to Senator Murkowski's 2004 *Alaska Land Transfer Acceleration Act* (PL 108-452). Yet, despite the extensive work completed over several administrations, the current administration has refused, for over two years, to implement the final public land orders, and the court has refused to force action. Alaskans were encouraged to see legislation introduced in the last Congress that would have ratified the public land orders to revoke the ANCSA withdrawals, and so I urge you to re-introduce this legislation in both the House and Senate and actively seek its consideration and passage. It is past time that this ANCSA loose-end be closed.

In addition to the revocation of the old ANCSA withdrawals, the BLM spent years and millions of dollars on land planning and environmental reviews for the 56-million-acre Central Yukon planning district; ultimately, the BLM published a draft in December 2020 that recommended the revocation of Public Land Order 5150 that was established in 1972 to guarantee federal access along most of the Trans-Alaska Pipeline System. This land was withdrawn for pipeline construction, the pipeline was built, and the withdrawal should have been revoked without the need for planning or environmental review. While pipeline construction ended in 1977, PLO 5150 remains and continues to block development along the critical infrastructure corridor. Revocation of this withdrawal of nearly 2.5 million acres would pave the way for completion of approximately 1.4 million acres of the state's remaining 5 million acres of statehood land entitlement.

These lands are of the highest priority to the state among possible conveyances to fulfill its outstanding land entitlement because this corridor links remote and isolated communities and connects the North Slope to people, goods, services, and resources along the road and rail-belt areas. Since PLO 5150 reserved lands within the corridor from selection by the state, the state lands have been held in top-filed status for decades. Management of the area is cumbersome, a hindrance to economic development, and is both economically and logistically inefficient. Due to the importance of these lands in the state entitlement process, the corridor lands must be addressed prior to the state taking further action to obtain its statehood entitlement in other areas, and so I urge you to introduce and pursue passage of legislation to revoke the TAPS land withdrawal.

The Alaska Municipal Land Trust (AMLT) was outlined in ANCSA in 1971 and fully executed in ANILCA. Since 1980, the state has taken Alaska Native lands into trust and facilitated the creation of municipal governments where desired. In the past decade, interest in additional city incorporation has waned, there has not been a new city created since 1996, and Alaska Native Village corporations are interested in other ways to use what was their land. The AMLT has in trust approximately 11,550 acres that is nearly impossible to transfer into private hands, whether to individuals or to village corporations, due to restrictions on use. Restrictions on use block the lands from development, and under the current trust arrangement in ANCSA, are expected to continue to do so into perpetuity unless the trust responsibilities and mission are eliminated in federal statute.

The Honorable Lisa Murkowski
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March 29, 2023
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Leaving the AMLT in place in perpetuity appears to be an oversight by Congress, and it is well past time to close this loose-end by dissolving the trust and returning the lands to the villages. Senator Murkowski and Senator Sullivan previously introduced legislation to do just this, and so I urge you to reintroduce that legislation and to work with the state toward its passage.

From one administration and one Congress to the next, these loose-ends have been kicked down the road, with inaction, in part, serving the environmental special interests that seek to frustrate the statehood dream of a vibrant economy that is built upon the wise use of our lands and resources. It has become abundantly clear that, unless Congress takes action, these matters will not be resolved and Alaskans will continue to suffer long into the future.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mike Dunleavy", with a long, sweeping horizontal line extending to the right.

Mike Dunleavy
Governor