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CHAPTER IV. THE NATIVE LAND CLAIMS MOVEMENT IN ALASKA

It was the movement toward settlement of aboriginal land claims that most dramatically affected current Native fortunes in Alaska. This movement has been discussed as an issue,¹¹ but it has not been analyzed as a social movement involving the organization and mobilization of Natives. We propose to analyze the movement here, indicating the ways in which it contributed to Native self-government.

The land claims struggle was a movement of social change. By movement, we mean that Natives acted collectively to clarify their title to land. There were four processes to this movement: interest, organization, mobilization, and opportunity. Each process can be understood by asking these questions: Was there an increase in the number of Natives who shared an interest in land? In the process of organization, was there an increase in common identity and unifying structures among Natives? In the process of mobilization, was there an increase in the resources of Natives and in their degree of collective control? Regarding opportunity, was there an increase of power and decrease of threats to Native interests from their political environment?

The land claims movement resulted from changing combinations of these four elements. But the problem we face in analyzing the movement is its lack of sharp edges: Natives varied from intensive involvement to passive compliance. Interests varied from solely individual to nearly universal. Tracing the complete interactions of the four elements is not possible in a limited study.

In the discussion below, we will treat the movement as developing in three stages--from early Native associations to regional associations and finally to the statewide association of Natives that made land claims proposals to Congress.

This has the advantage of following chronological order, and it appears to reflect the crescendo of activity in the movement.

Although there was the appearance of linear development in the movement, there also appears to have been cyclical development, depending on interaction of the elements we have mentioned. Thus, where possible below, we will attempt to keep interests, organization, mobilization, and opportunity in view. Our primary attention to the developments among North Slope Eskimos will facilitate such an analysis.

Early Native Associations

We have noted that the Alaska Native Brotherhood (ANB) was the only Native association before the 1960's that attempted a pan-Native appeal. In many ways analogous to the NAACP elsewhere in the United States, the ANB represented views of culturally adapted Natives, mostly Indians from Southeast Alaska.² The ANB did not cause a raising of consciousness among most Alaska Natives, yet it did add support to the formation of regional and ultimately statewide Native associations.

The first stage in the land claims movement occurred from 1960 to 1964 with the formation of the Fairbanks Native Association (FNA), Inupiat Paitot, Dena Nena Henash, Cook Inlet Native Association (CINA), and the Association of Village Council Presidents (AVCP). Both the FNA and CINA were organized by urban Natives who, like those of the ANB, were at least partly acculturated to White society. The other new associations, however, were formed on the Arctic coast and in the Tanana-Yukon-Kuskokwim areas; they formed partly in response to regional problems (Project Chariot and the Rampart Dam) and partly in response to problems confronting all rural Natives--new limitations on traditional subsistence activities and perceived threats to aboriginal lands.

Fear of contamination from atomic fall-out had motivated Arctic Eskimos to protest the Atomic Energy Commission's Project Chariot. A different federal project--the proposal to construct a dam at the Rampart Canyon on the Yukon River as part of a huge hydro-electric project--frightened Indians and was one factor building momentum for organization of Athabaskan villages in the Dena Nena Henash (Our Land Speaks).³ If the dam were constructed, water would back up behind it, flooding seven Athabaskan villages and several million acres of Native hunting and trapping territories; salmon fisheries and nesting grounds for millions of migratory birds would be destroyed.

Problems in subsistence hunting and fishing were common to most Alaska Natives. The Barrow duck-in had energized the Eskimo community in Barrow, but problems with the Migratory Bird Treaty were not limited to the North Slope. In 1960 seven Natives in west and southwest Alaska had been arrested for shooting waterfowl out of season and were eventually fined. In two of these cases, wildlife agents had been attacked.⁴ Delegates at the first meeting of the Dena Nena Henash in June 1962 objected to unrealistic limitations on hunting, complaining that they were being deprived of their way of life by government regulations.⁵ Clearly such threats to subsistence activity, which were widely perceived in the Native community, provided Native leaders with an opportunity to mobilize elements in the population that might not have been easily mobilized had the threats been lacking.

Land was either an implicit or expressed interest motivating the organization of the early associations. The "Statement of Policy and Recommendations" of the Inupiat Paitot said: "Our problems were two kinds: (1) aboriginal land and hunting rights and (2) economic and social

development."⁶ The Dena Nena Henash decided to claim land surrounding their villages and to protest to the federal Bureau of Land Management any state selection of land in these areas.

The early Native associations were mobilizing, as can be seen in the increase of resources--particularly money and information--which led to their growth. The American Association of Indian Affairs (AAIA) played a leading role in some early associations--helping Natives find common ground for meeting and assisting them (through grants and technical advice) in expressing protests. The Tundra Times played a pivotal role by communicating news of Native problems and focusing on shared Native concerns.

The process of mobilization influenced that of organization. The Tundra Times, ANB, and AAIA sponsored a succession of multi-village conferences which, retrospectively, can be seen as building blocks out of which Native unity on the land claims settlement was constructed. One of the most notable early conferences was that held in June 1964 at Fairbanks, attended by leaders of seven Native associations and delegates from five widely scattered villages. The conference report stressed four areas: unity, political action and education, health and welfare, and war on poverty. Leaders recognized their common status as Natives and began to think of this as a political asset in resolving socio-economic problems and preserving their culture:

It is important for villages to form political information or action committees to acquaint all the Natives of the mechanics of voting, of the issues that are important to a given area. It is urged that the Natives become acquainted with the candidates for office and acquaint the candidates with the needs of their areas ...

The potential political power of the politically educated Natives was stressed, with 20 percent of the total vote of Alaska in Native hands...

Each Native community is urged to take an active part in politics by joining existing political organizations. Where these organizations do not exist in the villages, these villages are encouraged to initiate them (emphasis added). 7

However, in the first stage, there was no movement. The interest in land had not yet become common to Natives statewide.

Regional Associations: The Case of the Arctic Slope Native Association

The second stage of the movement occurred from 1965 to 1968, as strong, energetic regional Native associations organized and developed control over new political resources. Because we will concentrate on the North Slope Borough later, we will discuss this stage through the example of the Arctic Slope Native Association (ASNA)--which was the vehicle for both land claims and borough formation on the North Slope--pointing out where necessary the degree to which its experience was atypical.

Organization of the ASNA

Barrow, the largest Native community on the North Slope, had a population of about 2,000 at the time when the Arctic Slope Native Association was formed. Before that there were five private organizations in the town: the Chamber of Commerce, the Barrow Improvement Board, the Veteran's Association, the Mothers Club, and the Youth Club. This complement of organizations was greater than that found in most other Native towns of similar size. The Improvement Board was a precursor of the ASNA; organized by Charlie Edwardsen, Jr., it involved about fifty Barrow youth in community development projects.⁸

The ASNA was formed in early January 1966, representing all Native villages in the area north of the Brooks Range. Established as a non-profit and non-dues-paying organization, its main objective was to enter claims for land historically used by Arctic Eskimos. One hundred and fifteen Natives attended the first organizational meeting.

Seizing Political Opportunities

In its first official act, leaders of ASNA proposed the formation of an independent Native political party and sent letters announcing this intent to Native leaders in Fairbanks, St. Lawrence Island, Tyonek, Anchorage, Nome, Nunivak Island, Juneau, and Kotzebue:

We have formed a new association...whose primary objective is the pressing of the land claims of the Native people of this area. Secondly, we have in mind the strengthening of the Native vote in the political structure of the state... As long as we remain predominantly Democrats, we are the minority of one party and as such, do not carry much influence in deciding the platform of this party. Now, if we form an independent Native political party, we immediately are in a position where either the Democrats or Republicans must acknowledge our point of view and just demands in the fields of education, housing, job equality and training to obtain our vote... As independents we could endorse those candidates of either party who will be most willing to work for us on our behalf, most particularly in the Senate, House, and Governorship.

ASNA received a positive response to its letters, but opinion was divided on the formation of a Native party. The association urged Native leaders to stimulate participation in the 1966 elections; it favored contacting all candidates, carefully examining legislative voting records, and endorsing the favored candidates in local or statewide media.¹⁰

ASNA made its endorsements in May: Mike Gravel for the Congressional seat held by Ralph Rivers, Senator Bartlett for re-election, Eben Hopson of Barrow for the State Senate (an incumbent), and John Nusunginya of Point Hope

for the State House. The association withheld support from Governor Egan because of his reluctance to support Native claims for land, and it said it would not support Senator Gruening at the end of his term because of his diffidence in pursuing Native land claims legislation in Congress.

In the 1966 primary election, there was a significant breakaway of Native voters from Rivers, but he was able to win the nomination. Observers felt Gravel gained voters in Eskimo areas because of the appeal of the regional high school concept on which he had worked in the State Legislature, Rivers' lack of constituent services during his term, his weak support of land claims, and his alleged remark disparaging Native intelligence.¹¹

After meetings with Howard Pollock (Republican candidate for the Rivers seat) in which he agreed to help solve the "most pressing Native problems" upon election, ASNA endorsed him against Rivers. ASNA backed Kotzebue Eskimo Willie Hensley for the State House and continued its support of Senator Bartlett; but it declined to endorse Egan in his race with Walter Hickel for the governorship. Egan's aides called ASNA officials in Barrow, urging their endorsement; but ASNA directors refused to endorse Egan until he agreed to loosen the community action program (in which Charlie Edwardsen was employed) from the Governor's office.

Expanding Native power by entering the state political arena was the idea primarily of three ASNA leaders: Charlie Edwardsen, the driving force in ASNA's early development; Hugh Nicholls, a White who served as the first executive director of the ASNA; and Eben Hopson, then a State Senator.

Such political activities of the young ASNA were not typical of the early Native associations. However, the new Northwest Alaska Native Association

(NANA) with headquarters in Kotzebue followed the ASNA's lead in 1966. In the 1968 elections, the ASNA (then directed by Hopson) made no candidate endorsements. By this time, the burgeoning Alaska Federation of Natives (AFN) had become a far more powerful political center of Native support, and its conference that year drew attendance of all political candidates. By the 1970 elections, AFN had formed a political arm to screen and recommend statewide candidates for endorsement.

Plans for nuclear tests* strengthened ASNA during this formative period, notwithstanding the minor internal disputes which occurred. When the Atomic Energy Commission (AEC) announced plans to conduct underground tests in the Brooks Range east of Pt. Lay, the ASNA board sent protest letters to the U.S. President, Alaska's congressional delegation, the Bureau of Indian Affairs commissioner, and the AEC chairman. The ASNA executive director said, "We will fight this proposal with every legal means, because arbitrary action by the government where the public is concerned is not one of the principles embodied in the constitution."¹² But Barrow city council president and ASNA director Eben Hopson objected to this approach in a letter he wrote the editor of the Tundra Times: **

The well-known and highly patriotic nature of the Eskimo is being damaged by the outright objection to the national security program at its announcement¹³, before the majority of us had a chance to read about it in the papers.

*Eskimos in Anaktuvuk Pass had the highest body levels of strontium90 and cesium-137, due to atmospheric testing of nuclear weapons, so the issue was of continuing importance.

**It is interesting that Hopson, now Mayor of the North Slope Borough, made identical remarks to delegates who called for the international demilitarization of the Arctic at the Inuit Circumpolar Conference meeting in Barrow in June 1977.

In a note of concession, the AEC explained its exploration on the North Slope was only a precautionary move in the event volcanic activity on Amchitka Island in the Aleutians forced cancellation of tests scheduled there. It promised to hold public discussion before any future testing, to conduct no tests in caribou habitats, and to cancel tests if venting occurred in the North Slope area.

The atomic blasts scheduled in 1961 (Project Chariot) and 1966 represented comparable threats to North Slope Eskimos, and AEC concessions represented comparable victories. In 1961, White officials of the American Association of Indian Affairs provided a mechanism for the expression of protest. Five years later resources were now controlled by a Native organization.

ASNA's Role in Organization of the Statewide Association

The activities of the Inupiat Paitot in 1961 and 1962 had brought village leaders into contact with Natives outside the North Slope. Attempts to develop statewide Native political endorsements in January 1966 increased these contacts. Then in early June 1966, a charter of twenty-five members of the Cook Inlet Native Association (CINA) flew to Barrow for informal meetings with ASNA members. Lloyd Ahvakana, vice president of CINA (now Director of Administration and Finance of the North Slope Borough), represented CINA president Emil Notti, calling for Native unity and common political action. Leaders of the two associations made plans for a convention of officers of Native associations from throughout the state, which was called by Emil Notti and held in Anchorage in October 1966.

ASNA's role in organizing the statewide Alaska Federation of Natives (AFN) was supporting, not leading.* Its leaders served as directors of the AFN and as chairmen of some of its standing committees, and Eben Hopson was to serve later as executive director. Yet ASNA frequently played the spoiler at AFN meetings and in statewide Native planning on land claims. This stance developed gradually as ASNA leaders realized their political power within the AFN was limited by the size of the constituency they represented (about 7 percent of the state Native population). And, by sitting on the richest oil-bearing lands in the nation, ASNA had the most to lose from a quick, expeditious settlement.

We turn now to an examination of the early land claims struggle of the ASNA, the pulse and rhythm of which frequently is repeated in today's politics of the North Slope Borough.

Developing and Sustaining Momentum on Land Claims

Interest in Land. With respect to the interest in lands, ASNA was more united and aggressive than any other Native association in Alaska. When Charlie Edwardsen, Jr. called the first meeting of ASNA directors in January 1966, he proposed a claim for all lands north of the Brooks Range (58 million acres) based on aboriginal use and occupancy. The directors agreed to retain William L. Paul, Sr. --a Tlingit Indian who had been an active force in the Alaska Native Brotherhood and was regarded as the leading Indian claims lawyer. The

*In addition to Emil Notti, Stanley McCutcheon, the attorney for Tyonek village, played a major organizational role. Tyonek village provided most of the funds for the conference.

claims were to be filed immediately with the federal Interior Department, and Paul was instructed to write Governor Egan notifying him of this claim and protesting any activity-sales or leases--of state-selected land on the North Slope. Stating goals which now seem hackneyed, members sought the land so that the area might become "an economically independent, self-supporting segment of President Johnson's Great Society."¹⁵

The claim was supported enthusiastically at meetings in each of the villages of the North Slope, and the ASNA land position was endorsed by all delegates from the villages at general meetings in Barrow.

Strategy of Opposition. ASNA's campaign on land developed quickly and never lost momentum. Directors of the association lost no chance to protest any action they viewed as detrimental to the ASNA land claim. The depth of this interest in land placed ASNA in opposition to oil companies, state and federal government officials, and, significantly, the AFN.

ASNA expressed disappointment with Senator Gruening's proposal to resolve land claims, which gave Natives "nothing more than what they have now." The ASNA executive director, who was a White, said:

No, Senator, the Native people have begun to grow up even as you have grown old (Gruening was then in his seventies), and what they would accept gratefully without question forty years ago, they will not do so now. The age of reasoning and questioning has come to the Natives... It may be that, in that ethnic ties transcend international boundaries, the whole thing would be more properly settled by an organization such as the UN... It is almost certain that countries having been liberated so recently from the status of the White man's colonies would be entirely sympathetic to the Native cause and justice for them.¹⁶

As the state moved to lease North Slope lands, ASNA filed a petition in U.S. District Court on behalf of the Inupiat Eskimo people occupying the Arctic

Slope to "prevent the sale, lease, or transfer by any means" of oil, gas, and mineral leases in the Arctic. In its request for an injunction, ASNA asked that money received by the federal and state government be held in escrow until settlement of the land claims suit it had filed. (An Arctic Slope parcel of 38,000 acres scheduled for sale in October 1966 was removed after this petition was filed.) This ASNA petition was withdrawn before the first organizational meeting of the AFN "so as not to prejudice the land claims hearings underway at that time."¹⁷

When newly-elected Governor Hickel decided to sell oil and gas leases on lands under claim by Eskimos in December 1966, ASNA again protested, writing U.S. Department of the Interior Secretary Udall and asking him to withdraw tentative approval of state title to the lands.¹⁸

ASNA objected to the first major land claims bill, which was drafted by the Interior Department and submitted to Congress in May 1967. It regarded the proposed land settlement as inadequate and the 25-year trusteeship concept in the bill as absolutely unacceptable.¹⁹ In Congressional hearings on this land claims measure, ASNA objected to the solution of land problems by paying off Natives. Calling this the "curse of modern political practice," the association's new attorney, Fred Paul (son of William Paul), noted that the Bureau of Indian Affairs received \$300 million annually from Congress but had yet to solve major Indian problems. ASNA appealed for land: "Its whole fight has been for the land of their forefathers, where their culture is inextricably woven and where they today make sustenance."²⁰

By January 1968, AFN's Alaska Native Land Claims Task Force had recommended the outlines of an acceptable legislative proposal, called for 40 million acres of land and mineral royalty interests in state and federal land. As

the AFN task force report gained support in other Native regions, ASNA proposed that each group of Native peoples in Alaska seek separate legislative settlements. Eben Hopson commented:

To begin with, several tribes of Native people filed claims separate of each other, then all of a sudden, someone came up with the bright idea of pooling the claims into one package and proposed a settlement where, in their present state, would never see the light of day... Each tribe of people ...are proud of their heritage and identification. No Tlingit is going to be happy if you call him an Eskimo.²¹ and for your information, I don't like to be called anything but an Eskimo.

ASNA resolutions deplored the presentation of land claims bills in Congress drafted without representation from the Arctic Slope and without consideration for the just settlement of ASNA claims. Moreover, they claimed other meetings connected with development on the North Slope had been called without consent and consultation of the ASNA.²² Thus ASNA directors sought to divorce their association from AFN-proposed legislation.

New Opportunities and Resources. The oil discovery at Prudhoe Bay announced in June 1968 was an opportunity which enabled the ASNA to increase its power vis-a-vis other organizations, for the value of the land over which it had aboriginal rights was now established. The discovery also focused attention on environmental interests (e.g., caribou habitats and fisheries which would be affected by oil development) and economic interests (e.g., Native unemployment which might be alleviated by construction employment at Prudhoe Bay).

More confident because of this opportunity, ASNA instructed its attorney to prepare alternative methods to pursue land rights on the North Slope if the Interior Department lifted the federal land freeze in Alaska. The association

was prepared to contest every application for development, using hearing and appellate procedures of the Bureau of Land Management and, if necessary, filing suit in federal courts all the way to the U.S. Supreme Court.²³

As the state's North Slope oil and gas lease sale approached, ASNA directors felt there might be sufficient questions as to the title of lease offers on which to base an injunction (the state had only tentative approval to those lands). ASNA did not protest the lease sales then, but one of its leaders employed a new resource to mobilize opposition. Charlie Edwardsen, Jr., leading a handful of Eskimos and Indians, picketed and distributed leaflets outside the Anchorage auditorium at which leases were sold in September 1969. Protestors displayed signs reading "\$2 billion Native land robbery," "Eskimos own North Slope", and Edwardsen called the sale "economic genocide on a Native minority."²⁴ He alone of Native leaders exploited the publicity surrounding this event. After the sales, ASNA petitioned the Interior Secretary to invalidate the leases and protect the land rights of all North Slope Eskimos (a petition which was later withdrawn).

ASNA, then, was the most aggressive and mobilized of the Native associations formed in the 1960's. It was atypical in the extremity of its defense of the interest that had come to motivate all Native associations--the demand for clear title to the greatest amount of land that Congress would award, compensation for lands on which title was extinguished, and recognition of the self-governing capability of Native citizens.

Statewide Native Organization: AFN

The third stage of the Native land claims movement is represented in the development of the Alaska Federation of Natives (AFN).

Organization and Development of a Common Position on Land Claims

Formal actions organizing the AFN took place in October 1966 and in the early months of 1967. Emil Notti, president of the Cook Inlet Native Association, called the first statewide meeting of representatives of associations reportedly because the Commissioner of Indian Affairs had stated the BIA would recommend to Congress the contents of a settlement of the Native land claims without consulting the Alaska Natives.²⁵ The Commissioner may have intended to hear the requests of Native peoples before actually drafting a settlement plan, but the implication that the BIA would act alone angered many Natives.²⁶ The avowed chief purposes of the meeting were to federate the regional Native associations and to draft a policy statement on land rights and other important issues.

At the first meeting, representatives from the ASNA and interior Alaska Native delegations opposed the creation of a strong, unified Native organization; thus the initial title of the group was Alaska Federation of Native Associations, and the associations were loosely connected. Two further meetings were required before all Native associations joined, under the new title, Alaska Federation of Natives; constitutional changes emphasized the "local autonomy" of association components and admitted individual Natives to membership. Constitutional changes also resulted in lower dues (satisfying the ASNA) and made each region's vote equal.²⁷

AFN's proposed legislation on land claims was approved by conference delegates; it would have granted to Native communities ownership of the lands they had traditionally used and occupied. It would also have assured

compensation for Natives whose lands were beyond hope of recovery. The initial draft was promptly endorsed by top Republican and Democratic statewide candidates in the 1968 elections.²⁸

As we shall note below, AFN changed and expanded its policy on land claims several times in response to internal (Native) and external requirements. However, the principles of the AFN proposal were upheld consistently: 1) enough land to sustain a subsistence economy for those Natives who chose to retain their traditional life-styles; 2) adequate compensation for lands taken in the past; 3) a just monetary settlement for extinguishment of Indian title to the remaining land, including a perpetual royalty interest in the mineral resources of that land; and 4) Native control over the money and the land received in the settlement.²⁹

Political Opportunities

As a political structure, the AFN became a vital center for statewide political support. The organizing convention of AFN was held two weeks before state elections; every candidate for an important federal or state office not only addressed the 300 leaders assembled but also gave them tangible evidence of their desire to please and satisfy the statewide conference delegates. Two years later in the 1968 elections, candidates for the U.S. Senate were reputed to have hired influential Natives to help curry support from conferees.³⁰ While delegates considered the formation of a political arm, they made no political endorsements in that year. Then, in 1970, ten AFN board members formed a political arm separate from the statewide organization and not funded by it.

By late July, the newly-organized group had been titled the Alaska Natives Political Education Committee. It had sent out a 30-item questionnaire on the

adequacy of land and money settlements in the U.S. Senate bill then under consideration. The committee endorsed for Governor Larry Carr—the only candidate who responded to the questionnaire (later defeated in the Democratic primary)—and Natives Emil Notti for Secretary of State and Willie Hensley for State Senator. Notti lost the primary, but won 70 percent of the Native vote. Hensley was elected to the State Senate, as was expected.

Trading endorsements for support of the AFN land claims bill, AFN endorsed William Egan for governor in the 1970 general elections. Egan accepted the essentials of the AFN bill, and, upon election, he appointed two prominent Native leaders to his administration: Byron Mallot was named Director of the Local Affairs Agency and Eben Hopson became an aide to the Governor, specializing in problems of Alaska Natives.

Problems in the Development of a Unifying Structure for Natives

AFN had a pluralistic political structure; seats on the Board of Directors were allocated to regional associations in 1969, with each region being represented by one director.³¹ Officers of AFN were selected by the membership at annual meetings where regional association voting blocks quickly developed, corresponding to the population and not to the land area of the various associations. This structural arrangement gave power in the federation to either the most populous groups or those who could form voting coalitions with greatest dexterity. Thus, the early leaders of the federation represented Athabaskan and Tlingit Indians to the disadvantage of the fragmented Eskimo groups, particularly the Inupiat of the North Slope.

Unification of associations with differing aims--notwithstanding the common interest of all Natives in a just Congressional land claims settlement— was

never an easy process. The AFN was more successful at unifying Alaska Natives than any previous group or association, but there were major breaks in the Native united front during the land claims struggle. ASNA's strategy of opposition was the stumbling block to a unified position. In October 1970, Charlie Edwardsen made a surprise announcement at the convention of the National Congress of American Indians meeting in Anchorage--announcing the withdrawal of ASNA from AFN because it had "over compromised and undersold" the Arctic Slope in land claims negotiations. New ASNA president Joe Upicksoun and Edwardsen both felt that AFN had lost sight of the "fundamental principle on which the settlement was premised--a land claim was not a federal welfare program or another piece of anti-poverty legislation."³² The sentiments which underlay this decision to withdraw reflected the perceived isolation of the North Slope Eskimos. An ASNA position paper submitted to an earlier AFN meeting in Juneau remarked:

Compared to the rest of Alaska, in the past the North Slope Eskimo has had only feeble assistance from organized government. Who will suffer if there is an oil spill or a fire? Who will pay Eskimos for destruction of land, caribou, fish? The State of Alaska wants to steal our lands; the Senate committee wants to buy them and pay the other Natives of Alaska The AFN has failed to support North Slope Eskimos. By direct orders from the Steering Committee just one year ago, the AFN forbade our representatives from testifying before the Senate Committee. We cooperated and this is what we got...

ASNA pursued its independent strategy by filing a land claims proposal in outline form with the chairman of the U.S. House of Representatives' Indian Affairs Subcommittee.³⁴ (Unlike the AFN bill, the ASNA proposal asked for distribution of land and money to seven regional corporations, proposing no statewide corporation.)

AFN upped its demands of land from 40 to 60 million acres and agreed to distribute benefits on the basis of lands lost to propitiate ASNA. However, the new distribution formula was questioned by the Tlingit-Haida Council which insisted that both land and money be distributed on the basis of population, not the amount of land claimed.³⁵ A compromise on the distribution of benefits produced a fragile condition of unity.

In December 1971, when a symbolic vote was taken at the AFN meeting commemorating President Nixon's signing of the Alaskan Native Claims Act, ASNA voted nay. Joe Upicksoun commented:

We Inupiat Eskimos have never wanted money as such--we wanted land. You are getting paid faster because ASNA said no, no, no. We did not see a single regional association help the ASNA.³⁶

AFN Mobilization of Resources

Despite these departures from united leadership and shared goals, AFN mastered state and national political processes in the land claims movement through its successful mobilization of resources.

Increase in Resources. AFN increased Native resources in money, communications, nationwide statements of support, and legal talent. The Yakima Indians of Washington loaned the AFN \$225,000 without collateral, and the Tyonek Indians loaned it \$100,000. Smaller grants and loans were made by other organizations - the American Association of Indian Affairs and the churches, particularly.

During the last two years of the land claims movement, AFN maintained a Washington, D.C. office. Either the president or executive director was present in Washington throughout this period to monitor developments in Congress. They

maintained daily communications with Congressional offices of the Alaska delegation for this purpose. And AFN established a public relations office which published a brochure on land claims which it distributed nationwide.³⁷

A significant source of national political support was the National Congress of American Indians (NCAI). The largest as well as oldest national organization of Indians, NCAI gave unqualified support to AFN. Support for Native positions also came from labor unions, conservationists, and, most importantly, oil companies--a powerful coalition which assured the eventual success of the movement.

Finally, AFN attracted the support of competent state lawyers when it had no money to pay expensive legal fees. Then, as Congressional consideration of land claims became more intense, upon the recommendation of ASNA attorney Fred Paul, the AFN retained Arthur Goldberg (former Associate Justice of the U.S. Supreme Court) and Ramsey Clark (former U.S. Attorney General). One could hardly imagine a more prestigious team; and the value of using them as agents became apparent during committee hearings on the various House, Senate, Interior Department, and AFN bills. Goldberg and Clark were wellknown by committee staff and Congressmen. While their presentation was no more adroit than that of regional association counsel at previous hearings, they helped legitimize AFN's positions, making them acceptable to officials in Washington who understood the dynamics of the land claims movement imperfectly if at all.

Control and Utilization of Political Resources. Retaining prestigious counsel, however, made regional counsel jealous. Edgar Boyko, the lawyer representing Kodiak Natives (and formerly state Attorney General) thought Goldberg should be fired, which he claimed would save AFN some \$50 million.

Goldberg resigned after this insult, but AFN officials were successful in requesting him to reconsider his resignation. Yet, AFN also declared that attorneys were dispensable and retained on a hire/fire basis: final decisions would rest with Natives.³⁸

AFN political expertise was displayed in dealing with state officials, treating with the Interior Department, Congressmen, and finally with the President. For example, when Walter Hickel was nominated to be Secretary of the Interior, he suggested he would end the freeze on public lands in Alaska--which was one obstacle to construction of an oil pipeline from Prudhoe Bay--saying, "What (former Secretary) Udall can do I can undo." AFN leaders immediately set about attempting to change Hickel's views while they sought means to compel him to continue the freeze. Finally, the five-man AFN team in Washington succeeded in holding Hickel's nomination hostage in a Senate committee until he agreed, in writing, to continue the land freeze. Eben Hopson said of this process, "Possibly, we have gained a million dollars worth of publicity on Natives and claims during the hearings; the press has been very favorable."³⁹

AFN leaders applied pressure on the state's three Congressmen to maintain a common position. Careful lest their sensibilities be aroused (which transpired when Charlie Edwardsen urged U.S. Representative Begich to support the AFN position completely, saying, "Are we going to make the Congressman our Native representative or is he going to give lip service?"),⁴⁰ they tried to soothe bruised egos, indicating subtly the value of service to Natives.

AFN leaders also cultivated relationships with the chairmen of the House and Senate Interior committees whom they persuaded to hold hearings in Alaska (in Fairbanks, Anchorage, and Barrow) and carefully arranged testimony for these hearings. For example, the hearings of the House Committee on Interior and

Insular Affairs in Barrow was attended by some 500 Arctic Slope Eskimos. The program presented Eskimo songs, dances, and displays of Native crafts and artwork. Then Natives gave testimony describing their subsistence use of the entire North Slope and attacking the state's vacillation on Native claims.⁴¹ Although AFN leaders were not always skillful in dealing with congressmen (ASNA leader Upicksoun threatened the chairmen of the House Interior and Insular Affairs Committee and of its Subcommittee on Indian Affairs with defeat if they did not support the AFN land claims bill), pressure was for the most part applied gently and consistently.

Finally, the AFN leadership lobbied the executive--members of the White House staff, the Vice President, and President in a manner that was orderly and effective. Don Wright, AFN president in 1971, used his connections with the National Congress of American Indians (NCAI) to provide supporting letters and testimony.⁴² AFN leaders attended an NCAI annual meeting addressed by the Vice President, Spiro Agnew, and met for several hours with Agnew's staff.⁴³ Subsequently, Wright met with President Nixon personally.

Native Political Development

Changes in Participation

This ten-year movement resulted in considerable political participation by the Alaska Native population. While it is difficult to measure exactly the percentage of the Native population that joined in discussion or action on land claims, audience counts for public meetings indicated that half to three-fourths of adult Natives attended one or more meetings. On the basis of published accounts of these meetings, those who attended seemed informed about the threats to their aboriginal rights to the land and genuinely concerned about the need to unify in order to gain a satisfactory settlement.

The anti-poverty campaigns in rural Alaska had prepared Natives for involvement, but the nature of that campaign (there being no human target or immediately feasible way of eradicating malnutrition, poor housing, lack of opportunity) provided outlets of activity for only a few. Land claims, on the other hand, were practical matters with real heroes and villains, and the movement engaged many Natives.

As in most movements, however, the active participants were a minority of adult Natives. A perusal of organization lists of Native associations during this period shows continuity in office, the same individuals performing leadership roles. The development of regional and statewide associations was thus vital for the entire movement: it provided new statuses in Native communities for younger, more dynamic, upwardly-mobile Natives; and by conferring office, the support and continuous participation of these leaders was ensured. Thus, the theory of organizational structure of Native associations implied a very close, symbiotic relationship between leaders and led, but the facts of representation suggest that associations were elite caucuses. This is not to suggest that leaders took positions on land divergent from the mass of Native peoples. Instead, they assumed positions that they believed would represent the views of the community without consulting them regularly.

Leadership Changes

During the land claims period, it was not fashionable to criticize Native leaders--except those, such as Upicksoun and Edwardsen, who took extreme positions and used "non-Native" tactics. Opinion leaders tended to be highly supportive; for example, the Tundra Times editorialized regularly on the "new breed" of Native leadership which was changing the face of rural, Native Alaska.

In what ways were leaders of the land claims movement different from traditional leaders? First, they were younger men, which made the movement distinctive in the development of Alaska Natives as communities. For example, Willie Hensley, Byron Mallot, Charlie Edwardsen, and Emil Notti were all under 40 years old. Second, they differed in education. Most of the movement's leaders had completed high school training, which contributed to their acculturation to White society. Third, they were more knowledgeable about politics and law and more willing to experiment with different kinds of political tactics. And they were politically assertive, not passive. Fourth, the new leaders were more likely to have a statewide orientation. By this we mean they were less tied to their village of origin. They were more experienced in the various Alaska communities, having either travelled extensively as part of their educational training or participated in anti-poverty programs in areas other than their own. Finally, in attitude they responded to the tempos of the 1960's rather than to those of the 1940's--intent on dealing with administrators and politicians as equals, not merely as clients of administrative agencies.

A Movement, Not a Revolution

In 1969, John Borbridge, Jr., then Vice President of the AFN and President of the Central Council of the Tlingit and Haida Indians, said that land had been the one issue that could unite all the Native peoples and get them to organize. From the association, there had been an "emergence of a consciousness of one's Nateness." At the same time, a "regional concept" had emerged which would allow "room for differences" among the various peoples in the different parts of Alaska. He pointed out two alternatives for the Natives: an opportunity to participate "within the political framework" or "recourse to militancy" and "Red Power." He said the Natives preferred the former.⁴⁴

The land claims movement was indeed collective action within the American political framework. We examine now the results of the movement and some of their implications for rural Native Alaska.

Endnotes

1. See particularly, Robert Arnold, et al., Alaska Native Land Claims (Anchorage: Alaska Native Foundation, 1976), and Mary Clay Berry, The Alaska Pipeline (Bloomington, Indiana: University of Indiana Press, 1975); and the popular accounts, Lael Morgan, And the Land Provides (New York: Anchor Press/Doubleday, 1974), and Hugh Gallagher, Etok: A Story of Eskimo Power (New York: G.P. Putnam's Sons, 1974).
2. Phillip Drucker, "Native Brotherhoods," Bureau of American Ethnology Bulletin No. 168 (Smithsonian Institute: 1958).
3. Federal Field Committee for Development Planning in Alaska, Alaska Natives and the Land (Anchorage: October 1968), p. 477; Margaret Lantis, "Current Nativistic Movement in Alaska," in Circumpolar Problems, edited by G. Berg (New York: Pergamon and Press, 1972), p. 106.
4. Anchorage Daily News, 14 June 1961.
5. Lantis, "Current Nativistic Movement in Alaska," p. 104.
6. Indian Affairs, American Association on Indian Affairs Newsletter, No. 44, December 1961.
7. Indian Affairs, No. 56, October 1964.
8. See Gallagher, Etok, pp. 112, 114, 116.
9. Anchorage Daily News, 12 January 1966.
10. Tundra Times, 21 February 1966.
11. Tundra Times, 25 August 1966.
12. Tundra Times, 18 December 1966.
13. Tundra Times, 6 January 1967.
14. Arnold, Alaska Native Land Claims, pp. 112-114.
15. Tundra Times, 22 January 1966; Anchorage Daily News, 25 January 1966.
16. Tundra Times, 24 June 1966.
17. Anchorage Daily News, 17 October 1966.
18. Anchorage Daily News, 23 December 1966.
19. Tundra Times, 3 June 1967.
20. Tundra Times, 19 June 1968.

21. Tundra Times, 6 August 1968.
22. Tundra Times, 8 November 1968.
23. Tundra Times, 17 January 1969.
24. Anchorage Daily News, 11 September 1969.
25. Lantis, "Current Nativistic Movement in Alaska," p. 109.
26. Grace Wolf, "Native Politics: An Overview," in Science in Alaska, Proceedings of the 20th Alaska Science Conference, College, Alaska, p. 161.
27. Tundra Times, 28 April 1967 and 17 October 1967.
28. Indian Affairs, No. 64, December 1968.
29. Wolf, "Native Politics: An Overview," p. 164.
30. Tundra Times, 25 October 1968.
31. Tundra Times, 25 October 1969.
32. Anchorage Daily News, 21 October 1970.
33. Anchorage Daily News, 20 April 1970.
34. Tundra Times, 20 October 1970.
35. Anchorage Daily News, 25 January 1971.
36. Anchorage Daily News, 19 December 1971.
37. Anchorage Daily News, 17 March 1970.
38. Tundra Times, 16 May 1969.
39. Tundra Times, 19 January 1969.
40. Anchorage Daily News, 15 April 1971.
41. Tundra Times, 16 October 1969.
42. Tundra Times, 13 April 1971.
43. Gallagher, Etok, pp. 217-223; also Berry, The Alaska Pipeline, pp. 153-156.
44. John Borbridge, "Native Organization and Land Rights as Vehicles for Changes," in Change in Alaska: People, Petroleum, and Politics, edited by George W. Rogers (Seattle: University of Washington Press, 1970), pp. 196, 204-205.

CHAPTER V. THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

A number of bills were introduced in Congress from 1967 until final resolution of the Native land issue with passage of the Alaska Native Claims Settlement Act (ANCSA) in 1971. These bills differed in sponsorship--an important point in the fate of Congressional legislation--and in substance. The major issues occasioning conflict were 1) the size of the land settlement, with proposals ranging from as little as 100 thousand to as much as 60 million acres; 2) the amount of compensation for land already taken and the period over which this would be paid; 3) the extent to which Natives would share in income from state and federal mineral leases; and 4) the organizational structures and allocation of authority for administration of lands and funds. Below, we outline the legislative campaign, examine provisions of ANCSA, review the early years of implementation, and consider post-ANCSA developments in the unorganized borough.

Legislative History

The Secretary of Interior's administrative freeze on Alaska land transactions precipitated the first two bills to settle Native claims, which were introduced in Congress in 1967.¹ One was sponsored by the U.S. Department of the Interior and the other by the Alaska Federation of Natives (AFN), and both authorized courts to determine the amount to be paid Natives for lost lands. Native leaders opposed the Interior bill because the eight to ten million acres to be granted were insufficient for traditional uses, the land was to be in trust status, and only token compensation would have been permitted for lands taken.

At this point, AFN and Alaska's Governor Hickel cooperated in the formation of a Land Claims Task Force, which was headed by Kotzebue Native

Willie Hensley, comprised of other Native leaders, and sponsored by the state. The task force bill recommended award of 40 million acres of land, 10 percent of the income produced from federal Outer Continental Shelf (Alaska) oil lease royalties, and administration through statewide, regional, and village business corporations. It was introduced in Congress in 1968 by Alaska's U.S. Senator Gruening, but little support could be generated for the substantial departures from precedent that the bill represented.

Before action was taken on these bills by committees in either House, Henry Jackson, Chairman of the Senate Committee on Interior and Insular Affairs, called for comprehensive research as a basis for legislation, nominating the Federal Field Committee for Development Planning in Alaska to undertake the research project. The Field Committee's publication, Alaska Natives and the Land, was influential because of its "scientific" approach and the vast amount of data it collected documenting Native poverty and reliance upon land for subsistence. A separate Field Committee memorandum of recommendations was the basis of a bill introduced by Senator Jackson; this raised the possible compensation to one billion dollars, but only seven to ten million acres of land was proposed (other lands would be available for use by Natives, however).

Following the Field Committee's proposal for revenue sharing from public lands and mineral leases, AFN revised its position in a new bill offered in May 1969. Repeating previous claims for 40 million acres and a \$500 million appropriation, AFN now called for a 2 percent perpetual share of revenues produced from public lands, including those selected by the state. This bill was written in view of the state's prospective oil lease sale in September 1969. Another major feature of AFN's bill called for administration of the settlement largely through regional corporations controlled by Natives.

During 1970, only the Senate acted on Native claims legislation; Senator Jackson's committee recommended enactment of Jackson's bill which offered Natives no more than one million acres and proposed administration of benefits through statewide, not regional, corporations. This bill was reintroduced in the 92nd Congress, which convened in 1971. At that time, two other bills were introduced. The old AFN proposal, changed now to satisfy Arctic Slope Native Association objections (asking for 60 million acres of land and its distribution on the basis of the amount of lands claimed) was introduced in both houses. The third bill was that of the Chairman of the House Committee on Interior and Insular Affairs; it provided for only 100 thousand acres of land with use of additional lands permitted for subsistence, and administration through an agency controlled by the Governor of Alaska.

At this point, AFN sought presidential support and obtained it. One of the major factors leading to the Natives' ultimate legislative success was the continuing delay in construction of a pipeline to carry oil from the North Slope to Valdez--which was blocked in part by Native land claims. The oil companies were anxious for a settlement and the White House was sympathetic to their concerns. In April 1971 the administration proposed 40 million acres, \$500 million in direct compensation, and \$500 million from mineral revenues. The apparent generosity of this proposal aided legislative changes in the House. The House subcommittee report came near the Administration bill, and the full House accepted its provisions: 40 million acres of land, \$425 million in direct compensation paid over ten years, and \$500 million to be paid from state and federal mineral revenues, administered through twelve regional corporations. Shortly thereafter, the Senate Interior committee recommended 50 million acres (20 million of which would not be owned outright), \$500 million from mineral

revenue sharing, \$500 million from the federal treasury, but only seven regional corporations (including one for urban Natives, another for out-of-state Natives) and two statewide corporations. This bill also passed in the Senate with little opposition.

Differences between the two bills were compromised in the conference committee, with the results favoring the AFN position, which emphasized the role of Native controlled regional corporations for the administration of settlement land and money.

Congressional hearings on the various land claims measures produced little organized opposition. Some private individuals spoke out against the bills, but only two organized groups opposed them publicly. The Alaska Miners' Association objected to any settlement, noting that the Indian Claims Commission (empowered to handle unresolved Native claims) had expired in 1951. Furthermore, miners objected to limits on mineral exploration that they feared a large land grant would impose. Another opponent of Native claims legislation was the Alaska Sportsmen's Council, which complained that legislation would reserve the best hunting areas in the state to Natives.

Other major actors in the legislative campaign were always potential supporters of claims legislation. Through fortuitous circumstances and the timing of events as well as a great deal of lobbying, bills were produced to which no major interest objected. There was backsliding in Juneau after Walter Hickel left for Washington, D.C. in 1969, but the land freeze made Congressional legislation an urgent issue for Alaska's governors. By 1971 Governor Egan not only stated that a 60-million acre settlement would be acceptable, but also agreed to a 2 percent share of state mineral revenues with Natives.

The oil industry initially objected to the concept of a generous land settlement, and throughout the campaign, they refused to negotiate with regional or statewide Native associations.² However, the filing of claims to lands on which oil companies held leases, and particularly the filing of petitions for injunctions against their on-going exploration programs (primarily by the Arctic Slope Native Association), made their investments unstable. But most unsettling was the prospect that no pipeline permit would be issued by the Interior Department until land claims were settled.

Finally, the President, in addition to responding to the ramifications of the land freeze, was seeking support among non-White Americans for the upcoming presidential elections, and Native Americans were prominent targets of Administration initiatives. A presidential supporter in the Senate, Alaska's Ted Stevens, was up for election that year, too.

In sum, the legislative campaign provided enough success at critical junctures to give Native leaders confidence in their abilities and to retain the support of followers and allies. The several setbacks were relatively minor; in fact, they probably played a role in continuing interest in the movement among the less committed Natives.

Provisions of ANCSA

The Alaska Native Claims Settlement Act (ANCSA), signed by the President on December 18, 1971, established twelve regional corporations within the state. A thirteenth corporation was also formed for non-resident Natives, but this corporation participates only in the money settlement and receives no

title to land. In addition, all Native villages were required to form village corporations which, with the advice of the regional corporations, were to make land selections and plan for use of the money received under ANCSA.

Direct cash compensation for Native claims given up will total \$962.5 million, of which \$462.5 million comes directly from congressional appropriations and will be paid in installments extending to 1982. The remaining \$500 million will not be paid according to a fixed schedule, but will be received as 2 percent of the mineral revenues from state and federal lands. (The most significant such revenues are those from North Slope oil after production began in 1977.)

Under the land settlement portion of ANCSA, village corporations will receive title to 22 million acres. Sixteen million acres were to be selected by regional corporations on the basis of the land their region contained, not their population. The other two million acres were set aside for special purposes—grants to Native corporations in non-Native cities, grants for Native allotments filed before passage of the act, for historic sites, and for Natives residing away from villages. The land going to each village is determined on the basis of population, subsistence needs, and historic uses.* The village corporation will, however, own only the surface estate of the lands selected. The sub-surface will belong to the regional corporation.

The billion dollars in cash paid out under ANCSA goes initially to the regional corporations, which then decide how much of this cash to distribute to individual Natives and to village corporations. There are, however, certain

*Because of the earlier cash settlement of Tlingit-Haida lands, villages in southeast Alaska could choose only one township; those on revoked reserves could acquire both surface and subsurface rights to their former reserve. Finally, villages could transfer tracts to individuals without restrictions.

constraints imposed by the Act with regard to distribution. Roughly speaking, at least half of the money received must be distributed to individuals and village corporations. In addition, during the first five years of the act, at least 10 percent of the money must be distributed directly to individuals. The regional corporations can, if they choose, distribute a larger proportion of the money, and the village corporations can also pass on some of their money to individual Natives. It will be many years, however, before any money distributed per capita will exceed small, token amounts relative to the amounts of money involved in the settlement.

In addition to the cash compensation received, regional corporations also earn income from investments that is subject to the same minimum distribution rules as the compensation money. Under Section 7(i) of ANCSA, 70 percent of all revenues received by regional corporations from their timber resources and subsurface estate are to be divided annually among all twelve regional corporations. However, several regional corporations have brought law suits against this "shared wealth" provision. To date, no regional corporation has determined that it has received any such revenues from its own timber resources or subsurface estate.

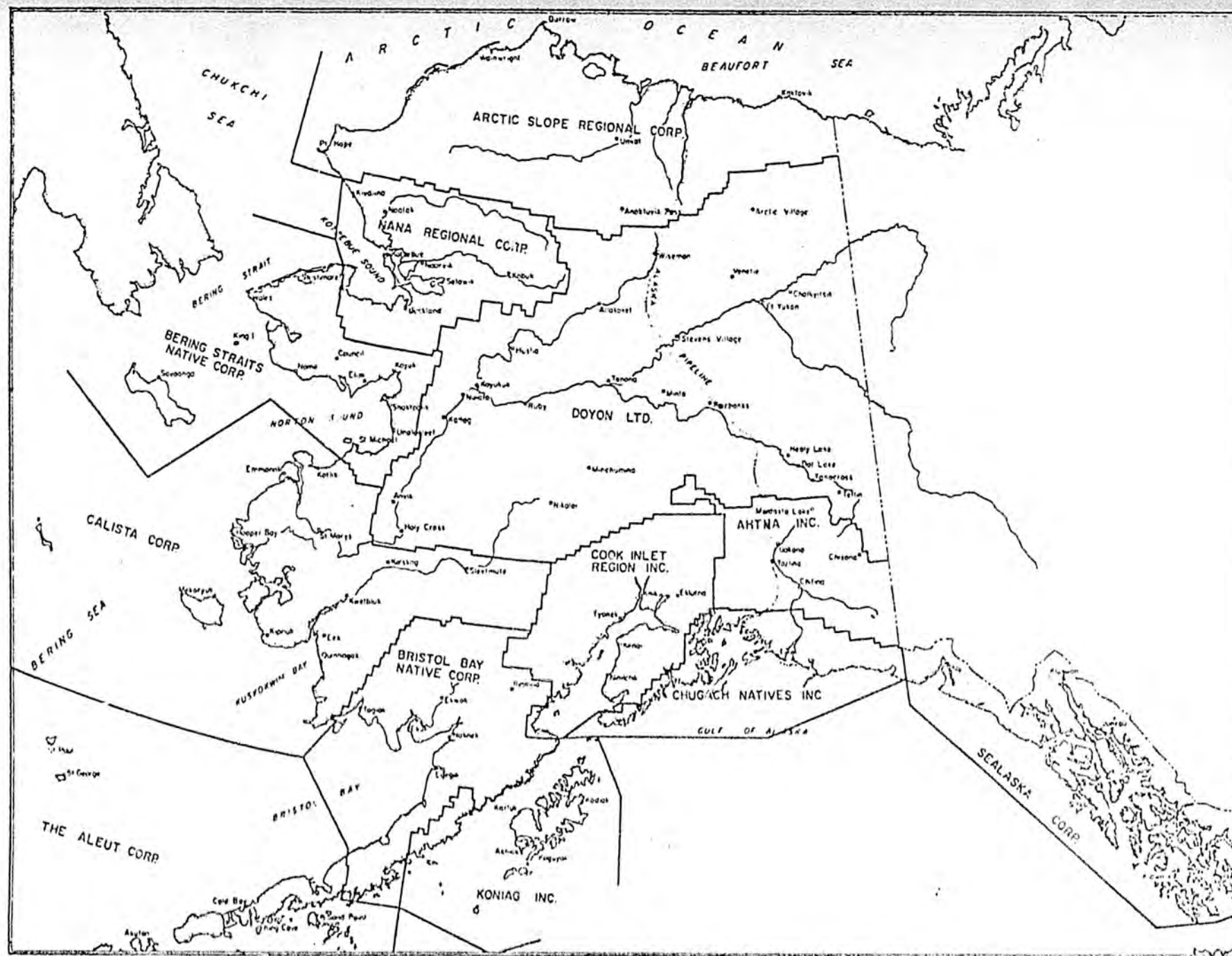
Implementation of ANCSA

Alaska Natives received title to more land than was held in trust for all other American Indians. Upon enactment, the Interior Secretary set aside land surrounding villages before lifting the land freeze. Interior Department withdrawals protected these lands over the three year period in which village corporations could make selections and the four year period in which regional corporations could select.

All money and virtually all land went initially to business corporations; through these organizations, most of the benefits flow to enrolled Natives. Some special benefits and limitations, however, applied to Native regional and village corporations under ANCSA. First, stocks in the corporations could not be alienated for twenty years. This provision insured that Native corporations would not be overwhelmed immediately by multi-national and other non-Native corporations operating in Alaska. Second, money received by individuals and corporations as their share of compensation could not be taxed. (Money received as shares of profits derived from corporate investment, sales, or leases of resources, however, could be taxed.) And corporations pay no property taxes on lands they acquire until 1992, except on lands leased or developed. These provisions protect against erosion of the value of the settlement by federal, state, and local taxes on income and property.

The boundaries of the regional corporations resembled those of the Native associations (See Map 4). With advance payments from the Alaska Native Fund established in the U.S. Treasury for deposit of settlement act money, regional corporations were in operation by mid-1972. Their staffs assisted villages in the regions to become incorporated and to begin planning for village land selections. Geologists and other specialists were employed to aid them in identifying the natural resources of lands they might select. Their attorneys were engaged in analyzing the detailed regulations proposed by the Interior Department to implement the act and in filing appeals for those whose enrollments had been rejected.

By September 1977, the twelve regional corporations had received about \$350 million under the act, about half of this going to village corporations and individuals. Remaining funds were used partly in the administration of the



MAP 4. The Twelve Alaska Regional Corporations

settlement act (an issue in several regional corporations is the considerable overhead costs following incorporation) or invested. Most of the funds retained by regional corporations were invested in banks or securities. Some investment has taken place in new enterprises. The following are some examples: NANA Regional Corporation purchased a hotel in Kotzebue and built a second. The Arctic Slope Regional Corporation bought the department store in Barrow and built a hotel/restaurant there. Sealaska Corporation constructed an office building in Juneau, and Calista Corporation began construction of a high-rise hotel in Anchorage. Bristol Bay Native Corporation purchased the largest hotel in Anchorage. Aleut Corporation purchased two crabbing and fishing boats.

More than 200 village corporations were certified as eligible to obtain land and money benefits under the act, and all completed their filing for title to surface estates by December 18, 1974. In receiving cash disbursements, village corporations have also hired staffs to complete land selections, issue stock, and plan the investment of corporate funds. Many village corporations have also purchased existing businesses or launched new enterprises. The Togotthele Corporation of Nenana, for example, invested in a sawmill and log-home building enterprise in Nenana. The Bethel Corporation built a million-dollar hotel and apartment building. Many smaller village corporations purchased village stores.³

Post-ANCSA Developments in the Unorganized Borough

For-Profit Corporations

The most significant change resulting from the land claims act was the creation of economic organizations operating for profit. Currently, 237 Native corporations (12 regional, 225 village) operate throughout the state, and most function in rural areas which, prior to 1972, were the sites of neither private nor profit-making organizations.

Not all investments in new enterprises have turned a profit, and a few corporations have experienced some heavy losses during their early years of operation.⁴ Reviews of recent shareholder meetings of regional corporations indicate that some have made poor investment choices (which have precipitated some changes in the composition of boards of directors) and some have developed large bureaucracies and payrolls, which have further eroded capital resources. The potential profitability of many longer-term ventures in real estate, minerals, and fisheries and timber is, however, yet to be determined.*

Early positive effects of the corporations are nonetheless clear. First and most important, the corporations are directed by Natives. Although Whites may be found as executive-vice presidents or key managers of regional corporations, only Natives sit on boards of directors and hold shares. Thus, well over 1,000 Natives are currently involved in the management of Native assets and are gaining experience in the operation of business enterprises.

Second, economies of scale are demonstrating that very small villages are not viable economic units. Corporations in these villages have in some cases formed joint ventures with other villages or merged with their regional corporation. This testing of the limits of autonomy and self-determination has not been imposed on Native communities by external agencies as in the past, but has been a result of their own experiences and choices under the settlement act.

*As of the end of 1977, about half of the \$350 million distributed to the corporations has been invested in a wide variety of projects, with major amounts directed to generally conservative business ventures often beyond the home region--hotels, banking, real estate and construction, and fishing, timber, and transportation. By mid-1977, Native village and regional corporations owned more than 10 percent of all hotel rooms in the state, with more to come. Eight regional corporations had entered into exploration contracts with major oil companies.

Third, the corporations have made at least some investments within their region or village areas, providing new sources of capital for local development. There are variations in the degree to which corporations have favored local as against outside locations in investment priorities, and regional corporations especially have looked outside, but the net result has been a substantial increase in available capital supply in areas which were formerly capital-poor.

Fourth, corporations have increased the opportunities of Natives to participate in decisions affecting their lives. Stockholders' meetings are held annually and attract greater attendance than most previous village public assemblages. At these meetings, strategies of local development are sometimes discussed; more important, Natives have the opportunity to question, challenge, and ultimately change the board which has managed corporation funds in the previous year. Such events play an educational role, for Natives learn first-hand how part of the local economic system operates. They also socialize Natives into broader patterns of political participation.

Fifth, Native corporations provide jobs for Natives. In rural Alaska, which is still characterized by a limited number of permanent wage-employment opportunities, corporations are a major supplier of jobs.

Non-Profit Corporations

Although the general role of regional corporations was defined in the settlement act, the legislation contained no provision for the regional Native associations from which they had grown. We have noted that many of these associations conducted a variety of social programs supported by grants or

contracts from government agencies or foundations and new non-profit organizations have been formed in the wake of the settlement act (See Table, next page).

These social programs cannot be operated by corporations whose main responsibility is to earn a profit, except in those cases where government program administration is contracted out to private businesses, such as for delivery of specified services, or where corporations undertake contract construction of public facilities.

Thus, the regional Native associations continue as non-profit corporations, conducting programs in such areas as health, education, housing, and employment assistance in their regions. For example, the Cook Inlet Native Association operates a Native Assistance Center in Anchorage--assisting those Natives new to the city in locating housing, jobs, and special services.⁵ The Tanana Chiefs Conference operates a variety of programs. Its survival school was designed to aid Athabaskan students to develop an identity and ties to their past.⁶ Its health center sponsors health aides who visit Native neighborhoods and villages, diagnosing minor health problems.

Almost all Native regions have established regional housing authorities. These enable regions to apply for federal grants and long-term, low-interest loans for the construction of public housing, which has already led to a significant amount of new construction in rural areas of the state.

Regional non-profit corporations also play important advocacy roles within their respective areas. One such corporation urged airlines serving northwest Alaska to give safety instructions to passengers in Inupiat as well as English. The

Profit and Non-Profit Regional Corporations, 1978

<u>Region</u>	<u>Profit Corporation</u>	<u>Non-Profit Corporation</u>
Copper River Basin	Ahtna, Inc.	Copper River Native Association Copper River Basin Regional Housing Authority
Aleutians	Aleut Corporation	Aleutian/Pribilof Islands Association, Inc. Aleutian/Pribilof Regional Housing Authority
Arctic Slope	Arctic Slope Regional Corp.	Arctic Slope Native Association Inupiat Community of the Arctic Slope Arctic Slope Regional Housing Authority
Bering Straits	Bering Straits Native Corp.	Kawerak Norton Sound Health Corporation Bering Straits Regional Housing Authority
Bristol Bay	Bristol Bay Native Corporation	Bristol Bay Native Association Bristol Bay Area Health Corp. Bristol Bay Regional Housing Authority
Southwest	Calista Corporation	Association of Village Council Presidents Yupiktak Bista Yukon-Kuskokwim Health Corporation AVCP Regional Housing Authority Nunum Kitlutsisti
Prince William Sound-Gulf of Alaska	Chugach Natives Inc.	North Pacific Rim North Pacific Rim Housing Authority
Cook Inlet	Cook Inlet Region Inc.	Cook Inlet Native Association
Interior	Doyon, Ltd.	Tanana Chiefs Conference Tanana Chiefs Housing Authority

Profit and Non-Profit Regional Corporations (Cont'd)

Kodiak	Koniag, Inc.	Kodiak Area Native Association Kodiak Area Regional Housing Authority
Northwest	NANA Regional Corp.	Mauneluk Association NANA Regional Housing Authority
Southeast	Sealaska Corporation	Tlingit-Haida Central Council Southeast Alaska Regional Health Corporation Tlingit-Haida Regional Housing Authority

Bristol Bay Native Association made strong efforts to designate its area as a disaster area after an extremely poor salmon run, resulting in programs aiding fishermen.⁷

Some of the village and regional profit-making corporations make limited grants to the non-profit organizations operating in their areas.* However, this source of funds for the most part is not stable, and managerial and administrative talent is in very short supply.

Government Programs in the Unorganized Borough

We noted above that the Unorganized Borough was an area of no government, at least at the regional level. However, the events of the late 1960s, particularly the land claims movement and ANCSA, have affected radically the nature of government (and Native self-government) within it. In the administration of programs affecting Natives, state and federal decentralization has brought about the creation of a profusion of quasi-governments that have tended to enhance Native power. There have been two major patterns of decentralization: 1) the formation of Regional Education Attendance Areas (REAAAs) in the Unorganized Borough in 1976 and 2) the devolution of federal Indian programs to regional and local Native associations. Additionally, the implementation of state and federal revenue sharing programs has affected Native communities marginally. The effects of the decentralization measures have been varied and at some points contradictory, but we would argue that they are helping to prepare the Unorganized Borough for more advanced forms of regional government in the future.

*Corporate law permits regions to donate up to 5 percent of their profits for charitable purposes.

REAA's in the Unorganized Borough. A factor contributing to the state's decentralization of schools was the transfer of almost all of the Bureau of Indian Affairs' (BIA) educational responsibilities toward Natives to the state Department of Education. This transfer (which is a negotiated one between the BIA and individual school districts) is not yet complete, but the major lines of the Alaska "dual school" system have been erased.

The initial agency to which schools were transferred was the Alaska State-Operated School System (SOS), created by the state legislature in 1970 and given the responsibility for education throughout the Unorganized Borough. Although governed by a board two-thirds of whose members were from rural areas, and granted administrative authority over schools in the Unorganized Borough, SOS had no provision for local decision making. Native leaders campaigned for decentralization of control over education in the Unorganized Borough, and they were supported by educational professionals. This pressure led to the passage in the 1975 legislature of Senate Bill 35. The law made SOS transitional, dissolving it in mid-1976 and replacing it with twenty-one Regional Education Attendance Areas, each with elected school boards controlling all but ultimate fiscal decisions.⁸

The legislation provided that REAA boundaries would follow regional boundaries set under the Native Claims Settlement Act, with some regions containing two or more REAAs; but an additional provision prescribed other characteristics for REAAs, a provision comparable to the statute establishing standards for borough incorporation:

As far as practicable, each Regional Education Attendance Area shall contain an integrated socio-economic, linguistically and culturally homogeneous area. In the formation of Regional Education Attendance

Areas, consideration shall be given to the transportation and communication network to facilitate the administration and communication between communities that comprise the area.

Within each REAA the voters elect a board of from five to eleven members. In addition, every community with a school has a community school committee.¹⁰ Unlike organized borough and first-class city district school boards in the state, authority of the REAA boards is not plenary (they have only those powers delegated from the legislature). They may not establish new schools; but they have broad curricular powers, including the power "to adopt regulations governing organization, policies and procedures for the operation of the schools" and "to develop a philosophy of education, principles and goals for its schools."¹¹ REAA boards may incur debts and contract independently; they hire teachers and staff, set salaries, and engage in purchasing and in disbursing funds. The state provides virtually all of the funds for operating and capital costs, although some assistance is available through federal programs as well; there are no local financial contributions for the support of REAAs.

The effects of decentralization upon the potential formation of new regional governments in the Unorganized Borough are mixed. On the one hand, the REAAs have enhanced local control of school programs. Most rural residents seemed eager to use the new REAAs, doubtless because of dissatisfaction with the old SOS, and they have increased regional identifications. On the other hand, there are some major impediments to the REAAs as potential building blocks for the formation of new regional governments. Most of the REAAs are property poor and cannot generate tax revenues, and since they have an advantageous funding schedule, with all funds provided by state (and some federal) sources, there is little financial incentive for them to seek city or borough incorporation in order to acquire general government powers and to create independent school districts.

Decentralization of Federal Indian Programs. In 1975, a major change occurred in the administration of Bureau of Indian Affairs (BIA) programs under terms of the Indian Self-Determination and Education Assistance Act (Public Law 93-638). Section 2 of the act suggests the major motivation behind its passage:

The prolonged Federal domination of Indian service programs has served to retard rather than enhance the progress of Indian people and their communities by depriving Indians of the full opportunity to develop leadership skills crucial to the realization of self-government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities.

Essentially, this act provided the legal mechanism for contracting the functions of BIA, including their planning and implementation, to Native American groups—leaving only the monitoring of contract compliance in the hands of the BIA.

Administration of the provisions of the act in Alaska has involved a very large number of local and regional organizations that are solely or primarily Native: 1) traditional (tribal) councils, 2) IRA corporations, 3) Native municipalities (mostly second-class cities), 4) village and regional for-profit corporations, and 5) non-profit regional Native associations. Any of these organizations may contract for health, education, or social services with the Secretary of the Interior (through the BIA) or the Secretary of Health, Education and Welfare (HEW).

In rural Native Alaska, the mechanism for application and administration of grants and contracts has been the regional, non-profit Native association, whether or not it is federally-chartered. For example, BIA and HEW Indian

programs for villages in interior Alaska, formerly administered by the Fairbanks BIA office, are now administered through the Tanana Chiefs Conference (a regional non-profit association). Its board has forty-three members; fortyone of these represent the Athabaskan villages of the area, each village having one seat. The board member of the village is elected by the traditional council or IRA corporation (and, in a few cases, by a second-class city) for that area.

Thus, villages, especially smaller ones in which there is no organized municipality chartered under state law, are represented in the regional planning agency. The provision for regional administration reduces per capita administrative costs which would otherwise absorb most of the program funds if these programs were administered by villages.

The administrative staff of the regional association provides general accounting and auditing services for member villages--conducting training in the bush of village accountants, auditing finances, reconciling accounts. A village government specialist on the Tanana Chiefs Conference (TCC) staff is responsible for the organic documents of the member villages or village IRA corporations, and he has engaged in the revitalization of moribund traditional councils. Other TCC administrators have assisted villages in writing grant proposals and administering grant funds from federal and state agencies.

Although this program, like the REAAs, has been in operation too short a time to determine its affects on Native self-government in the Unorganized Borough, it does seem to have revived traditional councils in villages and strengthened the roles of federally-chartered IRA corporations.

Prospects for Regional Governments in the Unorganized Borough. Rural Native Alaska's initial encounter with the concept of regionalism came about

with the rise of regional Native associations in the mid-1960's, and the Alaska Native Claims Settlement Act helped solidify these new regional identifications with the establishment of twelve regional for-profit corporations. The two major processes of decentralization noted above--REAA's and federal Indian programs--appear to have continued the movement toward the development of regional service delivery systems in the Unorganized Borough.

A major obstacle to the formation of organized borough governments in Alaska's rural regions since statehood has been the absence of adequate property tax bases to support education and other local government programs. We have seen, however, that the state government has taken several steps to remove this obstacle through establishment of Rural Education Attendance Areas, a commitment to provide for rural high school programs in rural villages, and major increases in the funding of public education operating and capital costs. In addition, state-municipal revenue sharing has grown, and it is likely that state funding for education and other local government activities will increase in the future as petroleum revenues flow into the state treasury. As a result, rural areas are facing progressively lower relative costs of incorporating as boroughs or as first-class cities, which are legally obligated to cover a local share of educational costs as well as provide support for other government functions.

At the same time, regional corporations and federal and state resource development agencies are gradually introducing new forms of revenue generating activity into rural regions. To the extent that such regions develop tax bases--while also benefiting from 100 percent state funding of the capital and operating costs of education as well as from other state services--urban interests will demand that the rural areas begin to assume a greater part of the tax burden. Indeed, several bills have been introduced in the state legislature over the years

which would impose property taxes in the unorganized borough. Other related bills have proposed to mandate various forms of borough organization in rural areas, just as Alaska's urban boroughs were forced into existence by the Mandatory Borough Act of 1963. It is likely that proposals for state taxation of property in the unorganized borough and for mandatory borough organization will continue to be made. And pressures to enact them are likely to mount as urban interests perceive growing taxable resources and activities in at least some of the presently unorganized areas of the state. In the rural Native areas themselves, however, the formation of new structures (REAs) and the assignment of new quasi-governmental functions to regional non-profit associations appear to have reduced as well as increased motivations for the formation of regional governments.

Since the passage of the Alaska Native Claims Settlement Act, only the North Slope has formed a regional unit of general government, and we now turn to an extended discussion of the North Slope Borough experience.

Endnotes

1. See Robert D. Arnold, et al., Alaska Native Land Claims (Anchorage: Alaska Native Foundation, 1976), for a summary of the Alaska Native Land Claims Settlement Act and regulations developed to implement its provisions.
2. Tundra Times, 17 April 1970.
3. Arnold, Alaska Native Land Claims, 1976, p. 276.
4. See "A Three Year Financial Analysis of ANCSA Regional Corporations." The Alaska Native Management Report, Vol. 6, No. 22 (December 1, 1977), pp. 3-7.
5. Arnold, Alaska Native Land Claims, p. 207.
6. Ibid.
7. Ibid.
8. For a review of educational developments in the Unorganized Borough, see David Getches, Law and Alaska Native Education. Center for Northern Educational Research, University of Alaska, Fairbanks, 1977; and Kathryn Hecht and Ron Inouye, New School Districts in Rural Alaska: A Report on the REAAs After One Year, CNER, March, 1978.
9. Alaska Statutes, 14.08.031(b) (1975).
10. Getches, Law and Alaska Native Education, p. 28.
11. Ibid., p. 30.

CHAPTER VI. GOVERNMENT AND POLITICS IN THE NORTH SLOPE BOROUGH

The North Slope Borough, incorporated in July 1972, is the only Native-controlled regional government in the state and nation. It is also the largest municipality in land area, embracing approximately 88,000 square miles or 15 percent of the state, including the Prudhoe Bay oil field development (See Map 5). Yet, it is also one of the smallest in population, with about 3,600 permanent residents in eight widely dispersed Native villages. We will examine the process of self-government on the North Slope by analyzing the formation of the borough, the expansion of borough power after its incorporation, the uses of power in protection of the Inupiat people and in the regulation of oil and gas exploration and development in the Arctic, the responsibilities of power, and some continuing problems in borough government.

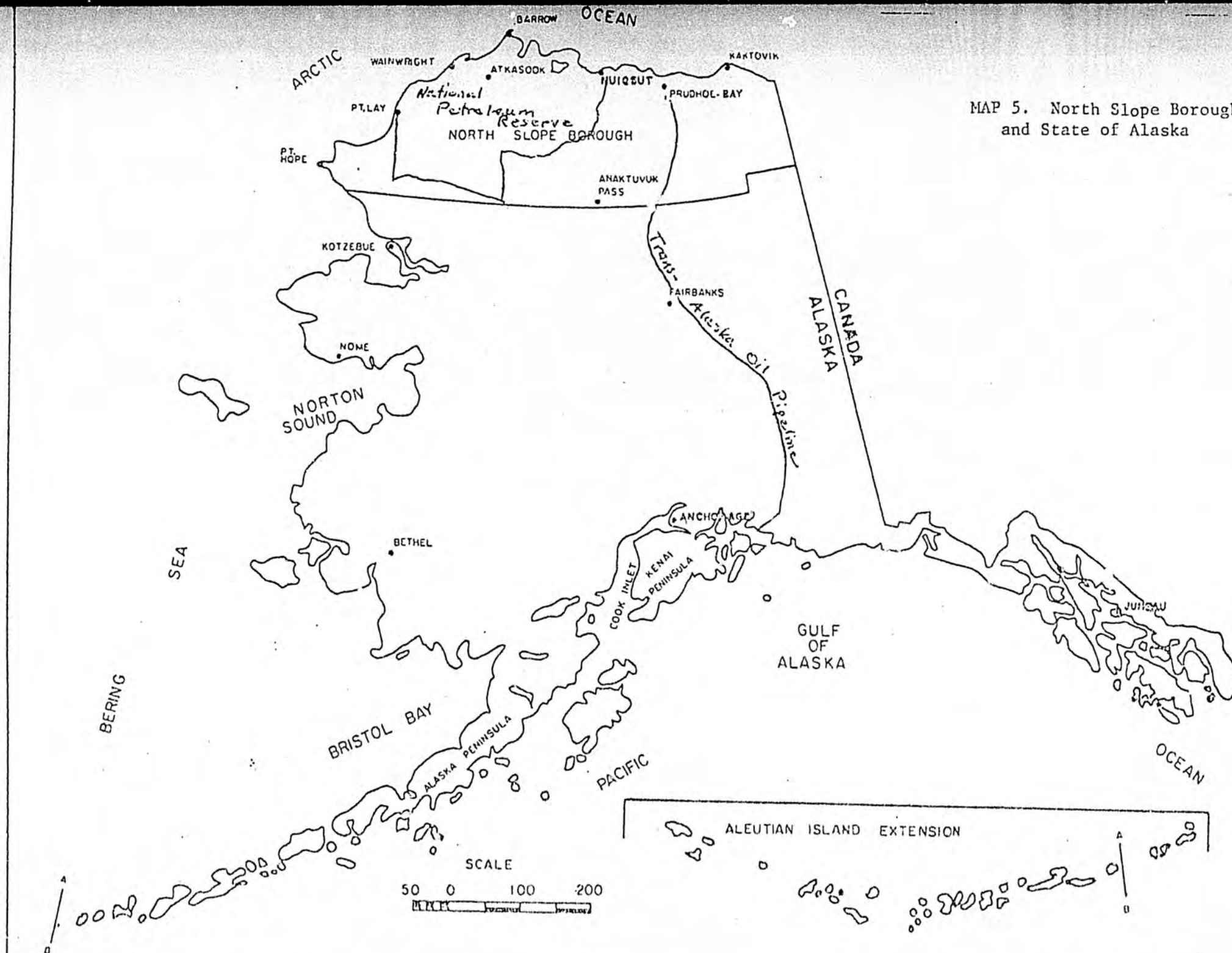
History of Borough Formation

We mentioned above the strength of associations in Barrow before the formation of the Arctic Slope Native Association. Native experience in these associations was a major factor contributing to the early success of the ASNA. The city government, too, had a reputation for vigorous leadership, as noted in the 1968 editorial in the Tundra Times:

The Barrow city council is known as one of the most effective local governments in Northern Alaska--moving forward with energy toward realistic community development. Barrow has zip and go because of its strong local government whose members are calculating and who are not afraid to speak out for their people...

The dynamic leadership in Barrow contrasts to other large Native communities in northern Alaska where governments lack local Native membership, initiative, and confidence.

MAP 5. North Slope Borough
and State of Alaska



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The dynamic leadership in Barrow contrasts to other large Native communities in northern Alaska where governments lack local Native membership, initiative, and confidence.

This was soil in which the idea of borough government quickly took root. In the formal process of incorporating the borough, however, North Slope leaders had first to overcome the state's reluctance to act upon the incorporation petition and, then, oil industry opposition, which has persisted to this day in the form of a series of law suits challenging the borough's authority to tax oil company properties at Prudhoe Bay.

The Idea of a North Slope Borough

The idea to incorporate a regional government of the North Slope people probably began with Fred Paul, attorney for the Arctic Slope Native Association (ASNA). Reporting on the Federal Field Committee study (Alaska Natives and the Land) in 1969, Paul noted its emphasis on the organization of boroughs, self-government, and local control of planning and zoning, adding:

I plan to suggest immediately that the North Slope together with the Kotzebue election district, and possibly, Nome, form one borough to give such protection in case the Federal Field Committee plan is approved by Congress.²

Thereafter, Paul pursued the matter with officers of the ASNA:

Please be advised that I would like to proceed immediately with the creation of a borough up there and would like to have some direction from you as to what areas we should invite in with us.

ASNA board member Eben Hopson of Barrow replied that "The more I think about the prospect of an organized borough, the more I begin to agree with you, that this is perhaps the only way we can have some assurance of control."⁴

The idea developed in the context of the land claims movement when the prospect of a favorable settlement for the North Slope appeared dim. But the idea found support and soon existed independently of the land claims struggle.

Paul established contact with the state Local Affairs Agency (LAA), and in response to his invitation, a local government specialist went to Barrow in 1969 to explain the advantages and disadvantages of various types of municipal incorporation. Upon further written advice from LAA, ASNA sent out sample petitions and Hopson wrote letters to the villages that would be included if a borough were incorporated (the intended boundaries were identical to those of the ASNA). Hopson suggested the borough provide only education and health services areawide. He urged villagers to accept the idea, saying:

We should not feel that we are not ready to assume full responsibility for expanded local self-government because we can hire expertise where we need them. (sic)⁵

Stages in Borough Incorporation

The formal stages in the incorporation of a borough are circulation of petitions, investigation by the Local Affairs Agency, at least one local hearing conducted by the state Local Boundary Commission (LBC), a decisional meeting of the LBC, and, following LBC approval, an areawide election.⁶

In January 1971, ASNA prepared petition forms and circulated them among the villages (a step ordinarily performed by the Local Affairs Agency). Petitioners sought incorporation as a first-class borough, for second-class status would not allow a home rule charter. With no opposition from Eskimos, who comprise about 85 percent of the North Slope's resident population (which excludes transient workers at Prudhoe Bay), signatures were collected easily and sent on to the LAA. However, the agency initially rejected the petition, claiming that the required 25 percent of the area's registered voters had not signed it. LAA then discovered that in fact ASNA had secured 121 more signatures than required by law and accepted the petition in May.

Action on borough formation was stymied until mid-November. The official reason for inaction was the need for time to complete the LAA report. In fact, the Governor awaited the start of the legislative session when several Administration bills would be introduced to spread revenues from Prudhoe Bay throughout the Unorganized Borough. When ASNA threatened to seek an injunction to force the Governor to direct the LBC to hold hearings on the petition, he complied.

The Local Boundary Commission held a hearing on the ASNA petition in Barrow in early December 1971. The hearing began with Joe Upicksoun, ASNA president, who said the primary motivation behind the proposal was a desire for the "maximum amount of self-determination for the people." He maintained that existing conditions on the Arctic Slope were deplorable: federal agencies had been the worst violators of the environment; the state had not provided land use planning; and lack of local government powers threatened depredation of the North Slope comparable to that of Nome, Juneau, and Fairbanks.⁷ Native village officials were questioned about transportation on the North Slope, number of school-age children who had to go outside their villages to attend school, English language proficiency of the population, and its sentiments on the proposed borough. A major theme in the testimony of Native witnesses was that borough government was necessary in order to provide high school education on the North Slope. (Then, education only to the eighth grade level was available locally.)

A series of White officials and consultants also supported the petition: the Barrow city manager, who listed problems the city of Barrow itself could not resolve and that the state continued to neglect; an ASNA consultant, who argued that the petitioners had already more than fulfilled standards for borough incorporation; a representative from the Bureau of Indian Affairs (BIA), who

found local planning and leadership superior to that at the state level and foresaw no problems in transferring BIA schools to the borough. In fact, only one mildly hostile witness appeared at this hearing (see below).

After compilation of a record on the ASNA petition, the Local Boundary Commission held a decisional meeting in Anchorage in February 1972. Attending this meeting were LBC members (lay persons representing the different regions of the state); officials of the Local Affairs Agency; representatives of ASNA and the Native American Rights Fund (assisting ASNA); and oil company representatives. The chairman of the LBC, a former Alaska Legal Services attorney regarded as sympathetic to the petitioners, dismissed procedural objections from oil company attorneys, saying court rules of evidence did not apply.

There was lengthy discussion about the extent to which the North Slope met the statutory requirements for borough formation. Members of the LBC interpreted their function to be a figurative application of these requirements. For instance, recognizing that transportation systems did not interconnect North Slope villages, the members pointed out that transportation to Juneau was even more inconvenient. Members also appear to have been convinced by financial reports, indicating the ability of the new borough to finance school and health services with a low mill rate, and a report prepared for ASNA by a private consulting firm indicating that the petitioners met incorporation standards. The LBC unanimously approved the petition for establishment of a first-class borough with areawide powers of education, taxation, and planning and zoning.

Thereupon, the ASNA prepared for an election on the North Slope. The association chartered a plane so that lawyers, ASNA board directors, and candidates for election to the borough assembly could visit all villages in the

region. Voters approved incorporation by a vote of 593 to 33. Eben Hopson, who had resigned from his post in the Governor's office to run for election, won the mayoral race. In a post-election speech, Hopson promised oil companies that the borough would not tax excessively, saying that the millage rate on real property would remain at five mills for at least five years.⁸

The Lieutenant Governor of Alaska certified the election on July 1, 1972, but the campaign for borough incorporation had not yet been won. Before considering the legal suits that clouded the grant of borough government power to the North Slope Natives, however, let us examine the role played by the state government.

Role of State Government

We noted that the state had delayed holding hearings on the ASNA petition. The reason for this delay became clear when Governor Egan, in his State of the State message in January 1972, proposed three bills to the Legislature: HB 596, to form regional boroughs from the Unorganized Borough; HB 597, to assess and distribute property taxes in the Unorganized Borough; and HB 598, to tax property used for exploration or transportation of unrefined oil and gas. The effect of these bills was to undermine the ASNA petition. The first bill, if enacted, would remove the power of approving borough formation from the LBC and place it in the legislature, making unlikely the formation of a North Slope Borough as sought by ASNA. The second bill would spread tax revenues from Prudhoe Bay throughout the Unorganized Borough, reducing considerably the amount available for use on the North Slope. The third bill would deny any new borough the power to tax oil or gas properties, leaving untouched the ability of the Kenai Peninsula and Anchorage boroughs to tax such properties.⁹

Kotzebue Native leader Willie Hensley, then a state senator, believed Egan's proposals would have an adverse effect on the ASNA petition. He asked the legislature to defer consideration of any tax bill for the Unorganized Borough until after the LBC's decisional hearings in Anchorage.¹⁰ The Egan Administration's legislative package on the Unorganized Borough did receive attention at the LBC meetings. Most LBC members felt the bills stood little chance to pass that legislative session;¹¹ nonetheless, the oil companies' lawyer and an ASNA consultant were questioned closely on the specific ramifications of the bills.

The state Attorney General also played a role in the state's apparent opposition to the formation of the borough. In testimony to the local government committee of the State House, he said that revenue from taxation of oil and gas property was a state resource, not the exclusive property of areas where the property was located. And the report of the Attorney General submitted at the time of the Anchorage LBC meeting questioned the qualifications of the North Slope people for self-government.¹²

When the oil companies filed suit against the LBC, protesting its approval of the ASNA petition, Willie Hensley maintained that the Egan administration had urged this action secretly. He said his conversations with oil companies had given him the impression that the Attorney General's office was encouraging a suit. While both the Attorney General and the oil companies "categorically denied" they had collaborated to sue over the incorporation of the North Slope Borough,¹³ the earlier vacillatory policy of the Egan administration gave credence to the charges.

Oil Company Opposition

Oil company opposition, in fact, had developed slowly. At the Barrow hearing a single lawyer appeared to represent four oil companies. His objections were primarily procedural: the Local Affairs Agency had failed to make its report to the LBC before that hearing; LBC could not legitimately act on the petition because it called for a local government boundary change, which was subject to legislative approval; and the state legislature was in any case obligated to consider the broader statewide implications of organizing a North Slope Borough.¹⁴

The companies submitted only two loosely argued statements for the record. The first, submitted by the lawyer representing British Petroleum, Atlantic Richfield, Humble and Mobil, objected to the inequity of the incorporation of Prudhoe Bay and to infringement of state interests were the borough formed. The second was a legal opinion of another attorney submitted at the request of the Alaska Oil and Gas Association, raising constitutional and statutory objections to borough formation.

The oil companies' lawyers also attended the decisional hearing in Anchorage. They introduced procedural objections to the way the record had been compiled and to the manner in which testimony was taken, arguing that this "confused the record" and made it impossible for anyone to learn what the basis of the LBC decision was.¹⁵

Their substantive objections related to three areas. First, the borough form was inappropriate, for "adequately financed municipalities or special-purpose service areas" would be more effective in meeting needs such as education. Second, Prudhoe Bay would contribute most borough taxes while

receiving either no benefits or negative benefits: "The kind of help we'd get might be more than we could stand." And third, once incorporated, the borough would never again "have to run the gauntlet of state government."¹⁶

As we have noted, these arguments did not sway the members of the Local Boundary Commission. Thus, in late March 1972, seven oil companies and five industrial firms filed a petition at Anchorage Superior Court for judicial review of the LBC finding. The companies also moved for a summary judgment which would stay the holding of North Slope Borough incorporation elections. However, the Superior Court denied a summary judgment in June 1972.

The companies then moved to stay the certification of the borough incorporation by the Lieutenant Governor, but this motion was also denied by the Superior Court on June 24, 1972, and the petition for judicial review was denied two days later. As a result, the oil companies sued in Superior Court.¹⁷ ASNA applied for permission to intervene in this suit against the Local Boundary Commission (LBC). (Although ASNA was the proponent, the oil companies did not name it as a party to the suit.) Questioning the objectivity of the Attorney General, who represented the LBC, ASNA sought its own representation.

The oil companies made three major arguments to the Court. First, LBC had not reviewed properly the standards of borough incorporation. LBC had prepared no findings of fact; and as a lay agency, it was incapable of making statutory interpretations. Most important, nothing in the record proved that the geographic and transportation standards had been met.

Second, they argued Prudhoe Bay was included within the borough illegally. It was isolated from other populated areas in the borough and more connected with cities outside. It would provide 98.5 per cent of the assessed valuation of the borough but would receive no services:

What can the borough give the appellants in the way of protection, opportunity and benefits which bears any fiscal relation to the taxes to be paid by the appellants, which will support virtually all of the borough's functions.¹⁸

Third, the companies argued that incorporation of the North Slope Borough in effect required a "boundary change" in the Unorganized Borough, and that the LBC was not empowered to make boundary changes by itself. Its discretionary power lay only in "considering" proposed boundary changes and "presenting" them to the legislature. In the opinion of the companies, legislative approval of the petition was necessary, for it would influence the potential tax base of the Unorganized Borough.

Deciding in January 1974, the Supreme Court found for the borough and state, rejecting all arguments of the oil companies.

For its first year and a half, then, the North Slope Borough operated without full legal sanction. This period was extremely influential in the determination of the future course of borough operations and it thus warrants separate consideration.

The Borough at Creation

At its formation in July 1972, the North Slope Borough government comprised eight people--five elected members of the borough assembly, the borough chairman (later changed to mayor), the borough clerk appointed by the mayor, and one secretary.* Their responsibility was to establish a borough in an

*The following discussion of North Slope Borough policies is based on field research in Barrow and Pt. Hope, Alaska from June 1977 to January 1978. This research included a review of borough files and documents and interviews with borough administrators, assemblymen and consultants as well as officials of regional and village corporations.

area that had previously had no regional government. To accomplish this purpose, they had only their personal and political resources. The borough's "coffers" were empty: it had no funds to pay salaries of the administration or assembly, to rent quarters, hire expertise, procure equipment, or assume responsibilities (especially education) which it was required by law to undertake. Although friends and allies promised support, this, for the most part, could not be realized immediately.

Upon establishment, boroughs are granted \$25,000 for start-up costs by the Local Affairs Agency. This money, however, could not be transferred immediately, for LAA required formal notification of certification of the borough's incorporation. The Ford Foundation had promised \$100,000 to the borough, but this too, was some time in coming. The United Presbyterian Church promised \$85,000, yet its cheque did not arrive for several months. An obvious solution--to tax the property at Prudhoe Bay--was not feasible because of the companies' suit. Until that suit was resolved, oil companies would pay no property taxes to the borough. Caught between the need to spend immediately to fulfill legal obligations and the lack of resources on hand to spend, the administration and assembly borrowed money from friends and sold revenue anticipation notes.

In short, the creation of the North Slope Borough did not represent the end of conflict. Questions as to its legitimacy as an institution continue today. As we shall note below, the financial basis of the borough has also been under continuous restriction and attack. And borough policies--both those designed to protect Eskimo residents and those planned to regulate the development and use of North Slope non-renewable and renewable resources--have embroiled the North Slope government with state, national, and international agencies.

Expansion of Borough Power

The Alaska State Constitution provides for "maximum local self-government" with the proviso that "A liberal construction shall be given to the powers of local government units." (Article X, Section 1). Further, the Constitution stipulates that "A home rule borough or city may exercise all legislative powers not prohibited by law or by charter."

ASNA had petitioned the state for incorporation as a fully empowered first-class borough. In hearings, members of the Local Boundary Commission considered limiting these powers, even to the extent of changing the proposed class from first to second.¹⁹ In their action, they decided to accord the new borough only the mandatory powers of borough governments--those of areawide education, planning and zoning, and assessment and taxation.

Forming a Home Rule Borough

Within a year after the borough had formed, when it had established control over the school system, hired a planning director, and, by retaining professional planners and assessors, had begun the task of assessing real property on the North Slope, the borough mayor and assembly moved toward the formation of a Home Rule Charter.²⁰

The seven members of the Home Rule Charter Commission were popularly elected. They met from February 1973 to February 1974, holding sessions in the outlying villages as well as Barrow. The charter they produced did not differ significantly in form from charters of other Alaska cities and boroughs.²¹ It simplified the process of enlarging borough functions by providing a general foundation and by specifying the mechanisms for transfer of village powers to the borough.

The most significant factor about the charter was its frame of reference: It was a "home rule" constitution for an Alaska Native region, and it provided a source of authority partly independent of the state government. Thus, the borough assembly could enact ordinances which went beyond or otherwise varied from the state municipal code. For instance, it could exempt from property taxation all property valued at less than \$20,000 (which means most Native housing units); it could design special sales and use taxes applying only to the heavy equipment operating at Prudhoe Bay; and it could restrict the sale of municipal property (particularly housing lots) transferred from villages, insuring that these would not fall into the hands of non-Natives.²²

The Power to Tax

A more important matter was the creation of an independent ability to tax energy resources being exploited at Prudhoe Bay. This process was made tortuous by the strained relations which developed between oil interests and the state legislature during the 1972 session. Instead of enacting legislation on the Unorganized Borough, which would protect company interests at Prudhoe Bay, the liberal 1972 State Legislature enacted oil and gas revenue and regulatory legislation.

In response to this legislation, the oil industry threatened to stall construction of the pipeline until the 1972 acts were repealed or substantially modified—threats considered seriously in view of the state's economic stake in pipeline construction and the national energy crisis then developing. Therefore, Governor Egan called the Legislature into special session in 1973 and urged enactment of new oil tax and regulatory legislation altering that passed the

previous year. This new legislation included proposals that would have had the effect of depriving the North Slope Borough of most of its authority to tax oil company property.

The borough responded by hiring one of the most effective lobbyists in the state, who negotiated a compromise that left the borough with its tax authority, but limited its rate of property taxation to \$1,000 per capita (raised to \$1,500 in 1976) and its sales tax on energy exploration and production properties to \$1,000 per sale. The state also levied a 20 mill property tax on all oil exploration, production and transportation property in the state against which oil company taxes paid to the borough would be credited. However, the borough's previous intent to tax leases was blocked by the legislation.²³

Within a year of this confrontation, borough and oil company officials met to resolve outstanding tax issues. In the words of the Mayor:

We got together with the oil corporation lawyers and lobbyists and agreed to the terms of a truce. We settled a \$15 million tax dispute for \$5 million; agreed to suspend our sales and use tax for a period of time; and the oil corporations agreed not ²⁴to oppose our Capital Improvement Program and our municipal bond sales.

The tax settlement enabled the borough to collect taxes owed it by oil companies, retiring outstanding notes. It also allowed the mayor to expand the size of the borough and school district administration, increasing the number of functional departments and borough personnel and developing an apparatus which could administer regionwide programs. And oil company support of the fiscal program of the borough enabled it to sell bonds in support of its capital improvements program (discussed below).²⁵

Transfer of Powers to the Borough

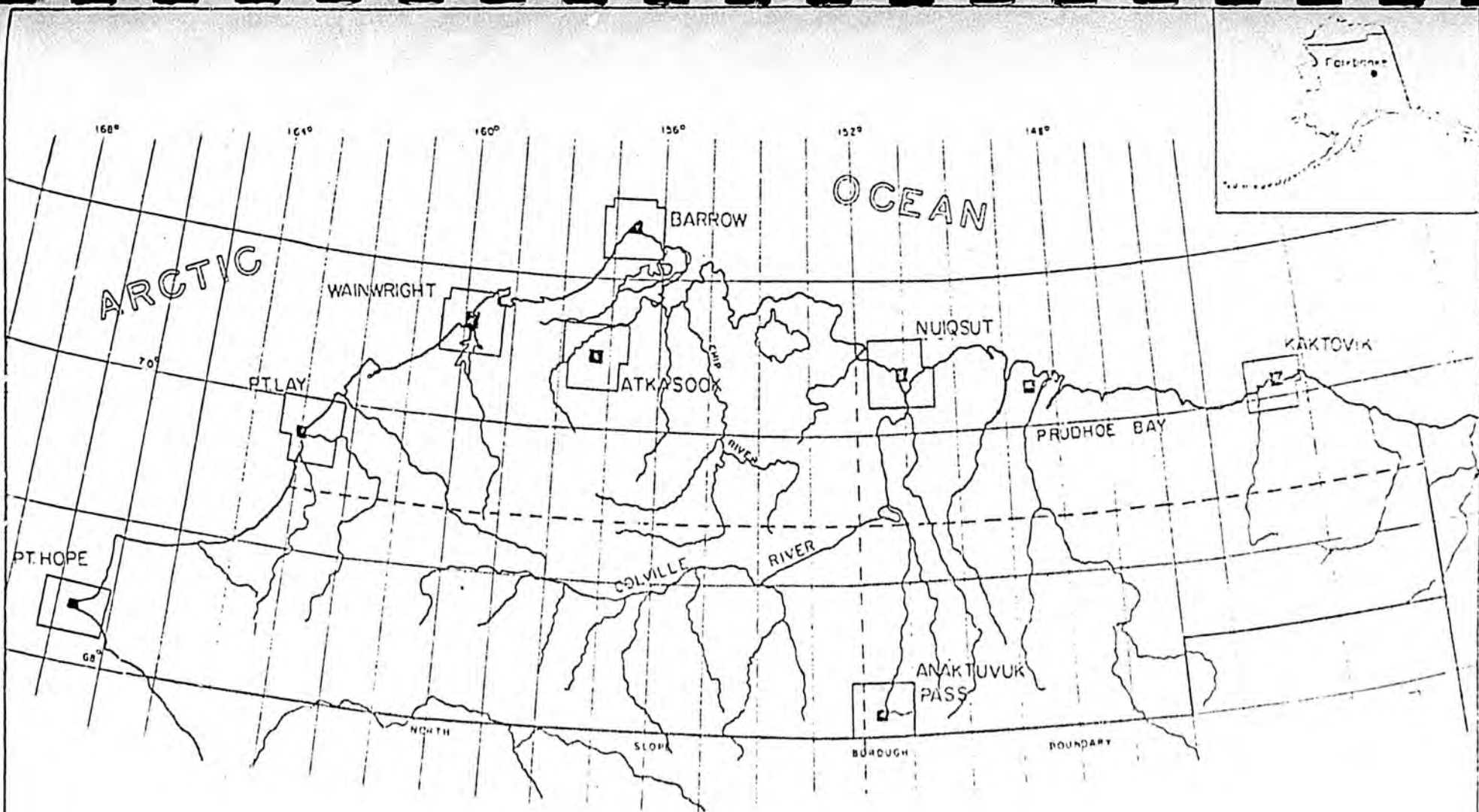
To this point, borough programs had been limited territorially to Barrow, the largest population center on the North Slope, comprising about two-thirds of the 3,600 borough residents. The new taxing authority made feasible the extension of borough powers area wide to all outlying villages (See Map 6).

Of the eight communities on the North Slope, only the city of Barrow had a population large enough to support some local services before borough formation (See Table 1 below). The next two largest communities, Pt. Hope and Wainwright, could support part-time constables but little else. The remaining two original villages--Anaktuvuk Pass and Kaktovik--along with the new "pioneer" villages,* Pt. Lay, Nuiqsut, and Atkasook, were too underpopulated and resourcepoor to exercise any of the powers granted Alaska municipalities in state statutes, and two of these latter villages remained unincorporated in any case.

Additionally, centralization of powers in the borough would presumably make more efficient the delivery of services and the administration of borough programs. And centralization would enhance the bargaining power of the borough government vis-a-vis the state and oil companies.

In late 1972, the borough mayor corresponded with mayors of the villages, urging villages to transfer their municipal powers to the borough. He argued that the borough had the property tax base to support governmental programs that villages lacked. Most villages agreed to transfer the powers sought, but they did

*These are villages where there had been historically an Eskimo settlement but which in 1971 had fewer than 25 residents. As villages, they were eligible to select surface estate under ANCSA.²⁶ New communities have been established in each village since 1974, primarily through migration of Barrow residents.



SCALE = 1" = 65

SOURCE: North Slope Borough, General Information and
Economic Facts, December 1975.

NORTH SLOPE BOROUGH
Incorporated July 1, 1972
Size: 88,281 Square Miles
Scale 1" = 65 Miles

MAP 6.

Table 1. North Slope Borough Population
By Village, 1977

<u>Village</u>	<u>Population</u>	<u>Municipal Status</u>
Barrow	2,250	First-class
Pt. Hope	400	Second-class
Wainwright	400	Second-class
Anaktuvuk Pass	150	Second-class
Nuiqsut	150	Second-class
Kaktovik	120	Second-class
Atkasook	80	Unincorporated
Pt. Lay	50	Unincorporated
Total	3,600	

SOURCE: Alaska Consultants, Inc., Baseline Studies of the Manmade Environment: The Beaufort Sea Region, January 1978 (draft); "Official Statement of North Slope Borough, Alaska Relating to \$51,000,000 General Obligation Bonds, Series H," June 15, 1977.

not follow procedures mandated by law. In September 1973, the mayor requested the transfer of the fifteen major powers to the borough (of the twentytwo powers on the state's municipal list), specifying the procedures to be followed in detail. Most villages did so immediately. Presently, the borough holds these fifteen powers on an areawide basis.

However, some objections developed in the course of implementing these powers which have slowed the process of borough unification. In Anaktuvuk Pass, after an expenditure of \$2.5 million on the construction of a village school, the contractor employed by the borough administration had not completed the structure. Villagers were dissatisfied with the design and construction and irritated that after such an expenditure they still had no school. They faulted the borough and some even talked of secession from it. In Pt. Hope, villagers were promised both new housing and schools and assistance in the relocation of their village. The borough was slow to keep these promises; when it did in 1975,

its contractors failed to consult with village people. They too were incensed, and angry residents chartered a plane to Barrow and demonstrated at an assembly meeting.²⁷

Finally, on several occasions the city of Barrow has resisted transferring powers to the borough. Partly, the disagreements in this case reflected personal and institutional rivalries between the two government units. But there have also been questions about the borough's ability to implement programs speedily in the city of Barrow and the legality of borough procedures in the acquisition of land and structures owned by the city. Notwithstanding these conflicts between the borough and Barrow, Pt. Hope, and Anaktuvuk Pass, the North Slope borough today has the reality if not the semblance of unified city-borough government, making it one of the strongest regional governments in the state.

Uses of Power: Protection and Enhancement of the Interests of Alaska Eskimos

In three general areas, the North Slope Borough has used its centralized power effectively to further the interests of Natives. It has acted as the chief spokesman for Natives still engaged in subsistence hunting and fishing; it has designed and begun implementation of a capital improvements program which will improve markedly the living conditions of North Slope residents; and it has enhanced Native cultural identity.

Defense of Native Subsistence

We noted above the role of restrictions on subsistence hunting in the formation of Native associations in the 1960s. The settlement act, however, made no provisions for subsistence hunting on federal lands (although these have been discussed extensively by the authors of congressional legislation on related Alaska lands issues). After statehood, hunting and fishing were regulated by the

state Department of Fish and Game and the Board of Fish and Game, which set limits on annual harvesting. These regulations have been enforced upon both Native subsistence hunters and White sport hunters.

In 1976 state fish and game authorities determined that the Arctic caribou herd was declining--due to such factors as natural predation, overgrazing, and increased harvesting. Thereupon, the Department of Fish and Game issued no permits for caribou hunting, making harvesting of caribou illegal throughout this region. These new regulations had little effect upon sport hunters, but they created conditions of hardship particularly for Natives living in interior areas where sources of animal protein other than caribou are not available, and where stores frequently do not stock meat products.

The North Slope Borough responded quickly to the "caribou crisis." The borough mayor wrote letters of protest and asked other state officials to exert pressure on state fish and game authorities.²⁸ The borough game management coordinator questioned the methodology used by the Department of Fish and Game in determining that there was a decline of the caribou herd. And the borough conservation and environmental security department officials collected reports of caribou sightings, which they believed to indicate that the herd was near its normal size.

For those areas of the borough especially reliant on caribou meat, the borough administration distributed emergency supplies. Finally, the mayor and assembly set up a special borough-wide fish and game board with representatives from each village, inviting state fish and game officials to meetings of the board. These meetings were an effective mechanism for the expression of protest against state regulations.

In August 1977, the state Fish and Game Board altered regulations to permit hunters to harvest one caribou per license. This change in regulations was due in no small part to pressures from the North Slope Borough.

Then in early 1977, Alaska Eskimos were faced with another crisis--a moratorium on the hunting of bowhead whales, proposed by the International Whaling Commission (IWC) of which the U.S. is a member. This proposed ban, too, was the result of surveys indicating a decline in the species population. The whale crisis, however, potentially affects Natives far more deeply than regulation of caribou hunting. First, whales are a central part of the culture of the Eskimos in this area. Whaling festivals in the fall and spring are integral parts of community activity. Villagers travel the "festival circuit," joining festivities in nearby villages. All members of the community--irrespective of their success in the hunt--participate in the distribution of food. And festivals are the occasion for performances of Eskimo songs, dances, the retelling of community legends and tales, and for the exchange of gossip and news among relatives, neighbors, and friends. Second, whale meat and muktuk are essential parts of the Eskimo diet--providing the major source of protein throughout the long winter months. Eskimos who have lived in urban areas of the state for over a decade still hanker for this "Eskimo food," receiving it as barter item, purchase, or gift from those who still whale. Eskimos who are part of the cash-economy, holding down permanent, high-paying jobs, may still take "subsistence leave" to join a whaling crew during the spring whaling season. Too, whale by-products such as, baleen are among the raw materials used in a revived crafts industry.

The borough administration and assembly questioned estimates on the decline of the bowhead. Whalers who were interviewed said those measuring the bowhead population relied on village hearsay about the number of whales which were struck but lost; they had not seen any survey team approach the actual whaling areas and thus could not accept as "scientific" the estimates on the decline in this species. Borough leaders also moved vigorously to protest the moratorium. Appearing with supporters from the Canadian Western Arctic, Labrador, and Greenland, Mayor Hopson testified before the National Marine

Fisheries Service hearings in Washington in September 1977. He cited aboriginal rights to subsistence bowhead whaling as basic human rights over which the IWC had no jurisdiction. And he called for a cooperative, comprehensive bowhead stocks research and management program to determine whether the bowhead was in fact a depleted species in need of subsistence hunting restrictions.²⁹

Supported by the Arctic Slope Regional Corporation and the Barrow Whaling Captains Association, the borough organized a new Alaska Eskimo Whaling Commission which, in turn, authorized Mayor Hopson to speak for Eskimo whalers around the Bering and Arctic coasts. When Hopson returned to Washington to testify before the IWC in October 1977, he was joined by whaling captains as well as Arctic Slope Regional Corporation directors. The borough solicited and gained support from conservation organizations--including the Friends of the Earth and the Sierra Club--from the Alaska congressional delegation and the state administration, and from most opinion journals in the state.

The Carter Administration did not file an objection to the IWC ruling, but it did respond to Eskimo pressure. At a special meeting of the IWC in Tokyo in December, attended by a delegation of Inupiat whalers and state officials, the U.S. succeeded in convincing the IWC to lift the moratorium in exchange for a subsistence quota of twelve whales taken (or eighteen whales struck) for Alaska Eskimos. Initially, Mayor Hopson indicated whalers would ignore the quota; but he retreated from this position stating the Alaska Eskimo Whaling Commission would observe the quota and cooperate with the National Marine Fisheries Services bowhead research plans for 1978 if the NMFS gave recognition to the Alaska Eskimo Whaling Commission management plan.

The North Slope Borough has had mixed success in its protection of Native harvesting of caribou and whales. It is clear that the advent of self-government

has allowed North Slope Natives to defend their interests in these resources more effectively, certainly by providing a mechanism through which protests can be launched and national attention riveted to issues concerning Natives.

Distribution of Public Goods:
The Capital Improvements Program

The second general area in which the North Slope Borough has used centralized power to advance Native interests has been the delivery of basic services--education, housing, health care, sanitation and water supply, public safety, and roads. We indicated above that the social and economic conditions of rural Natives were seriously disadvantaged upon statehood. Some of these were addressed minimally during the 1960s. For example, on the North Slope, U.S. Navy Department authorities in 1962 finally permitted Natives to purchase natural gas from the Naval Petroleum Reserve at a price only slightly above cost. Sporadic efforts were made to improve public health care and increase funding for the local BIA schools. But a manpower center was not opened in Barrow until 1970, and the housing needs of Natives were recognized only through federal mortgage loans advanced to the most creditworthy (fewer than forty loans were granted North Slope Natives during the 1960s).

Education was considered the most serious problem and concern over sending children more than a thousand miles away to boarding schools for high school education was one of the important factors supporting borough formation. In 1972, the borough began the process of assuming responsibility for education areawide. This imposed great financial burdens, for state-operated schools in the area were not constructed soundly (the State Fire Marshall declared them unsafe in 1973), and the BIA did not honor its promise to provide transitional funding and improvements to the schools it transferred to the borough school district. The

immediate need for construction of new schools, and the accumulating problems with substandard housing, inadequate health care, inferior sanitation systems, and the like, explain the borough's haste in designing and implementing a capital improvements program (CIP).

The basic CIP design was completed in May, 1974 with these stated goals:

This is ... a program designed to provide a basic level of public facilities and services which should be in existence now and should, in fact, have been here for many years. It is a program to provide basic public facilities and services that do not now exist—that have never existed here...³⁰

The CIP was planned to implement basic services within a period of six years initially at a projected cost exceeding \$60 million, which now exceeds \$150 million. The program began in 1975 with construction of a school at Anaktuvuk Pass, a Vocational-Educational Technology Building in Barrow, and low-income housing units in several villages on the North Slope; it also included construction of roads and airports and installation of electric generators.

However, within one year, this program had encountered serious problems in the management of construction, in supply of labor to complete projects, and in the inflated costs and financial underwriting of the CIP. From 1972 until 1978, the borough did not use standard bidding practices in letting contracts.* Instead, interested firms were contacted and asked to submit proposals; the firms were then scored on a point system based on previous construction experience in the Arctic, cost, and on likelihood of successful implementation of borough employment goals.

*In January 1978, the borough assembly passed an ordinance requiring competitive bidding on borough contracts. As of this writing (May 1978), there is insufficient data to determine its effects.

This management system was designed to employ a local labor force, using outsiders only for supervisory tasks. A vital objective of the program was thus to provide jobs for North Slope Natives and to train them in construction skills. But the goals of efficiency and speed in basic construction soon conflicted with the goals of employing local laborers and using "supervisory teams." In most of the villages, trained workers were not available. Management firms were not equipped to train workers and thus were saddled with employees who could not complete the tasks required and who quit or were fired for failure to perform. (The turnover rate of Native employees on some projects exceeded 50 percent). Requisite planning was not done before some projects were initiated, resulting in costly delays and in the construction of more than one project in villages too small to provide sufficient laborers. This, in turn, led to the importation of outsiders, antagonizing Natives who had been promised that only Natives would gain jobs from the CIP. Moreover, inflation consequent to pipeline construction, and the very high costs of Arctic construction generally, made early estimates of CIP costs unrealistic, forcing the borough administration to seek additional funding authorization from the borough assembly to complete projects.

Finally, the State Legislature's per capita limitation on the borough's property taxing authority impaired planning of the CIP. In order to circumvent revenue limits, the mayor used a provision of state law which apparently allows local governments to tax without limitation to pay off bonds. The oil companies in 1976 sued the borough over the interpretation of this provision, and the suit prevented the borough from marketing additional general obligation bonds. This brought most construction programs to a halt. More than 200 borough workers were laid off and all CIP projects except a number that were nearly completed were closed down. The continuing CIP projects were then funded from the borough's operating budget and local taxes were increased. In the 1977

legislative session, the borough's lobbyist and his allies succeeded in attaching an amendment to a general authorization bill which would allow municipalities to tax in order to finance interest and repayment of bonds. This permitted the borough to sell \$50 million more in bonds and resume CIP projects. The future financing of these projects remains uncertain, however, for the legislation was later ruled unconstitutional in the lower courts and is now under appeal.

In response to these difficulties, the borough has revised its capital improvements program. Current priorities include construction of life/health/safety and basic support projects for each village:

These include electrical generation, a health facility (sewage disposal, the availability of safe water at the village's central watering point and a clinic which meets the guidelines established by the Alaska¹ Area Native Health Service) and an airstrip which can be used year-round.

The three years' experience with major capital projects indicates both successes and failures. The package of programs was optimistic and was adversely affected by labor supply conditions, variable financing, cost inflation, and management deficiencies. On the other hand, the borough has reduced unemployment on the North Slope significantly, providing jobs for virtually all who apply, and it has begun to improve village services systematically.

Enhancement of Cultural Identity

A third general area in which the borough has used centralized power has been in the enhancement of the status of Native (particularly Eskimo) Alaskans through a cultural renaissance movement with political overtones. In the 1960s, leaders of the Arctic Slope Native Association were quick to criticize the Bureau of Indian Affairs for educational programs that aimed to assimilate Eskimos. Not only was educational opportunity limited to a few who were sent outside the

region to high school and college, but programs within the region were conducted solely in English and geared toward the assimilation of Natives into White society. Eskimo children were punished if caught speaking Inupiat in school, they were not taught the history of their culture, and they were taught by Whites who were often prejudiced against Native students.

The formation of the borough made possible the creation of the North Slope Borough Independent School District. For the first time, Natives could elect members of the school board, and through it control the school budget, hire and fire superintendents and teachers, and influence teaching and programs in individual schools. We have noted the impetus given school construction, so that today there are high school programs in each of the original villages of the North Slope (a development at least two years ahead of other regions in rural Alaska). Bilingual education programs were introduced in the elementary schools, as were programs in Inupiat culture, history, and (for high school students) courses in the land claims movement and settlement act. Moreover, many North Slope Natives were hired to serve as teachers' aides in the schools.

The borough's activities in education have now gone beyond secondary schools. The problems of preparing Natives to teach in the schools, manage lands and enterprises of the regional and village corporations, and perform administrative roles in the borough government have motivated leaders to seek development of a post-secondary institution on the North Slope. Initially, the University of Alaska, through its Extension and Continuing Education Center, sponsored several courses in Barrow and supplied an extension director there. Conflicts between the director and the borough administration developed almost immediately over the program offerings and financing of this center. With a change in directors, the extension center began to respond to local pressures and

offered courses in the 1975-76 academic year. However, irregularities developed in the assignment of credit for these courses and in payment of faculty, leading to the indictment of the acting director and bookkeeper. Consequently, the borough's post-secondary education commission withdrew support from University of Alaska programs and established the private, nonprofit Inupiat University.

The borough mayor and other leaders have strongly supported an independent university; the borough assembly in mid-1977 authorized \$500,000 for the recruitment of a faculty and program administration, albeit with several reservations. Direct borough funding of the private university program was challenged in the courts, however, and the borough is presently maintaining the program through contracts for training services.

As part of his campaign to establish the North Slope Borough "as a kind of Arctic beachhead of Inupiat self-determination," Mayor Hopson called a conference of Inupiat peoples in Barrow during mid-June 1977. The direct motivation for this Inuit Circumpolar Conference (ICC) was the offshore drilling by Dome Petroleum in Mackenzie Bay, off the Canadian Arctic coast. Canadian Inuit had asked Hopson to intercede in protesting this action in the United States (which he did during his Congressional race in 1976) and in applying pressure on the Canadian government. Delegates from Canada, Greenland, and Alaska attended the Inuit Circumpolar Conference. The primary focus of their attention was Arctic conservation and environmental protection--the development of an international policy which would respond to accelerated resource development activities in the Arctic. A comprehensive range of other issues was also considered: land claims, bilingual education and the development of a common

Inupiat orthography, educational and governmental exchange programs, village health and education programs, new village information technologies, defense of subsistence resource uses, and military activities in the Arctic.

Of the seventeen resolutions endorsed by conferees, the most significant was the "creation of an international organization of Inuit to study, discuss, represent, lobby and protect" the interests of Inuit on an international level. Mayor Hopson was elected chairman of the conference, and he committed the services of the borough for all ongoing ICC business until the international organization was firmly established. Charlie Edwardsen became chairman of the Interim Committee, the board administering the ICC until a permanent charter is adopted. With an intended budget of \$1.5 million, the interim committee has already been active in support of the Committee for Original People's Entitlement (COPE) land claims movement in Canada's western Arctic region and the home rule movement of Greenland's Inupiat.

Cultural renaissance has not been limited to the North Slope. In pursuing its multiple goals, the borough has adopted an "Inupiat world view" and become the most important element in its implementation.

Uses of Power: Regulation of Energy Exploration and Development

Oil and gas discoveries at Prudhoe Bay in 1968 made possible the relatively generous Native land claims settlement and the birth of the North Slope Borough. Appearances to the contrary, the borough government has not opposed the development of energy resources in the arctic. Its economic security depends on this development. But, since its creation, the borough has been steadfast in its intent to regulate the manner in which oil and gas resources of the North Slope are explored and developed. We are concerned here with the effect the borough

has had on both established centers (Prudhoe Bay) and new and prospective energy complexes on the Arctic Slope.

Prudhoe Bay

The borough's path toward regulation of oil development at Prudhoe Bay has been covered with obstacles limiting the application of its power as a municipal government. Foremost of these, the Prudhoe Bay discovery was made on lands leased from the state; its facilities were developed under the general provisions of state law and were partly in place when the borough opened its doors in 1972. The borough was thus powerless to influence the siting of facilities planned at that time. Nor could it influence the way oil property was assessed, since this was and is determined by the state's Department of Revenue. Moreover, approximately 98 percent of the borough's taxes are paid by companies at Prudhoe Bay, taxes which supply two-thirds of the operating revenues of the borough. In any legal conflict with oil companies operating at Prudhoe, the latter have had the opportunity to stop payment of taxes, bringing borough programs to a halt.

These constraints seem to preclude any borough participation in the regulation of the operation at Prudhoe Bay. Yet borough leaders have perceived a series of threats from that source; the most serious of these is the establishment of a permanent settlement of non-Natives. Currently, only a few Whites are residents at Prudhoe Bay (aviation administration employees and their families), and oil company officials have disclaimed any intention of developing a permanent community. Nevertheless, at some point, these intentions might change--especially in the event of substantial offshore drilling or major petroleum developments elsewhere on the North Slope; and the possibility of

future permanent settlements is treated as though it were actual. "White beachheads" in the Arctic are feared for several reasons: they would add to the pressure on a very fragile ecosystem; they might seriously disrupt fish and game populations and habitats; they might require the installation of expensive service institutions; and, most important, they would introduce Whites into borough politics as voters, capable of changing borough assemblies and administrations. They are thus perceived as a major threat to Inupiat self-determination. Borough leaders have also been concerned with the expansion of camp and service facilities at Prudhoe Bay, with the behavior of companies in exploiting sand and gravel resources, and with the careless operation of equipment which has already resulted in environmental damage.

These threats and problems growing from oil development at Prudhoe Bay have inspired a series of tactics. Especially through changes in its taxing system, the borough has made companies pay attention to borough programs and policies (particularly the CIP) and attempt to anticipate them by attending assembly meetings and negotiating with the borough mayor. The mayor's office regularly criticizes and protests objectionable changes in company policy. These are in the nature of confrontation tactics which seek to focus attention on problems over which the borough has little control.

To date, the borough has been more effective by using its derived state powers in regulating new developments and maintaining standards applied to old. Any new construction undertaken at Prudhoe Bay must be reviewed by the Borough Planning Commission. Oil industry representatives have been invited to meet with the Planning Commission regularly and to sit on a borough committee, although such a working relationship has yet to solidify. The borough has also gained recognition as a commenting agency on all industry requests to the state for use of gravel and water on the North Slope.

New Energy Developments

The borough has had the opportunity for somewhat greater participation in the planning and regulation of newly developing energy complexes on the North Slope. At present, exploratory drilling is taking place in the National Petroleum Reserve (formerly Naval Petroleum Reserve No. 4, the 23 million acre reserve now administered by the Interior Department), on Jones Island, and on the lands of regional and village corporations. Borough policy here is constrained by federal as well as state policy; and the borough has so far avoided any interference with the petroleum development interests of the Arctic Slope Regional Corporation, which has invested more than \$4 million in drilling activities.

Nevertheless, none of the new development areas is yet an established industrial community, and the borough has opportunities to regulate through its planning and zoning powers and through the creation of special service districts. Another means of borough influence is its participation in environmental impact reviews. Environmental Impact Statements (EIS) are required by the federal government and increasingly used by the state government prior to exploration for energy resources. These regulations mandate a role for regional and local governments. Thus, the borough may now conduct hearings on the potential impacts of future energy development projects on the North Slope. On the basis of these hearings and its investigations (which include attention to traditional land use), the borough may recommend against the issuance of drilling permits. The formation of a federal-state-local task force on the National Petroleum Reserve and the borough's participation in the Alaska Coastal Zone Policy Council suggest that the regional government will have increasing influence over the pattern of energy development there.

The most serious challenges to the borough's regulatory capability are still on the horizon. In the near future, oil drilling may begin in the American Beaufort Sea; other energy-related developments may occur in the Arctic coastal zone; the North Slope Haul Road--used in construction of the transAlaska pipeline--will be opened for public use; and other areas may be opened for resource development on the Arctic Slope. Because the borough is now an established regional government, its regulatory authority is likely to become increasingly effective in the future. For example, through both confrontation and cooperative tactics, the borough has been able to play a role in the design of an exploratory program, which will follow a joint state/federal lease sale in the Beaufort Sea in 1979. On the other hand, the Arctic Slope Regional Corporation (ASRC) intends to participate as fully as possible in the development of future energy resources, and this local economic interest is likely to impose a growing constraint on the borough's regulatory capability (as well as its powers of taxation) where ASRC interests are affected.

Responsibilities of Power

To this point, we have discussed the North Slope Borough as though it were only its mayor, administration, and assembly. Now we must consider the bases of borough power in the Inupiat of the Arctic Slope, and inquire as to their evaluation of the effectiveness of the borough government and its representation of their interests.

Borough Effectiveness

A recent survey of the borough population indicates a relatively high degree of satisfaction with efforts made by the borough to improve the delivery of services in Barrow and the other villages. Half of the respondents thought the

borough was meeting their needs better than village and regional corporations, village councils, state and federal governments, and private industry; and two-thirds responded favorably to the borough's general efforts, regardless of comparisons.³² Almost all Inupiat benefit from the borough school system. Some low-income persons have already moved into subsidized housing. Health care facilities (in particular clinics) and diagnostic aid have spread areawide. Roads are improved, and the difficult problems of communication between villages and movements of goods and ideas across the North Slope have been partially alleviated by increases in both scheduled and chartered flights and by the development of telecommunications. The borough's greatest impact locally has been in reducing unemployment and implementing a cash economy through hiring for its CIP projects and its sizeable government bureaucracy. And these developments have further reduced the economic isolation of north Alaska. In all these areas, the survey indicated a high degree of satisfaction with borough programs.

Given these efforts in such a short span of time, borough residents appear tolerant of the occasional lapses and the inability of the borough to provide sanitary water supplies, reliable waste disposal, and other services.

Continuing Problems in Borough Administration

Serious complaints have been made, however, about the structure and functioning of borough administration. The borough administration has experienced rapid growth. Whereas three administrators manned the borough in 1972, by the close of 1977, the borough payroll had expanded to 180 (exclusive of laborers on CIP projects)--a ratio of one borough employee for every seven members of the North Slope labor force. Starting with a school board,