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11693 HOUSE STATE AFFAIRS

LIS data - the way certain things were coded into the system years ago and the reliability of the data today, peculiar ways we have to query LIS etc.. Answers can be derived but we always seem to have to place major caveats on them.

I'll try to give you a call on Monday. I'm rarely at my desk but I try to check my voice mail fairly regularly, so please feel free to leave messages anytime. Sorry for this garbled response.

# Bureau of Land Management

221 West Seventh Avenue, #13  
Anchorage, Alaska 99513  
(907) 271-3767  
Fax: (907) 271-4223

## FAX TRANSMISSION COVER SHEET

*Date:* February 5, 1999  
*To:* Carol Yeatman  
*Fax:* 279-7417  
*Re:* Request for Native allotment information  
*Sender:* Connie Van Horn

**YOU SHOULD RECEIVE 2 PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL (907) 271-3767.**

Carol: I just got your voice mail message - I'm working on rough draft regulations to implement the new Alaska Native Vietnam veterans' allotment legislation, and I don't get back to my desk very often. I got your fax yesterday with questions about the Native allotment program. I'll need to chew on the questions a little before I talk to you about them - some appear to be fairly simple for us to answer but others are more complicated than they first appear. Some of the questions can probably be answered with computer reports from our Land Information System (LIS), but some pertain to information that isn't necessarily maintained in LIS - it may take me a little while to figure out how best to gather the information. For instance, field exams still required - that's simple, although I don't have the exact figure at hand (somewhere around 450, I believe, but that's strictly from poor memory). Administrative split of parcels is more difficult - I'm not sure how to find out and will have to do some thinking about it. Budget questions are tricky and I may need to talk to you to clarify precisely what costs we're talking about. Yes, I believe there's an update to the work assignments document - I'll see if I can get ahold of a copy for you on Monday. Protest and stat life information can be gnarly because of the nature of

Request to BLM  
February 4, 1999  
Page 2

1. How many allotment applications have been approved? How many denied? How many pending?
2. How many field examinations are still required?
3. How many applications were protested by the State, but the protest was later withdrawn and application was subsequently denied?
4. How many statutory life claims are pending? How many were denied?
5. How many single parcels claimed for allotments have been administratively split into two or more parcels? How many of these split parcels have been approved? How many denied?
6. What is the total amount budgeted for allotment work?
7. Is there a FY 1999 update of the "Division of Conveyance Management Work Assignments" document?

LAW OFFICES OF  
ALASKA LEGAL SERVICES CORPORATION  
ANCHORAGE AND STATEWIDE OFFICE  
1018 WEST SIXTH AVENUE, SUITE 100  
ANCHORAGE, ALASKA 99501-963  
TELEPHONE (907) 272-9431  
FAX (907) 279-7417

February 4, 1999

Connie Van Horn  
U.S. Department of the Interior  
Bureau of Land Management  
Alaska State Office  
222 W. 7<sup>th</sup> Avenue  
Anchorage, Alaska 99513

Via Facsimile 907/271-4223

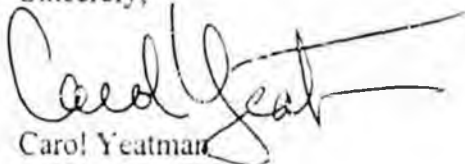
RE: Request for Information

Dear Ms. Van Horn:

After I left the message on your telephone voice mail this morning, it occurred to me that the request for information that I called you about would be better transmitted in writing. I have therefore enclosed a written set of questions requesting certain statistical information concerning Native allotment applications. I realize that the answers to my questions will likely need to be retrieved from computer data banks and I am hoping that the requested information can be retrieved fairly quickly and easily.

After you have had time to review the enclosed, please call me if you have any questions or if the information is not readily available. I appreciate your help in this matter.

Sincerely,



Carol Yeatman  
Staff Attorney

Enclosure

7

**STATUS OF NATIVE ALLOTMENTS  
WITHIN THE  
TONGASS NATIONAL FOREST  
March 4, 1999**

Pending	Conveyed	Closed/Rejected	Total
61	49	399	509

**STATUS OF THE 61 PENDING NATIVE ALLOTMENTS  
WITHIN THE TONGASS NATIONAL FOREST**

Involves Title Recovery of Lands from State/Village or Region	Approved -Waiting Survey	Needs Adjudication
8	24	29

**STATUS OF THE 448 CLOSED NATIVE ALLOTMENTS  
WITHIN THE TONGASS NATIONAL FOREST**

Closed - Certificate of Allotment Issued	49
Rejected - Shields Decision (ancestral use or did not predate withdrawal)	301
Rejected - Not Timely Filed with the Department	12
Rejected- Statutory Life of the Application Expired (did not file use and occupancy within 6 years of filing the application)	5
Closed - Insufficient land description	27
Rejected - Hearing held. Allotment rejected by Administrative Law Judge Decision	3
Closed or Rejected - Reason not indicated on the case file abstract.	41

8

LEXSEE 698 F.2d 987

Albert SHIELDS, Jr., Heir of Albert Shields, Sr., et al., Appellants, v. UNITED STATES of America, et al., Appellees

No. 81-3120

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

698 F.2d 987; 1983 U.S. App. LEXIS 30744

June 8, 1982, Argued and Submitted

February 7, 1983, Decided

**PRIOR HISTORY:**

[\*\*1]

Appeal from the United States District Court for the District of Alaska

**DISPOSITION:**

AFFIRMED.

**CASE SUMMARY**

**PROCEDURAL POSTURE:** Appellants, a class of applicants for land allotments, challenged a judgment of the United States District Court for the District of Alaska, which granted summary judgment to appellee United States on a suit by appellants which sought review of the denial of their applications for land allotments under the Alaska Native Allotment Act, Pub.L. No. 171, 34 Stat. 197 (1906)(amended 1956, repealed 1971).

**OVERVIEW:** Appellants, a class of applicants for land allotments, were certified as a class by the district court in a suit against appellee United States filed by one class member seeking review of an appeal of the Interior Board of Land Appeals which affirmed the Bureau of Land management's denial of the class member's application for a land allotment under the Alaska Native Allotment Act (Act) Pub.L. No. 171, 34 Stat. 197 (1906)(amended 1956, repealed 1971). The district court granted appellee's motion for summary judgment. On appeal, the court affirmed. The court held that Alaska natives applying for allotments within a national forest under the Act must establish personal, rather than

ancestral, use and occupancy of the land prior to establishment of the national forest.

**OUTCOME:** The court affirmed the district court's grant of summary judgment to appellee United States in a suit under the Alaska Native Allotment Act (Act) brought by appellants, a class of applicants for land allotments, because the Act required personal use and occupancy of the land by the applicants.

**LexisNexis(TM) HEADNOTES - Core Concepts**

*Governments > Native Americans > Property Rights*  
[HN1] See 43 U.S.C.S. § 270-2 (repealed 1971)

*Governments > Legislation > Interpretation*

[HN2] In interpreting statutes the appellate court's objective is to ascertain the intent of Congress. The primary rule of statutory construction is to ascertain and give effect to the plain meaning of the language used

**JUDGES:**

Wright, Skopil and Alarcon, Circuit Judges.

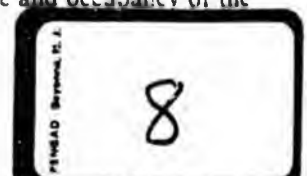
**OPINIONBY:**

SKOPII.

**OPINION:**

[\*988] SKOPII., Circuit Judge.

Appellant class, approximately 200 applicants for allotments under the 1906 Alaska Native Allotment Act, appeal a district court decision holding that the Allotment Act requires the applicant to establish personal, rather than ancestral, use and occupancy of the



land prior to its withdrawal for national forests. We affirm.

I.

In 1906 Congress passed the Alaska Native Allotment Act, Pub.L. No. 171, 34 Stat. 197 (amended 1956, repealed 1971), which authorized the Secretary of the Interior to grant Alaska Natives allotments of up to 160 acres. In 1956 Congress amended the Allotment Act, Act of Aug. 2, 1956, Pub.L. No. 931, 70 Stat. 954 (codified at 43 U.S.C. § § 270-1 to 270-3 (1970) (repealed 1971)) ("Allotment Act").<sup>1</sup> The text of the 1906 Allotment Act became section 1, and was amended to allow alienation. Section 2 provided that allotments in national forests could be made

"if founded on occupancy of the land prior to the establishment of the particular forest or if the Secretary [\*\*2] of Agriculture certifies that the land in an application for an allotment is chiefly valuable for agricultural or grazing purposes."

Section 3 provided that no allotment (whether in or outside a national forest) could be made except on proof of five years "substantially continuous use and occupancy" by the applicant.

<sup>1</sup>The Allotment Act was repealed by section 18 of the Alaska Native Claim Settlement Act ("ANCSA"), 43 U.S.C. § 1617, with a savings clause for applications pending on December 18, 1971, 43 U.S.C. § 1617(a).

On December 13, 1971 Albert Shields, Sr. filed an application for an allotment of 160 acres of land presently within the Tongass National Forest. The land for which he applied had been withdrawn for national forest use by presidential proclamation on February 16, 1909. Mr. Shields alleged that his grandfather had lived on this land beginning in the 1850's. Mr. Shields was born in 1915, and his use of the land began in 1920. The BLM rejected Mr. Shields' application for allotment because [\*\*3] he had failed to demonstrate either personal use prior to the withdrawal or that the land was chiefly valuable for agricultural grazing purposes. The Interior Board of Land Appeals ("IBLA") rejected Mr. Shields' appeal for the same reasons. 23 IBLA 188 (January 5, 1976).

Mr. Shields filed this action in district court in the District of Columbia on February 23, 1977 to review the IBLA denial of the application for allotment. The case was transferred to the District of Alaska on motion of the United States. The plaintiff, Albert Shields, Sr., died on

November 13, 1977 and Albert Shields, Jr. was substituted as plaintiff.

The district court certified a plaintiff class of all Alaska Natives who had made timely application for allotments under the Alaska Native Allotment Act for land located within a national forest whose applications had been denied on the grounds that they cannot establish personal occupancy of that land prior to the forest withdrawal. Both sides filed cross-motions for summary judgment.

On January 9, 1981 the district court granted the government's motion for summary judgment and held that Alaska Natives applying for allotments within a national forest under the [\*\*4] 1906 Alaska Native Allotment Act must establish personal, rather than ancestral, use and occupancy of the land prior to establishment of the national forest. *Shields v. United States*, 504 F. Supp. 1216 (D. Alaska 1981).

[\*989] II.

The sole issue before us is whether Alaska Natives applying for allotments within a national forest under the Alaska Native Allotment Act must establish personal, rather than ancestral, use and occupancy of the land prior to establishment of the national forest.

III.

Section 2 of the Alaska Native Allotment Act, as amended in 1956, provides:

[HN1]  
"Sec. 2. Allotments in national forests may be made under this Act if founded on occupancy of the land prior to the establishment of the particular forest or if the Secretary of Agriculture certifies that the land in an application for an allotment is chiefly valuable for agricultural or grazing purposes."

43 U.S.C. § 270-2 (1970) (repealed 1971) (emphasis added). The government contends the statute requires that the applicant must personally have occupied the land prior to the withdrawal; appellant claims that occupancy by a direct ancestor is sufficient.

[HN2] In interpreting statutes the [\*\*5] court's objective is to ascertain the intent of Congress. *Philbrook v. Glodgett*, 421 U.S. 707, 95 S. Ct. 1893, 44 L. Ed. 2d 525 (1975). The primary rule of statutory construction is to ascertain and give effect to the plain meaning of the language used. *Hughes Air Corp. v. Public Utilities Comm.*, 644 F.2d 1334 (9th Cir. 1981). The language of the statute, however, does not aid our search for congressional intent. The statute does not indicate whether personal or ancestral occupancy is required.

Appellants argue that unless section 2 is read to require only ancestral occupancy, the additional requirement of five years use and occupancy in section 3 would be rendered meaningless, in violation of the rule of statutory construction that one provision should not be interpreted in a way which is internally contradictory or that renders other provisions of the same statute inconsistent or meaningless. *Hughes Air Corp.*, *supra*, at 1337; *Jacobson v. Rose*, 592 F.2d 515 (9th Cir. 1978), *cert. denied*, 442 U.S. 930, 99 S. Ct. 285, 61 L. Ed. 2d 298 (1979); *Patagonia Corp. v. Board of Governors of Federal Reserve System*, 517 F.2d 803 (9th Cir. 1975). This argument is meritless. [\*\*6] The section 3 five year occupancy requirement applies to allotments under both sections 1 and 2. Section 1 authorizes allotments from any public lands in Alaska, while section 2 authorizes allotments under specific conditions from national forest lands. Thus, the personal occupancy requirement of section 3 has meaning as applied to section 1 allotments, regardless of the interpretation of section 2.

Because the language of the statute does not reveal congressional intent, we must look to the legislative history. *Heppner v. Alyeska Pipeline Service Co.*, 665 F.2d 868 (9th Cir. 1981). The 1956 amendments to the 1906 Alaska Native Allotment Act began as a House Bill, HR 11696. The House Report states that sections 2 and 3 "[safeguard] the national forests by enacting into law the substance of present regulations which prohibit homestead selections in the national forests unless they are founded upon occupancy of the land prior to the establishment of the forest. ..." H.R. Rep. No. 2534, 84th Cong., 2d Sess. 2 (1956) [hereinafter cited as House Report]. Congress was concerned that the 1956 amendments which permitted alienation of allotments would allow some natives to secure [\*\*7] land in national forests for the purpose of selling it. *Id.*

The Senate Report clearly states that "allotments may be made in the national forests ... if the native had occupied the land prior to the establishment of the forest." S.Rep. No. 2696, 84th Cong., 2d Sess. 1, reprinted at 1956 U.S.Code Cong. & Ad.News 4201, 4202 (emphasis added). This indicates that personal, rather than ancestral, use is required.

Both the House and Senate Reports are clear that sections 2 and 3 were "enacting into law the substance of the Department's present regulations on the subject" of allotments. House Report at 4, Senate Report at 4, reprinted in 1956 U.S.Code & Ad.News [\*\*90] at 4204. We therefore look to the Department of the Interior's contemporaneous regulations for the interpretation of "occupancy."

The early regulations of the Department of the Interior relating to allotments within national forests required that allotments must be "founded on actual occupancy prior to the establishment of the forest." 48 L.D. 70, 71 (1921), 50 L.D. 27, 48 (1923), 51 Pub Lands Dec. 145, 145-46 (1925) (emphasis supplied). In 1935 the Department dropped the word "actual" from its [\*\*8] regulations, and from then on utilized the "founded on occupancy" language that was subsequently enacted into the amended *Alaska Native Allotment Act* 55 Interior Dec. 282, 283 (1935), 43 C.F.R. § 67.7 (1938-1954); 43 C.F.R. § 67.2 (1958); 43 C.F.R. § 22.129.2(c) (1965); 43 C.F.R. § 25610-8(c) (1977). The regulations contain no explanation of what is meant by the term "occupancy," nor any indication that the deletion of the word "actual" indicated a change in legal rights.

The administrative practice with regard to these regulations at the time of the 1956 amendments gives little aid in determining the meaning of the term "occupancy." There has been minimal implementation of the Native Allotment program. *United States v. Atlantic Richfield Co.*, 435 F.Supp. 1009, 1015 (D.Alaska 1977), *aff'd*, 612 F.2d 1132 (9th Cir.), *cert. denied*, 449 U.S. 888, 101 S.Ct. 243, 66 L.Ed. 2d 113, 101 S.Ct. 244 (1980); S.Rep. No. 405, 92d Cong., 1st Sess. at 91 (1971). As of the time of congressional consideration of the 1956 amendments, a total of 79 allotments had been made pursuant to the 1906 Act. House Report at 3. There are very few reported decisions of the Department of the [\*\*9] Interior regarding these allotments. The earlier published decisions do not address the issue in this case, as they involved natives whose personal use of the land predated the establishment of the national forest (the national forest having been recently established). *Yakutat & Southern Railway v. Setuck Harry, Heir of Setuck Jim*, 48 L.D. 362 (1921), *Frank St. Clair*, 52 L.D. 597 (1929).

In several unpublished decisions in the 1950's the Bureau of Land Management permitted allotments on the basis of ancestral rather than personal occupancy. *Jack Gumble*, Anchorage 017456 (August 10, 1951) (decision by Director of BLM); *Charles G. Benson*, Juneau 011549 (August 24, 1961), *John Littlefield*, Anchorage 133471 (April 28, 1961). However, these decisions were unpublished and of little precedential value.

Since the 1956 amendments the only published I.B.L.A. decisions regarding allotments, involving about 200 consolidated cases in the 70's, held that personal occupancy was required by the Allotment Act. *Louis P. Simpson*, 20 I.B.L.A. 387 (June 16, 1975), petition for reconsideration denied, 41 I.B.L.A. 229 (Oct. 30, 1975); *Mary Y. Paul*, 21 I.B.L.A. 223 (July 31, [\*\*10] 1975); *Christine Laverne Hanlon*, 23 I.B.L.A. 36 (December 2, 1975); *Estate of Benjamin Wright*, 23 I.B.L.A. 120

(December 23, 1975); *Nadja Davis Gamble*, 23 I.B.L.A. 128 (December 23, 1975); *Albert Shields, Sr.*, 23 I.B.L.A. 188 (January 5, 1976); and *Arthur R. Martin*, 41 I.B.L.A. 224 (June 27, 1979). The Board dismissed the 1950's decisions of *Gamble*, *Benson*, and *Littlefield* as possibly erroneous and nonprecedential. *Louis P. Simpson, supra*, 41 I.B.L.A. 229 (petition for reconsideration).

Appellants argue that they should prevail because ambiguous language should be construed in favor of the natives. When unresolved ambiguity exists, this court has applied that familiar canon of statutory construction. *E.g., Escondido Mutual Water Co. v. F.E.R.C.*, 692 F.2d 1223, 1236-37 (9th Cir. 1982); *Rehner v. Rice*, 678 F.2d 1340, 1348 (9th Cir.), cert. granted, 459 U.S. 966, 103 S.Ct. 291, 74 L.Ed. 2d 275 (1982). Nonetheless, we agree with the district court that the canon is but a guideline and not a substantive law. *Shields*, 504 F.Supp. at 1219, n. 25. The canon of construction cannot be used by the courts to accomplish what Congress did not intend. [\*\*11] *Andrus v. Glover Construction Co.*, 446 U.S. 608, 619, 100 S.Ct. 1905, 1911, 64 L.Ed. 2d 548 (1980). Nor can the canon be used to judicially legislate. *Blackfeet Tribe of Indians v. Groff*, 729 F.2d 1185, at slip op. at 5838 (9th Cir. 1982).

[\*991] Here, the language of the statute is not conclusive. Nevertheless, the legislative and administrative history is sufficient for us to construe the intent of Congress. Further, it is appropriate to give great weight to the construction given to a statute by the agency charged with its administration. *Udall v. Tallman*, 380 U.S. 1, 16, 85 S.Ct. 792, 801, 13 L.Ed. 2d 616 (1965). For example, in *Assiniboine & Sioux Tribes v. Nordwick*, 378 F.2d 426 (9th Cir. 1967), cert. denied, 389 U.S. 1046, 88 S.Ct. 764, 19 L.Ed. 2d 838 (1968), we were presented with an ambiguous statute with no enlightening legislative history. We declined to apply the canon of liberal construction because we found sufficient administrative practice to warrant judicial deference. *Assiniboine*, 378 F.2d at 432.

#### CONCLUSION

After reviewing the legislative and administrative history, we conclude that Congress intended to limit allotments [\*\*12] on national forest lands to those individuals whose personal occupancy antedated the withdrawal of the land for the national forest. Accordingly, the decision of the district court is AFFIRMED.

No. 81-3120

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ALBERT SHIELDS, JR.,  
Heir of Albert Shields, Sr.,

Appellant,

vs.

UNITED STATES OF AMERICA, et al.,

Appellee.

Certification Required by Ninth Circuit  
Court of Appeals Rule 13(e)

The undersigned, counsel of record for Appellant certifies that the following listed parties have an interest in the outcome of this case. These representations are made to enable judges of the court to evaluate possible disqualification or recusal.

All class members as defined by the District Court. This Court's decision will determine whether their applications for Native Allotments will be adjudicated pursuant to the Act of May 17, 1906, 34 Stat. 197. The class is defined thus:

- (1) All Alaska Natives who made timely application for allotments under the Alaska Native Allotment Act of May 17, 1906, 34 Stat. 197 as amended, 70 Stat. 954 (1956) for land which is located within a national forest and whose applications have been or will be denied on the grounds that they cannot establish their personal use of that land prior to the forest withdrawal.
- (2) Where the allotment applicants described in paragraph (1) above are deceased the heirs or devisees of the decedent's interests in the allotment.

EXHIBIT 4  
Page 1 of 4

This definition includes the following persons known to counsel, their heirs and assigns.

Albert Shields, Sr.  
Hazel Marjorie Bennett  
Cyril George  
James D. Howard  
Elizabeth Martin  
Lydia M. George  
Gerald Jackson, Sr.  
William E. Howard  
Louis R. Howard  
Kelly James  
Charles B. Jackson, Sr.  
Carl Marvin, Sr.  
Frederick Simpson, Sr.  
Cecelia Greenewald  
Rosie Edenshaw  
Mary S. Lauth  
Woodrow F. Morrison  
Ronald C. John, Sr.  
Harold R. Allard  
Henry W. Leask  
Cecil Delbert Charles  
Rudolph Smith  
Annie Turnmire  
Harvey F. Leask  
Edward W. John  
Deborah A. Dalton  
Annabelle Peele  
Austin D. Hammond, Jr.  
Walter Williams  
Lillian Hammond  
Frank A. Young, Sr.  
Ester Littlefield  
Francis D. Hanson  
Joseph C. Williams, Sr.  
Carolyn L. Martin  
William Nelson  
Albert Frank  
Eddie L. Jack, Sr.  
Scotty Jackson  
Charlie Jim, Sr.  
William S. Sutton  
Frank R. Lauth, Jr.  
David S. Peele  
Ida B. Gallagher  
Charles B. Metz  
Daniel P. Henry  
Lyle T. Martin

Louis P. Simpson  
Robert G. James, Sr.  
Adeline M. Jim  
George Dalton, Jr.  
Peter Olaf Howard, Jr.  
Jones C. Yeltatzie  
Martha L. Decker  
George R. Howard  
Frank See  
Dennis Jackson  
Rollo Shaquanie, Jr.  
Charles Jimmie, Sr.  
Richard K. Dalton, Jr.  
Florence E. Howard  
Robert W. George, Sr.  
Thomas L. Morrison  
Phillip Williams  
Elizabeth M. Gardner  
Charles M. John  
Harriet J. Knudson  
Dennis H. Gray  
Ruby Smith  
Albert F. Lauth, Sr.  
Nana P. Estus  
Edward N. Kunz, Sr.  
Mary Willis  
Agnes M. Keller  
Harriet P. McAllister  
Glenn G. Howard  
Robert R. Martin, Jr.  
William Jim  
Paul Johnny  
Austin P. Hammond, Sr.  
Violet Hamilton (deceased)  
Darlene T. Martin  
Lilly L. Demmert  
Charlie Joseph, Sr.  
Charlie Jackson, Jr.  
Pauline Jim  
Norman Edward Nelson  
Virginia Amy Y. Demmert  
Frank Lauth, Sr.  
David Abraham  
Lawrence T. George, Sr.  
Annie B. P. Esmino  
George Jim, Sr.  
Edith M. Renner

EXHIBIT 4

Page 2 of 4

Sam Newman  
Willie Jackson  
Forest DeWitt, Sr.  
Frank M. Williams  
Chester James, Jr.  
James Demmert, Sr.  
Richard Bean  
Oscar W. Osborne  
Robert H. Gray, Jr.  
William B. Thomas  
George M. Ramon  
John Howard, Sr.  
Violet M. Dalton Blakely  
Tommy L. Jackson, Sr.  
Loren Jackson  
Elizabeth Torres  
William P. Aragon  
Perry Brown  
Paul Wilson, Jr.  
Elsie L. John  
David M. Howard  
Robert J. Peratrovich, Sr.  
(Robert J. Peratrovich, Jr., Heir)  
Jessie Gray  
Sarah B. Williams  
George F. Adams  
Helen L. Trout  
Raymond Mork  
Peter J. Lundy  
George A. Davis  
Mary J. Johnson  
Bernice M. Obert  
Sandra Y. Arca  
Annie Bennett  
Nadja Davis Gamble  
Arthur J. Demmert, Jr.  
Gabriel D. George  
Tommy Jackson, Jr.  
Johnny Jack, Sr.  
Franklin R. James  
Charlie Jim, Jr.  
Mrs. Jenny Jim  
Martin Johnson  
Stella Brown Adams  
Mike Jackson  
Pat C. Ware  
Melvin L. James  
Fanny D. Brown  
Jacob White, Sr.  
Della M. J. Cheney

Bernice George Peery  
William A. James  
Henry Katasse  
Mary Y. Paul  
Samuel G. Johnson  
Martha E. James  
Leo Houston, Sr.  
Bertina B. Peterson  
Chester James, Sr.  
Minnie D. Johnson  
Andrew Gamble, Sr.  
Helene James  
Herman Davis  
Gary Jackson  
Daisy Frank  
Mary Jim Joseph  
Tommie J. Immie  
Alex G. Johnson  
Eliza York  
Leonard Gilbert John  
Pete Howard  
Elizabeth Vivian Houston

George Dalton, Sr.  
Margaret Ethel Martin  
Franklin Williams  
Charles M. DeWitt  
Delores E. Yadao  
David John  
Lillian J. John  
Elsie H. Wilson  
Christina Laverne Hanlon  
Andrew Gordon McKinley  
Benjamin A. Wright  
Arthur R. Martin  
Patrick W. Gardner  
Norman Jackson  
Roger L. Howard, Sr.  
Willy Jack, Sr.  
Andrew Jim  
Frank Jim  
Joseph B. Jim  
Moses Johnson  
William H. Samato, Sr.  
Claudine M. Laws  
Woodrow W. Morrison  
William G. Demmert, Sr.  
George W. Nelson, Jr.  
Benson Kadake  
Eli J. Howard

Elsie M. Johnson  
Joan E. Wilson  
Mrs. Mary B. Johnson  
Paul F. James, Sr.

William S. Johnson  
Bessie Rose Williams  
Amy G. Walker  
Warren Sheakley, Sr.

All native village or regional corporations which have top-filed pursuant to 13 U.S.C. §1611 on land now claimed for an allotment by a class member. The decision will not affect the amount of land to which a corporation may receive title, but it may affect the precise tracts of land available for conveyance to the corporations. Those corporations which may be affected are:

Kootynoowee, Inc.  
Puna Totem Corp.  
Klawock Heenya Corp.  
Cape Fox Corp.  
Shee Atika Inc.  
Sealaska Inc.  
Native of Afognak, Inc.  
Ouzinki Native Corp.  
Chugach Natives, Inc.  
Shuyak Inc.

Shaan Seet, Inc.  
Kake Tribal Corp.  
Klukwan, Inc.  
Yak-tat Inc.  
Goldbelt Inc.  
Koniag Inc.  
Titnik, Inc.  
Cook Inlet Region, Inc.  
Eyak Corp.

Craig D. Tillery  
Craig D. Tillery  
Attorney of Record for Appellant

Albert SHIELDS, Jr., Heir of Albert Shields, Sr., Plaintiffs, v. UNITED STATES of America et al., Defendants

No. A 77-66 Civil

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA

504 F. Supp. 1216; 1981 U.S. Dist. LEXIS 10252

January 9, 1981

COUNSEL:

[\*\*1]

Alaska Legal Services Corporation, Craig Tillery, Mike Jeffrey, Gregory O'Leary, Richard Brown, Anchorage, Alaska; for plaintiffs.

Rene Gonzalez, U. S. Atty., District of Alaska, Anchorage, Alaska, John M. Allen, Bruce Schultheis, Dept. of Interior, Anchorage, Alaska, for defendants.

OPINIONBY:

FITZGERALD

OPINION:

[\*1216]

OPINION

This case presents a single issue: Must Alaskan Natives applying for allotments within a national forest under the 1906 Alaska Native Allotment Act establish personal use and occupancy of the land prior to establishment of the forest? n1 Resolution of the issue turns on the construction given section 2 of the 1956 Amendments to the Native Allotment Act. n2

n1. This court has jurisdiction under 28 U.S.C. § 1353 (1976) and 25 U.S.C. § 345 (1963). *Pence v Kleppe*, 529 F.2d 135 (9th Cir. 1976). This case is before this court on review of a final decision by the Interior Board of Land Appeals denying Albert Shields, Sr.'s application for allotment.

n2. Act of May 17, 1906, 34 Stat. 197, as amended; Act of August 6, 1956, 70 Stat. 954.

repealed by the Alaska Native Claims Settlement Act, § 18, with a savings clause for applications pending on December 18, 1971. 43 U.S.C. § 1617(a) (1980).

[\*\*2]

Sec. 2 Allotments in national forests may be made under this Act if founded on occupancy of the land prior to the establishment of the particular forest or if the Secretary of Agriculture certifies that the land in an application for an allotment is chiefly valuable for agricultural or grazing purposes.

The precise question is what the Congress meant by "founded on occupancy of the [\*1217] land prior to the establishment of the particular forest..." The plaintiff claims that the applicant must demonstrate that Native occupancy was established prior to the applicable withdrawal for the forest. The defendants contend that the applicant must personally have occupied the land prior to the withdrawal.

Plaintiffs consist of a class of Alaska Natives who have applied for allotments under the 1906 Alaska Native Allotment Act. The land they seek is located within a national forest and was occupied by Alaska Natives prior to the forest withdrawal, but plaintiffs are unable to establish their personal use of it before its withdrawal.

THE 1906 ACT

The Treaty of Cession n3 in which the United States obtained Alaska by purchase from Russia in 1867 did not address the property [\*\*\*3] rights of the Native inhabitants. It provided only that the Natives would be subject to such laws as the United States might adopt with respect to the aboriginal tribes. n4 The Organic Act

of 1884 n5 contained the first mention of the property rights of Alaskan Natives. Section 8 provided:

n3. Treaties of March 6, 1867, 15 Stat. 539.

n4. *United States v. ARCO*, 435 F. Supp. 1009 (D. Alaska 1978), aff'd 612 F.2d 1132 (9th Cir. 1980), cert. denied 449 U.S. 888, 101 S. Ct. 243, 66 L. Ed. 2d 113 (1980).

n5. Act of May 17, 1884, 23 Stat. 24.

... that the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress ....

In 1887 Congress enacted the General Allotment Act n6 which provided:

n6. 25 U.S.C. § 334.

[\*\*4]

Where any Indian not residing upon a reservation, or for whose tribe no reservation has been provided by treaty, Act of Congress, or Executive Order, shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land office for the district in which the lands are located, to have the same allotted to him or her, and to his or her children . . .

Since in several decisions Alaskan Natives had been found not to be within the definition of "Indian", there was doubt whether the General Allotment Act applied to Alaskan Natives. Congress moved in 1906 to eliminate this doubt n7 by passing the Alaska Native Allotment Act, which provided in part: n8

n7. *Pence v. Kleppe*, 529 F.2d 135 (9th Cir. 1976).

n8. Act of May 17, 1906, 34 Stat. 197, as amended, Act of August 6, 1956, 70 Stat. 954, repealed by the Alaska Native Claims Settlement Act, § 12, with a savings clause for applications pending on December 18, 1971, 43 U.S.C. § 1617(a) (1980).

[\*\*5]

That the Secretary of the Interior is hereby authorized and empowered in his discretion and under such rules as he may prescribe, to allot not to exceed one hundred and sixty acres of nonmineral land in the district of Alaska to any Indian or Eskimo of full or mixed blood who resides in and is a native of said district, and who is the head of a family, or is twenty-one years of age; and the land so allotted shall be deemed the homestead of the allottee and his heirs in perpetuity, and shall be inalienable and nontaxable until otherwise provided by Congress. Any person qualified for an allotment as aforesaid shall have the preference right to secure by allotment the nonmineral land occupied by him not exceeding one hundred and sixty acres.

In 1910 Congress amended the General Allotment Act n9 to allow for allotments in the national forests.

n9. 25 U.S.C. § 337.

The Secretary of the Interior is authorized, in his discretion, to make allotments within the national forests in conformity with the [\*\*6] general allotment laws, to any Indian occupying, living on, or having improvements on land included within [\*1218] any such national forest who is not entitled to an allotment on any existing Indian reservation, or for whose tribe no reservation has been provided, or whose reservation was not sufficient to afford an allotment to each member thereof. All applications for allotments under the provisions of this section shall be submitted to the Secretary of Agriculture who shall determine whether the lands applied for are more valuable for agricultural or grazing purposes than for the timber found thereon; and if it be found that the lands applied for are more valuable for agricultural or grazing purposes, then the Secretary of the Interior shall cause allotment to be made as herein provided.

No such amendment was made to the Alaska Native Allotment Act despite the fact that some sixteen million acres of Native lands were set aside by presidential proclamations in 1902, 1907 and 1909 to create what is now the Tongass National Forest. n10 Additional land was set aside by presidential proclamation for the Chugach National Forest commencing in 1907. n11

n10. See *Tlingit and Haida Indians of Alaska v. United States*, 177 F. Supp. 452, 466-67, 147 Ct Cl 315 (1959) [\*\*7]

n11. Presidential Proclamation of July 23, 1907.

The early decisions of the Department of the Interior relating to allotments within national forests required "actual" occupancy prior to the establishment of the national forest. n12 However, this requirement was dropped in 1935 n13 in favor of the "founded on occupancy" language at issue in this lawsuit. The earliest published regulations of the Department of the Interior incorporated this language as well as a provision of the 1910 General Allotment Act making land included within a national forest available for allotment if it was chiefly valuable for agriculture or grazing and personally occupied by the applicant. n14

n12. 48 *Pub. Lands Dec.* 70, 71 (1921); 50 *Pub. Lands Dec.* 27, 48 (1923); 51 *Pub. Lands Dec.* 145, 146 (1925)

n13. 55 *Pub. Lands Dec.* 282, 283

n14. 43 *C.F.R.* 67.7 (1940).

The Allotment Act, as adopted in 1906, provided that allotments were [\*\*8] inalienable unless otherwise provided by Congress. The 1956 Amendments to the Act were designed to rectify this situation. n15 As originally introduced, the bill addressed only the alienation issue. n16

n15. H.R. Rep. No. 2534, 84th Cong., 2d Sess. (1956).

n16. H.R. 10505, 84th Cong., 2d Sess. (1956).

Apparently some concern was expressed in the House Subcommittee that Alaska Natives might seek allotments in the national forests solely for the purpose of selling the land to others. To eliminate this danger the substance of the Interior Department's regulations on the subject were enacted into the bill. A report from the Department of the Interior concerning this legislation n17 stated:

n17. H.R. Rep. No. 2534, 84th Cong., 2d Sess. 4 (1956).

Subsection (e) of the enclosed substitute bill (Sections 2 and 3 of the Act) contains [\*\*9] the subcommittee recommendations that are designed to

safeguard the national forests. Some fear was expressed during the subcommittee hearings that the authority to sell homesteads might encourage Indians and Eskimos to seek homestead allotments in the national forests for the purpose of selling them to others. This danger is effectively obviated by enacting into law the substance of the Department's present regulations on the subject, which prohibit homestead selections in the national forests unless they are founded upon occupancy of the land prior to the establishment of the forest, or unless the land selected is determined by the Secretary of Agriculture to be chiefly valuable for agricultural or grazing purposes, and which require the homesteader to prove 5 years' occupancy of the land.

The House Report n18 echoed the Department's analysis:

n18. *Id.* at 2.

Subsection (e) safeguards the national forests by enacting into law the substance [\*1219] of present regulations which prohibit homestead [\*\*10] selections in the national forests unless they are founded upon occupancy of the land prior to the establishment of the forest, or unless the land selected is determined by the Secretary of Agriculture to be chiefly valuable for agricultural or grazing purposes, and which require the homesteader to prove 5 years' occupancy of the land.

The Senate Report n19 was even more explicit on the occupancy requirement:

n19. S. Rep. No. 2696, 84th Cong., 2d Sess. 1 (1956).

Allotments may be made in the national forests if the land is chiefly valuable for agricultural or grazing purposes, or if the native had occupied the land prior to the establishment of the forest.

Early administration practice, n20 while sparse, n21 appears to have required individual occupancy of the land prior to the forest withdrawal. Although there were some exceptions to this practice, n22 since the 1956 Amendments, the Department has consistently required individuals seeking allotments to establish their own use and occupancy of [\*\*11] the land prior to the establishment of the particular forest withdrawal. n23

n20. See e.g. *Yakutat and Southern Railway v. Setuck Harry, Heir of Setuck Jim*, 48 *Pub. Lands Dec.* 362, 364 (1921); *Frank St. Clair*, 52 *Pub. Lands Dec.* 597, 598 (1929).

n21. Although the Native Allotment Act dates back to 1906, few certificates of allotment were granted under the Act for the first 50 years. As of November 8, 1955, a total of 79 allotments had been made pursuant to the Act, and 64 additional applications were under consideration. S.Rep.No.2696, 84th Cong., 2d Sess. (1956).

n22. See exhibits 25-27 to Plaintiffs' Motion for Summary Judgment.

n23. See e.g. *Louis P. Simpson*, 20 *IBLA* 387 (1975); *Mary Y.*, 21 *IBLA* 223 (1975); *Christina Laverne Hunion*, 23 *IBLA* 36 (1975); *Estate of Benjamin Wright*, 23 *IBLA* 120 (1975); *Nardia Davis Gumble*, 23 *IBLA* 128 (1975); *Arthur R. Martin*, 41 *IBLA* 224 (1977). On petition for rehearing in the Simpson case the IBLA indicated that those earlier decisions (see note 22) which did not require proof of personal occupancy prior to the withdrawal were erroneous. 41 *IBLA* 229-30 (1979).

[\*\*12]

It is obvious that when Congress amended the 1906 Act it gave great weight to the Interior Department's interpretation and practices regarding the statutory language at issue. Such circumstances are persuasive evidence that the interpretation urged by the agency is the one intended by Congress. n24 This principle is especially true when, as here, there are long-standing administrative decisions interpreting the availability of land for Native selection, acceptance of that interpretation by Congress, and enactment of legislation prepared by the agency charged with administration of the Act. n25

n24. *Udall v. Tallman*, 380 *U.S.* 1, 16-18, 85 *S. Ct.* 792, 801-02, 13 *L. Ed. 2d* 616 (1965); *Russ v. Wilkins*, 624 *F.2d* 914, 922-24 (9th Cir. 1980).

n25. Plaintiffs argue vigorously that the principle of statutory construction requiring ambiguities and doubtful expressions in statutes passed for the benefit of Indians to be resolved in favor of Indians dictates a ruling in their favor.

This canon, however, is only a guideline, not a substantive law and should not be used to defeat the manifest intent of Congress. *U.S. v. Atlantic Richfield Co.*, 612 *F.2d* 1132 (9th Cir. 1980), cert. denied 449 *U.S.* 888, 101 *S. Ct.* 243, 66 *L. Ed. 2d* 113 (1980).

[\*\*13]

Based on the administrative and legislative history, I conclude that Congress was primarily concerned with allowing for alienation of allotments when it amended the Alaska Native Allotment Act in 1956. Due to its concern that such legislation might encourage the selection and sale of such allotments within national forests, Congress enacted into law the substance of then existing regulations on the subject. I conclude that the intent of Congress in this regard was to restrict allotments within national forests n26 by prohibiting them except: [\*1220] to those individuals who could demonstrate personal occupancy of the land prior to the establishment of the forest or unless the land selected is chiefly valuable for agricultural or grazing purposes. I find, therefore, that the language "founded upon occupancy of the land prior to the establishment of the particular forest" requires Alaska Natives who seek allotments within a national forest to demonstrate their personal use and occupancy of that land prior to the establishment of the forest.

n26. Plaintiffs have strongly argued that Congress could not have intended to require personal use and occupancy of the land prior to the forest withdrawal since the withdrawals occurred in the early 1900's and few Native Alaskans, if any, would have been eligible for allotments when the Act was amended in 1956. This argument assumes, however, that the purpose of the amendments was to assure the right to allotments in the national forests. On the contrary, the purpose of the amendments appears to have been the safeguarding of the national forests from allotments sought only for sale.

[\*\*14]

Plaintiffs' Motion for Summary Judgment is, therefore, DENIED. Defendants' Cross Motion for Summary Judgment is GRANTED and the case is DISMISSED.

9

**STATUS OF HOMESITES/HEADQUARTER SITES  
HOMESTEADS AND TRADE & MANUFACTURING SITES  
WITHIN THE  
TONGASS NATIONAL FOREST  
March 4, 1999**

<b>CASE TYPE</b>	<b>CONVEYED</b>	<b>CLOSED</b>	<b>TOTAL</b>
Homesites & Headquarter Sites	622	265	887
Homesteads	280	259	539
Trade & Manufacturing Sites	65	50	115



10

Native Allotment Statistics as of January 2, 2002CLOSED

Closed, Certificated:	10,119
Closed, Not Certificated:	<u>2,514</u>
Total Closed	12,633

ACTIVE (Includes Pending and Approved)

Total Active Title Recovery:	1,110	(1/3 of total)
Total Active Non-Title Recovery	<u>2,235</u>	(2/3 of total)
 Total Active	 3,345	
 Pending, Title Recovery	 918	 (83% of active TR cases are unapproved)
Pending, Non-Title Recovery	<u>565</u>	(25% of active non-TR cases are unapproved)
Total Pending	1,483	(44% of total active cases are unapproved)
 Approved, Title Recovery	 192	 (17% of active TR cases are approved)
Approved, Non-Title Recovery	<u>1,670</u>	(75% of active non-TR cases are approved)
Total Approved	1,862	(56% of total active cases are approved)

**Total Parcels, Active and Closed 15,078**

A large percentage of active non-Title Recovery cases are approved (75%), but only 17% of non-Title Recovery cases are approved. This low percentage results from the fact that we do not issue formal approval decisions on Title Recovery cases because we have no jurisdiction over the land. We make validity determinations, but only recently (within the past month) did we get approval for a specific action code to reflect that a case has been determined valid. In the past our notation of validity determinations in ALIS was haphazard at best - some such determinations were only noted in the general remarks field of the abstract, many were not noted at all. Consequently ALIS does not currently reflect the approved/non-approved status of all Title Recovery cases.

The terms "active" and "pending" are not synonymous. For purposes of this report, "active" simply means a case is not closed. The term "pending" means, with regard to Native allotment applications, that an application has not yet been approved. This distinction is significant because management responsibility for Native allotment applications transfers from BLM to BIA at the time of approval. The number of active Native allotment applications should equal the total of those pending and those approved, and all Native allotment applications are either pending or approved but not both.

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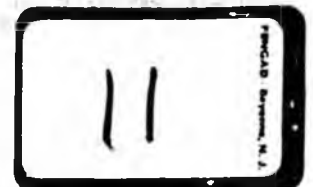
# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
ALASKA STATE OFFICE  
222 W. 7th Avenue, #13  
ANCHORAGE, ALASKA 99513-7599

## Native Allotment Adjudication

ALL REGIONS

November 29, 2002



**Alaska Native Veteran Allotment Application Statistics as of November 22, 2002**

Applications Received	743
Number of Parcels	992
Number of Applications without Land Descriptions	243
Number of Parcels Rejected	176
Number of Parcels Appeals have been Filed On	40
Number of Parcels Appeals have been Dismissed On	10
Number of Parcels Field Exams Requested for	85

**Reasons for Rejections (Some parcels were rejected for more than one reason):**

Land Applied for was Previously Conveyed	62
Non-Resident	14
Tongass N.F. (U/O doesn't predate withdrawal)	14
Nunivak Island (U/O doesn't predate withdrawal)	3
Katmai National Preserve (U/O doesn't predate)	3
Kenai Moose Range (U/O doesn't predate withdrawal)	2
Chugach N. F. (U/O doesn't predate withdrawal)	3
Denali N. P. (U/O doesn't predate withdrawal)	1
St Lawrence Island (U/O doesn't predate withdrawal)	1
Failure to Correct Application Deficiencies	2
Ineligible Military Service Dates	42
Inactive National Guard Service	14
Less Than Honorable Military Service	1
Applicant has a pending 1906 NA Apln/Allotment	2
Cause of Death	2

12

# Fact Sheet



Alaska Department of  
**NATURAL  
RESOURCES**

Division of Mining, Land & Water  
March 2000

## Title: Land Ownership In Alaska

Current land ownership in Alaska can be traced back to three main events in the state's history.

- ◆ Russian traders arrived in Alaska in the mid-1700's and established small, scattered trading posts and settlements. Alaska Natives (the Eskimo, Indian, and Aleut peoples) continued as the primary "landowners" during this period of Russian occupation.

On October 18, 1867, Russia sold Alaska to the United States government. As a result, the federal government owned the Alaska Territory, approximately 375 million acres (about one-fifth the size of the continental U.S.).

- ◆ Alaska became a state in 1959. The federal government granted the new state 28% ownership of its total area. Approximately 103,350,000 acres were selected under three types of grants: Community (400,000 acres), National Forest Community (400,000 acres), and General (102,550,000 acres). Additional territorial grants, for schools, university and mental health trust lands, totaling 1.2 million acres were confirmed with statehood. All grants combined gave the State of Alaska approximately 105 million acres.
- ◆ In 1971 Congress passed the Alaska Native Claims Settlement Act (ANSCA). This law granted 44 million acres and 1 billion dollars to village and native corporations created under the act. Generally, ANSCA gave Native selections priority over state land selections.

### State Land

To date, the state has received patent to approximately 85% (90 million acres) of its total land selections. The state was permitted to select lands, from any federal land not already reserved for other uses, to provide:

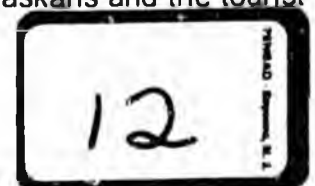
1. Land and resources to support the state's economy for road construction, economic development, and building houses, schools, and other public and private facilities.
2. A reduction in federal control over state internal affairs by giving the state ownership and jurisdiction over its own land.

The state chose land to meet three specific needs - settlement, resources and recreation.

**Settlement** - The State of Alaska selected land to encourage development and settlement. Land for public facilities, road construction and other public needs were included. Once owned, the state transfers large tracts of land to local governments, and leases and disposes of land to the private sector. There are approximately 580,000 acres currently in the state's land disposal bank for eventual lease or sale.

**Resources** - The Alaskan economy is based on exploration for and the development of natural resources. Lands were selected for agriculture, forestry, commercial fisheries, mining potential, oil and gas development, and wildlife habitat.

**Recreation** - Lands for wildlife, back-country recreation, and varying degrees and types of developed recreation were chosen and reserved to provide a variety of experiences for Alaskans and the tourist industry.



Once land is selected, land planners develop state land use plans. Planners consider laws and policies set by the Governor and state legislature, the character of the land itself, recommendations made by resource experts and public input to determine the most appropriate management of currently owned or selected state land. Plans are developed for land in selected status in anticipation of its conveyance to the state.

#### Federal Land

The federal government is still the largest landowner in Alaska with 60% of the total area (222 million acres). This acreage includes national parks, wildlife refuges, national forests, military reservations and the North Slope National Petroleum Reserve. More than a dozen federal agencies manage federal lands in Alaska.

The majority of federally owned lands have been set aside for public use (approximately 80 million acres). These are designated as follows:

The National Park Service and Fish and Wildlife Service manage about 119.3 acres (48.3 and 71.0 million acres respectively) for primary uses of resource protection and fish and wildlife conservation.

The Forest Service and Bureau of Land Management manage about 97.7 million acres (19.8 and 77.9 million acres respectively) for multiple use purposes including timber production, fish and wildlife, recreation, water and mining. Management of these lands is based on priorities and compatibility among various uses.

The remaining federal land is designated for special purposes, such as military reservations, the National Petroleum Reserve and U.S. Postal Service lands.

#### Native Lands

Native lands are private lands. The Alaska Native Claims Settlement Act, passed by Congress in 1971, mandated the creation of regional and village Native corporations for the disbursement of the 44 million acres and payment of one billion dollars mandated to Native ownership.

Thirteen regional corporations were created for the distribution of ANSCA land and money. Twelve of those shared in selection of 16 million acres, the thirteenth corporation, based in Seattle, received a cash settlement only. 24 village corporations, of 25 or more residents, shared 26 million acres. The remaining acres, which include historical sites and existing native-owned lands, went into a land pool to provide land to small villages of less than 25 people.

#### Other Private Land

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

13

## Our Choices, Our Future: Analysis of the Status of Alaska Natives Report 2004

Prepared by:  
Alaska Native Policy Center  
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Kate Eberhart, Data and Statistical Analysis

Prepared for the  
Alaska Federation of Natives  
July, 2004

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This report was prepared with funding from the Alaska Federation of Natives utilizing grant monies from the Substance Abuse and Mental Health Services Administration of the U.S. Department of Health and Human Services.

First Alaskans Institute is a non-profit 501 (c) 3 organization dedicated to developing the capacities of Alaska Native people and communities to meet social, economic, and educational challenges of the future. Its priorities are improving Native education, developing future Native leaders and increasing Native impact on public policy.

Alaska Native Policy Center is a project of First Alaskans Institute. The purpose of the Alaska Native Policy Center is to enable Alaska Natives to become informed about, actively involved in, and to have impact on the education, economic and social policy issues that will determine our futures as 21st century indigenous peoples.



Alaska Native Elders knew long ago that times were changing, that the pace of change would increase, and that new ways of learning would be required to meet new challenges. They knew that we would have to be able to read different kinds of signs along the trail ahead in order to understand what was coming.

Our Elders were right. Times continue to change, and the speed of change accelerates. But even so, we know that our Elders want us to keep our eyes focused on the trail, to be strengthened by our Native cultures and traditions, such as sharing and working together. That is the foundation of this report: sharing what we have learned in order to strengthen our ability to work together and to shape the world ahead.

The recently published *Status of Alaska Natives 2004* is a data report prepared by UAA's Institute of Social and Economic Research (ISER) for the Alaska Federation of Natives. It presents data on Alaska Native population, health, economic condition and education and is compiled from many sources, including the U.S. Census.

This document, prepared by the First Alaskans Institute's Alaska Native Policy Center, is an analysis of ISER's *Status of Alaska Natives 2004*. Its purpose is to give us all an understanding of what the data mean based on analysis by Native people. Its perspective rests on input from the very people whom the numbers describe. We tried to capture interpretations of the data that reflect what Alaska Natives see every day and that they intuitively understand. In seeing the data compiled in a whole piece, we may gain insights and new perspectives that serve to make the trail ahead brighter.

We know that there are many initiatives and dedicated work that good people all across the State of Alaska, Native and non-Native, are doing to address the issues raised in the data in the *Natives 2004* report. We also know that there is much more that needs to be done. We hope that this analysis provides helpful perspective and prompts meaningful initiative as Native people shape their futures.

The Alaska Native Policy Center views this analysis of the *Natives 2004* report as the beginning of a knowledge development effort to understand Alaska Native population, health, economy and education data and to share that information. The Policy Center asks for your comments on the data presented in this report (using the attached comment card or our website, [www.firstalaskans.org](http://www.firstalaskans.org)). Did the data surprise you? What are the root causes of the issues the data raise? What actions must be taken to improve the situation?

Native Elders were right. Change has come and is coming faster still. To keep on the clear, bright trail, we must understand clearly our present status and use that knowledge to have our footsteps firmly follow in theirs.

Sincerely,

Byron I. Mallott  
President and CEO  
First Alaskans Institute

Greta L. Goto  
Director  
Alaska Native Policy Center

## Background

Fifteen years ago, the Alaska Federation of Natives published its *AFN Report on the Status of Alaska Natives: A Call for Action*. That study, prepared by the Institute of Social and Economic Research (ISER) at the University of Alaska Anchorage, summarized population, health, economics and education statistics about modern Natives. In August, 2003, AFN asked UAA's ISER to update and expand the 1989 Report. AFN wanted to know how the landscape of Alaska Native well-being had changed in the intervening years.

ISER recently completed its work, entitled the *Status of Alaska Natives Report 2004* (hereafter referred to as *Natives 2004*). AFN also wanted the updated statistics to be shared with the Alaska Native Community, and it wanted to know what the Native Community thinks about the data. Accordingly, AFN contracted with the First Alaskans Institute's Alaska Native Policy Center in a knowledge development effort to:

- bring ISER's updated statistics back to the Native community in order to get feedback from Native people on what the data mean and what actions can be taken to improve the statistics; and
- write and publish an analysis of the 2004 statistics from a Native point of view, for a Native audience.

The Policy Center made 20 formal presentations of data to over 1,000 participants in meetings held in seven regions. The following facts and findings are based on the data, discussions and feedback from these meetings:

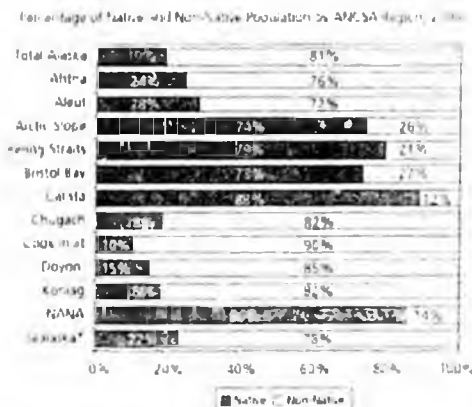
## Alaska Native Population

### The Facts

The majority of the Alaska Native population (58%) still lives in rural and remote Alaska, and the urban Alaska Native population (42%) is increasing. Both rural and urban Native populations are young, living longer, and experiencing a changing household composition.

- Census 2000 shows a total statewide Alaska Native population of 119,241 people (19% of the total state population of 626,932)
- 82% of the population living in remote rural areas are Alaska Natives
- Alaska Natives are comparatively young, with a median age of 24 years
- More than 44% of all Natives in Alaska are 19 years of age or younger
- The Native population is statistically balanced between males and females, 50.2% male and 49.8% female
- 42% of all Alaska Natives live in urban Alaska, and 58% live in rural areas of the state. There is great geographical mobility among Native people, and the 2000 Census shows a trend of people moving from rural villages to regional centers and to urban areas of Alaska
- The life expectancy of the Native population is increasing, and more people now survive to old age than in prior decades
- If the Native population continues to grow at the rates by which it increased during the 1990's, it is predicted to number 140,000 people in the year 2010 and 165,000 in 2020

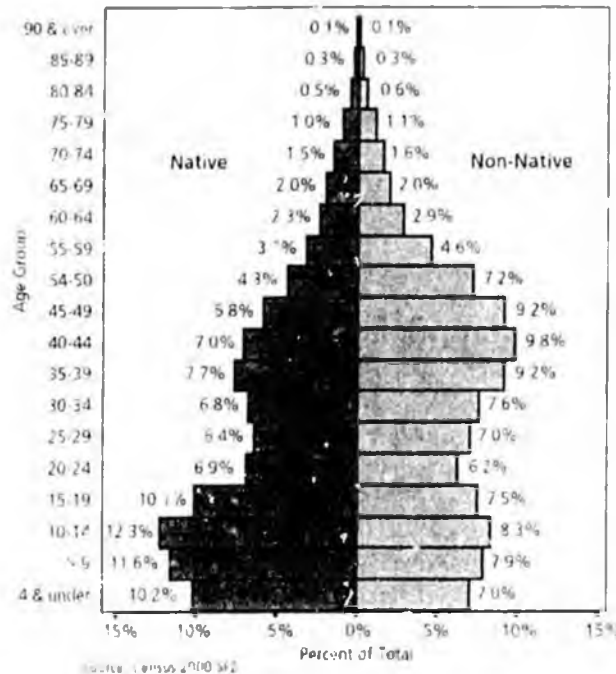
Figure ES-1 Percentage of Native and non-Native Population by ANCSA Region, 2000



\*Includes Annette Island Reserve.

Source: U.S. Census 2000 (SF 2) 100-Percent Data

Figure ES-2 Alaska Statewide Native and Non-Native Population by Age Group, 2000



### The Findings

When the Policy Center presented these data in meetings and discussions, it found that participants wanted to see population numbers both on a statewide level and for their respective regions. Participants wanted to see population forecasts for each of the regions for planning and decision-making. It was clear that there is a need for consistent and periodic updates of population data that regions can use for planning purposes.

Three themes emerged from the discussion on population: youth, Elders, and migration from villages to urban areas.

- **Youth** Young Native people are going to need economic opportunities to take them into their adult lives and careers. There needs to be an understanding of how young people can enter existing jobs – and jobs that might be created through economic development. Healthy

behaviors need to be encouraged and supported so young Native adults can get and keep jobs. The public education system must teach the skills needed in a modern workforce.

- **Elders** Information on the aging Native population is critical to plan for services that Elders will need for quality of life so that Elders can live where they want to live, in their home communities, with their families, surrounded by familiar faces, speaking their languages, eating their foods, free of pain and stress.
- **Migration** The Policy Center heard that many Native people are moving from the village for economic and educational opportunities and for access to health care that might not currently be available in their communities. The issue does not, or should not, stop with that simple explanation. Many participants in the discussions and regional meetings thought that the movement to regional hubs and urban areas represents deeper issues that need to be addressed, including cost of living and safety in the community.

Meeting participants were concerned with what might happen to villages if people move out. If more people from rural Alaska move into urban centers, what kinds of pressures will that place on systems of education, health, housing, transportation, public safety? Is urban Alaska prepared to deal with an influx of rural residents? How will village systems change as people move from villages?

## Alaska Native Health

### The Facts

Alaska Natives have witnessed major changes in the provision of health care. Recent health indicators show the progress made in health over the last four decades (1960's through 1990's).

- A new Alaska Native Medical Center in Anchorage was opened in 1997 and is operated by the Alaska Native Tribal Health Consortium
- The Community Health Aide system has expanded to more than 170 villages
- In recent years, 81% of Native children have been immunized for many of the common childhood diseases - a higher rate than for the entire United States
- Native life expectancy increased from 46.4 years in 1950 to 69.5 years in 1997
- Native infant mortality rates have decreased
- Contributing to the decrease in diseases like tuberculosis and hepatitis are additions to housing units and improvements in safe water and sewer. Nearly 3700 new housing units were built in remote Alaskan communities in the late 1990's. 77% of rural homes had safe water and sewer by 2003.

Even with the progress made, the data indicate new and continuing disparities in the health condition of Alaska Natives compared to the non-Native population. Many of the health disparities seem to be related to alcohol abuse and changes in dietary patterns.

- Native rates of Fetal Alcohol Spectrum Disorder (FASD) doubled, from 2.5 cases per 1,000 births

in the late 1980's to 5 cases per 1000 births in the late 1990's

- Alcohol and other substance abuse contribute to child abuse and neglect, domestic violence, sexual assault and incarceration
- More than one-third of all prison inmates in Alaska are Natives, almost double the percentage of Natives in the total population
- Native teen birth rates, smoking rates and use of marijuana are higher than those of non-Natives
- About 40% of Alaska Natives smoke cigarettes, and many use smokeless tobacco
- Thirty percent of Natives are considered obese, up from 20% in 1990's
- Alaska Native diabetes rates doubled between 1985 and 1999

### The Findings

The data presented in the *Natives 2004* report indicate that health improvements have been made where access to health care has improved. These improvements deal with the physical side of health care, prevention, diagnosis and treatment of disease.

When the Policy Center brought selected health data to discussions and regional meetings, it found that participants were not surprised by the data. They seemed to think that the reported rates of Fetal Alcohol Spectrum Disorder (FASD), suicide and smoking were low. Everyday experience indicated higher numbers than what the data showed. As the Policy Center reviewed the data and feedback, the following were identified as health-related data about which participants wanted more information:

- **Relationships among population, health and education data.** Participants wanted to see a bigger picture that connected different age groups, risk factors that might be present for each of the age groups, and how that might affect education and economic conditions. For example, one participant at the education discussion series asked, "What are the future impacts of FASD births, drug births and HIV births on the schools, the workplace and society in general?" Another

asked, "What are the economic and social costs associated with FASD (ethical diagnosis and care of children and adults, the cost of that care, the burden placed on the education system, future impacts on the workforce, and the preventability of the problem)?" Many participants recommended continued dollars for prevention programs, diagnostic programs and funding for education of children with FASD.

- **Preventive health services** on matters of behavioral health, particularly to reduce levels of tobacco use, abuse of alcohol and/or other drugs, trafficking, obesity, and AIDS
- A clearer statistical picture of the extent of **HIV infection** among Alaska Natives. This information must be completely anonymous, and it must be gathered with strict ethical considerations
- A reliable **data base on adult alcohol consumption patterns** - by communities, regions, genders, age groups, and other important variables is needed to understand the behavior. Further research into the "underground economy" of drug and alcohol supply is needed, which links to the relationship between substance abuse and criminal behavior/incarceration
- The **extent of substance abuse**, including prescription, as well as illicit, drugs
- Information on the racial composition of local and state police forces, prosecutors, public defenders, judges and magistrates and how this might affect incarceration rates
- **Comparative life expectancies** for Alaska Natives at different ages, by gender, and by different regions and communities
- Specific health needs and adequacy of current services for **Native veterans** - both men and women, and especially those who have been combat
- The health of **Native Elders**. As Alaska Natives live longer, we need to understand which specific health disorders will require more care (for example, Alzheimer's disease, other dementia, diabetes, various types of cancer, circulatory disease, lung conditions, restricted physical mobility, and Elder abuse)
- Alaska Native **mental health issues**, which are often related to substance abuse problems. We need better understanding of why substances are abused

- More complete data on **Native suicide risk factors**: gender, age groups, linkages to substance abuse or mental health problems, geographic regions. Professional care-givers need detail in order to design more effective prevention programs.

## Alaska Native Economy

### The Facts

The economics chapter of the *Natives 2004* report provides a broad overview of rural economies, looking at individual circumstances, the structure of rural economies, and rural and urban comparisons.

**Employment** data indicate that Alaska Natives are increasingly participating in the cash economy; that more Alaska Native women are employed than men, particularly in urban areas, and that younger Alaska Natives are almost as likely as non-Natives to be in the labor force. Alaska Natives continue to be under-represented in professional, managerial, technical and sales occupations. Natives are also under-represented on the personnel rosters of the federal and state governments.

- 17% (76,281) of Alaska's work force (people age 16 and older) are Native
- 33% of unemployed Alaskans are Natives
- Of all Alaskans with work experience in 2000, Natives are most heavily represented in the labor, service, clerical, operative (mainly fish processing) and craft occupations.<sup>1</sup>

**Income** data indicate that Alaska Natives get the largest proportion of their income from wages and salaries and that income levels are at a continuing disparity with non-Natives. Native families that live in rural areas are especially likely to be unemployed, to have low incomes, and to live below the poverty line, compared to non-Natives, regardless of where they live.

- Native total cash income - the sum of all income from all sources - was \$1.5 billion in 2000, about 12% of Alaska's total cash income
- 71% of all income for Alaska Natives comes from wages and salaries

- Per capita Native income from wages and salaries is \$9,113, non-Native per capita wage and salary income is \$18,819

Cost of Living data clearly indicate that rural Alaskans continue to pay significantly higher cost, for electricity and food. This disparity with urban Alaska has not improved and has actually worsened during the last few decades:

- Southwest Alaska pays an average price of \$0.44/kwh before the Power Cost Equalization (PCE) adjustment - compared to the average of \$0.11/kwh in Anchorage.
- In 2003, residents of Lime Village would pay \$0.80/kwh without the PCE program adjustment.<sup>2</sup>
- It takes 2.8 wage earners in Bethel to buy an average house, compared to 1.5 wage earners in Anchorage.
- The average residential customer in remote rural Alaska uses less electricity than do customers in urban areas of the state, while paying more for that electricity.
- In all but five of the last 20 years, the average cost of food for a family of four in Bethel has been 50% higher than for a family of four in Anchorage.
- More than 10% of Native households outside Anchorage do not have phones.

Poverty data also indicate continuing disparities between Native and non-Native households:

- About 20% of Native people have incomes below the federal poverty line, compared to only 7% of non-Native Alaskans.
- In 2000, one-quarter of Native families headed by a woman or a man without a spouse were below the poverty line.

Business data indicate that Native firms are making strides:

- Alaska Natives own 11% of all business firms in Alaska, a higher percentage than for Native Americans in any other state. These firms, many of which are very small operations, generate about 5% of Alaska's total business revenues.
- ANCSA regional and village corporations also have a large role in Alaska's economy, generating almost \$3 billion in annual revenues and employing 13,000 people.

- Native profit and non-profit corporations are among Alaska's largest employers and land-holders, ten of them being among the 100 largest private firms in the state.

## The Findings

Economic data indicators in the *Natives 2004* report showed both that circumstances had improved and that disparities still existed. For "economic development" to work in rural Alaska, regional leaders and policy-makers will need to obtain the input from the people who live in rural Alaska, both Native and non-Native. If economic development is going to work, the people who will be affected must be involved in the process.

The Policy Center found that local and regional leaders want a practical, on-the-ground understanding of the structure of local and regional economies so that they can better plan for the future. The process of how cash enters, circulates and leaves a village is an economic fact - it needs to be understood. As the Policy Center reviewed the data and feedback, the following were identified as economy-related data about which participants wanted more information:

- **Energy economies** in rural communities (for home heating, electricity and transportation) are a subset of the economy that needs to be understood. What does it cost the average family household, with and without Power Cost Equalization, for electricity? What happens to village families if PCE is reduced or eliminated? What types of home heating fuel are used, and how much does the fuel cost in villages in Alaska? People need to understand how the whole energy system in rural Alaska compares with the urban situation.
- **Food economies**, including various mixes of cash and subsistence in different villages, affect cost of living. The amount of cash needed to buy equipment and supplies used in subsistence harvesting is not fully understood.
- **Jobs** currently exist in various villages, but research is needed on how much these jobs pay, whether or not these are living wages, what levels of education and skills are required to hold the jobs,

and what job placement programs exist. What development opportunities (for new job creation) exist in villages and regions, and how will local and regional residents prepare for those jobs? How much of current local employment is dependent on public appropriations vs. private investment? How do we involve that large demographic bubble of Native children and teenagers in their own futures and economic choices?

- The economy of Alaska has been dependent on two revenue sources: State and federal funds. The decline of public funds will affect all Alaskans, but it will continue to hit Natives and other minorities hardest.
- For effective planning, linkages across data (e.g. income and education levels) must be understood by business and civic leaders and policy-makers. The world's economy is increasingly based on knowledge and communication of information. More traditional jobs, in which people manufacture things, have been decreasing. The best-paid employees in modern society work with their minds, and this requires good education and job skills from both traditional learning and from high school, technical training and college.

But disparities in educational achievement continue to worry Alaska Native parents and educators:

- In 2002, only 5% of all teachers certified and teaching in Alaska's statewide public education system were Alaska Native.
- Native high school dropout rate almost doubled in just three school years (1999-2001).
- Between fall, 2001, and spring, 2003, only 49% of Native third-grade students passed Alaska's benchmark reading test. During the same three school years, only 14.3% of Native 11th and 12th graders passed the High School Graduation Qualifying Exam's reading test.
- In 2000, 3,138 Alaska Natives were enrolled in either college or graduate school, 1071 (34%) were men, while 2067 (66%) were women.
- Less than 3% of the University of Alaska's statewide faculty was Native in the fall of 2003, and more than one-half of those were instructors, not professors.

## Alaska Native Education

### The Facts

Alaska Native education has seen some improvements over the last thirty years. access to local high schools and educational attainment are the most notable.

- Since 1974, 155 new high schools have been built in Alaska, mainly in villages.
- 71% of rural Alaska Natives, age 20 and over, have high school diplomas, up from 48% in 1980.
- The number of Natives who have gone on to four-year college degrees more than tripled between 1980 and 2000.
- In 2000, 73% of all Alaska Natives over the age of 18 held high school diplomas, and 25% of the same age group held bachelor degrees. Also in 2000, almost 40% of Native high school graduates had completed at least one year of college.
- There is a growing cadre of second-generation Native college graduates - those whose parents had received their own degrees.

### The Findings

The data indicate improvements in Native access to education and in Native educational attainment. They also point out severe disparities that will continue if not addressed by Alaska Natives. The quality of education, its relevancy to the skills needed in the modern world, and the safety of the educational facilities are continuing disparities that must be corrected. Additional issues of educational disparity include low test scores, comparatively few Native educators, and increasing dropout rates that if unchecked will prevent many Native students from achieving their hopes and dreams.

Alaska Native leaders, school board members, parents, teachers, community leaders and policy makers need the kind of data provided in this analysis in order to have a clear understanding of Native education issues and to work together to improve the whole picture. The Policy Center Project Team and participants in the discussions and meetings identified the following data needs:

- Research shows that **preschool child development programs** (nursery school, pre-kindergarten, Montessori, Head Start, etc.) are beneficial to early learning. We need to know which communities still lack early childhood learning programs, including **literacy programs**. Many Native students entering elementary school are at a significant disadvantage in the numbers of words they know, compared to non-Native students. This vocabulary disparity must be addressed in order for Native students to succeed in school.
- Mt. Edgecumbe High School and the Rural Alaska Honors Institute (UAF) have **successful records of high school preparation**. Cook Inlet Tribal Council has had success in working with Native students to improve their studies and bring up their test scores. What are these programs doing that is helping Native students succeed? The underlying philosophies of these programs, teaching materials and methods may be transferable to other areas of the state.
- The performance record of schools using **immersion programs** that put Native cultures, languages and Elders back into the classroom must be better understood because such programs appear to be helping student achievement as well as galvanizing community support. Participants wanted to know what effect this has on learning.
- Support for **growing teachers and administrators** is needed. How many Native people are studying to become educators and what kind of support do they receive from the Native community? Teacher training must prepare teachers in what students need to know in order to function in today's knowledge-based society. Better information about the impacts of teacher turnover and whether or not teachers from a local community are more inclined to stay in the community and support the educational program is also needed.
- **Local school boards and their policies** are a critical part of the school and learning process. In a survey conducted by the McDowell Group,<sup>4</sup> parents identified school boards and school districts as the most responsible entities for addressing issues of education. How can school boards better respond to what needs to be done to improve education for Alaska Natives?
- **High school drop out rates** must be better documented and understood. Students, as well as teachers, parents, school board members, local

Native leaders and community members, need to be involved in this effort. Students know why they are dropping out and how we can help them stay in school.

- **GED numbers** need to be understood. Additionally, what are the differences in post-secondary attainment or training opportunities between those who earn GED's and those who earn high school diplomas?
- **Computer skills** are critical to success in the modern workforce. Do Alaska's schools have the necessary access to computers, the internet and methods to teach proficiency in computer skills?
- The data identified improvements in educational attainment, but a continuing gap exists, particularly in **higher education**. Strategies for how to close the gap of access to post-secondary education are needed.
- The dynamics of the Native "brain drain," whether it moves Native students from rural to urban Alaska or from Alaska to other states or countries, needs to be understood. Who are the students who move, why do they go, and how can we utilize their skills and training to address the issues raised in the *Natives 2004* report?

## Conclusions

The *Status of Alaska Natives Report 2004*, prepared by ISER, is a compilation of data on population, health, economy and education. It is a lineal timeline that depicts trends over the last thirty years, and it also provides a snapshot of the current Alaska Native population, health, economic condition and education. The data indicate a seeming paradox that many of the changes have been for the better, and yet, there are disparities and new challenges. There is no single answer to addressing the issues raised by the data in the *Natives 2004* report. But there are at least three areas on which we must work simultaneously: improving public education, continuing to address the health issues (especially behavioral health), and creating jobs and lowering the cost of living in rural Alaska.

Based on feedback from Policy Center discussions and regional meetings, participants

identified the need for additional data in different formats because it is critical to understanding the status of populations and communities, and to decision-making and allocating resources:

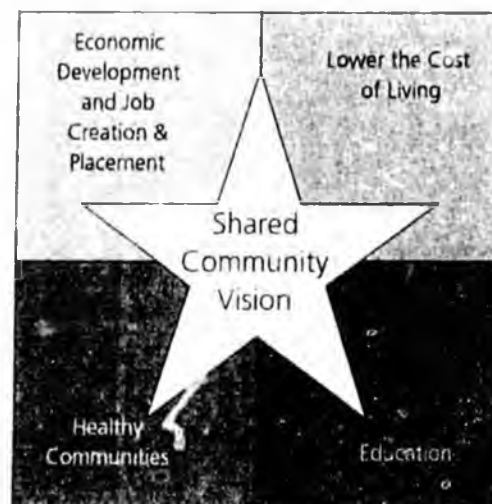
- Make data available by the 12 regions, as well as in urban-and-rural formats, in order to allow regional and local entities to develop scenarios based on current and potential economic development projects. This should include numbers of Alaska Natives in urban centers. If current rural-to-urban migration patterns continue, there will be continued pressures on urban service providers for employment, education, housing and health services.
- Provide data on the numbers and types of jobs that currently exist in the public and private sectors, by ANCSA region, including local industries/employers (fishing, tourism, education, health, etc.), and Native profit and non-profit entities. People need to know what jobs they should be preparing for and how to link our educational systems to this process.
- Provide data on telecommunication, energy and transportation infrastructures, by region, for planning purposes. (Note: some of this information is available from state agencies like the Department of Transportation.)
- Provide data on food and energy costs by region, and show the relationship of costs to household income in order to see where income goes and if there is any left for discretionary items.
- Provide forecasts of population by region, in order to plan for potential economic development activities and educational needs.
- Provide accurate data on how many people are actually unemployed. The number of people (of 16 years and older) not in the workforce may be more useful than are current state and federal unemployment statistics.

The Policy Center also heard about the many examples of how people and organizations are addressing issues raised by the data. The work that the Cook Inlet Tribal Council is undertaking with Alaska Native high school students in the Anchorage School District, the immersion programs in Southeast schools and in Bethel, the Spirit Camps' teaching of culture and language, the Alaska Native Science & Engineering Program at the University of Alaska,

the Community Development Quota program, the economic force of the Alaska Native Claims Settlement Act corporations, and the diabetes awareness programs in Norton Sound are all examples of how people and organizations can and do respond.

The Policy Center also heard concern for how Alaska Natives can maintain their own cultures in a modern world of different values. For example, in the discussion of economic development, there is a cultural need to protect subsistence, it is tied to Native values and lifestyles and yet economic development is needed to provide jobs. Some communities and regions are promoting economic development because it is needed. Some communities want to maintain a predominantly subsistence lifestyle. Some individuals in each type of community want to be able to do both. How do Alaska Natives maintain and preserve cultures given these pressures? Another example - with an increasingly urban Native population, how will the various cultures of Alaska's Natives be carried on?

Each of the data presentations by the Policy Center closed with the graphic illustration shown below.



Source: Adapted from "Alaska's Jobs for Alaska's People" by Commonwealth North, June 2003.

It is a small jigsaw puzzle, and its centerpiece - "shared community vision" - links together four complex challenges that face Alaska Natives:

- the need for **economic development and job creation and placement**, which will provide family cash income, in combination with subsistence harvesting, in order to strengthen the "mixed" economic base of Native communities,
- the need to **lower the cash cost-of-living** for basic necessities in rural villages (e.g., electricity, fuel, oil and food), in order that people can afford to live where they want to live,
- the need for **healthy communities**, whether in villages or urban areas, with emphasis on behavioral health, individual wellness and disease prevention, and
- the need to **make public schools effective** community institutions that teach Native, as well as non-Native, students the basic academic skills from a culturally relevant context that is needed in a knowledge-based society.

Although there are many other issues facing Alaska Natives, these four are critical. If they can be made better, the whole level of Native life will improve.

But none of these issues can be addressed unless Native individuals and communities take the lead. What is needed is a shared community vision that gives our people a perspective on where we have come from, where we are now, and where we are going - *signs along the trail*. Without such vision, little can change, but with it, wonderful things are possible.

## Endnotes

<sup>1</sup> Institute of Social and Economic Research (2004, May). *The status of Alaska Natives report 2004* (Vols. I-III). Anchorage, AK. Pages 4-10 to 5-16

<sup>2</sup> Alaska Energy Authority (2004, January). *Statistical report of the power cost equalization program fiscal year 2003*. Anchorage, AK. Alaska Energy Authority

<sup>3</sup> Note. See "A Survey of Native Perspectives on Alaska Issues", prepared for the Alaska Humanities Forum and the First Alaskans Institute, June 2003



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- Susan Labelle, Chugachmiut, Inc.
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# Table of Contents

<b>Preface</b> .....	3
<b>Executive Summary</b> .....	5
Background .....	5
Alaska Native Population .....	5
The Facts .....	5
The Findings .....	6
Alaska Native Health .....	7
The Facts .....	7
The Findings .....	7
Alaska Native Economy .....	8
The Facts .....	8
The Findings .....	9
Alaska Native Education .....	10
The Facts .....	10
The Findings .....	10
Conclusions .....	11
<b>Acknowledgements</b> .....	15
<b>Table of Contents</b> .....	17
<b>Chapter One: Introduction</b> .....	20
Background .....	20
The Process .....	20
Structure of the Report .....	22
<b>Chapter Two: The Data</b> .....	24
Why Data are Important to Know and Understand .....	24
Data Sources .....	24
Discussion of Data Limitations .....	25
Census Data .....	25
Health Data .....	26
General Data .....	27
Issues and Implications – The Alaska Native Policy Center View .....	27
<b>Chapter Three: Alaska Native Population</b> .....	30
Alaska Native Population Facts at a Glance .....	30
Discussion of Selected Data from the Status of Alaska Natives Report 2004 .....	30
Alaska Natives and American Indians .....	30
State of Alaska: Largest Percentage of Native Population .....	30
Racial Composition of Alaska .....	31
Composition of the Alaska Native Population .....	31
Alaska Natives Growing, Young and Changing .....	32
Population Trends .....	32
Population Projections .....	32
Population by Age Group .....	32
Household Type .....	34
Household Size .....	35

Households with Children .....	35
Living Arrangements of Alaska Native Elders .....	36
Where Alaska Natives Live .....	37
Population by ANCSA Region .....	37
Urban and Rural Population Distribution .....	37
Migration and Mobility .....	39
Alaska Natives Living Outside Alaska .....	39
Issues and Implications – The Alaska Natives Policy Center View .....	40
<b>Chapter Four: Health</b> .....	<b>43</b>
Alaska Native Health Facts at a Glance .....	43
Discussion of Selected Data from the Status of Alaska Natives Report 2004 .....	43
Access to Health Care and Living Conditions .....	44
Access to Health Care .....	44
Rural Water and Sewer Systems .....	45
General Health Indicators .....	46
Life Expectancy .....	46
Immunizations .....	46
Infant Mortality Rates .....	47
Obesity among Alaska Native Adults .....	47
Diabetes among Alaska Natives .....	48
Tobacco Use among Alaska Native Adults .....	49
Leading Causes of Death among Alaska Natives .....	49
Alaska Native Death Rates .....	49
The Health of Alaska Native Teens .....	51
Alaska Native Teen Birth Rates .....	51
Tobacco Use among Alaska Native Teens .....	52
Alcohol and/or Drugs Use among Alaska Native Teens .....	53
Social Health .....	54
Alaska Natives in Prison .....	54
Child Abuse and Neglect .....	54
Domestic Violence and Sexual Assault .....	55
Alaska Native Suicide Rates .....	56
Alcohol .....	57
Alaska Natives and Fetal Alcohol Spectrum Disorder .....	57
Alcohol Control .....	58
Alaska Natives and Substance Abuse Treatment .....	59
Issues and Implications – The Alaska Native Policy Center View .....	59
<b>Chapter Five: Economy</b> .....	<b>63</b>
Alaska Native Economic Facts at a Glance .....	63
Discussion of Selected data from the Status of Alaska Natives Report 2004 .....	64
Mixed Economies .....	64
Alaska Native Participation in the Cash Economy .....	64
Subsistence .....	65
Federal Spending .....	66
Alaska Native Business and Economic Development .....	67
Native Ownership of Alaska's Business Firms .....	67
Business Revenues of ANCSA Regional Corporations .....	68

Economic Development .....	68
Employment .....	69
Alaska Native Employment and Unemployment .....	69
Native Employment in Alaska's State Government .....	69
Number of Jobs .....	72
Income Measures .....	72
Total "Real" Income .....	72
Household Income .....	73
Per Capita Income .....	73
Income Sources .....	75
Permanent Fund Dividends .....	75
Cost of Living .....	75
Housing Ownership Trends .....	75
Household Occupancy .....	76
Cost of Energy .....	76
Cost of Food .....	77
Poverty .....	77
Poverty Rates .....	77
Numbers of Native Children and Adults Living in Poverty, 1960-2000 .....	78
Families Living in Poverty, Rural and Urban .....	79
Families below the Poverty Line .....	79
Issues and Implications - The Alaska Native Policy Center View .....	80
<b>Chapter Six: Education .....</b>	<b>84</b>
Alaska Native Education Facts at a Glance .....	84
Discussion of Selected Data from the Status of Alaska Natives Report 2004 .....	85
Access to the Public Education System .....	85
Facilities .....	85
Student enrollment .....	86
Numbers of Alaska Native Educators .....	86
Achievement .....	87
Benchmark Exams .....	87
High Schools Graduation Qualifying Exam .....	87
Adequate Yearly Progress .....	89
Attainment .....	89
High School Attainment .....	89
Alaska Natives Attending High School and College .....	89
High School Dropout Rates .....	92
Issues and Implications - The Alaska Native Policy Center View .....	94
<b>Chapter Seven: Selected Statewide and Regional Data .....</b>	<b>97</b>
<b>Chapter Eight: Conclusions .....</b>	<b>126</b>
<b>Glossary .....</b>	<b>129</b>
<b>Works Cited .....</b>	<b>134</b>
<b>Selected Resources .....</b>	<b>137</b>

## Background

Fifteen years ago, the Alaska Federation of Natives published its *AFN Report on the Status of Alaska Natives: A Call for Action*. That study, prepared by the Institute of Social and Economic Research (ISER) at the University of Alaska Anchorage, summarized population, health, economics and education statistics about modern Natives. The report raised awareness of serious issues, such as alcohol abuse and other health problems, rural economies and educational attainment. It urged Native leaders and public officials to address those challenges.

The issues raised in the 1989 AFN Report led to the very detailed *Alaska Natives Commission Report* in 1994 and the *AFN Implementation Study*, submitted to Congress thereafter. From these studies, regional "Wellness" programs were funded by Congress, and federal funding was added to the re-authorized Alaska Native Education Equity Act.

Since the mid-1990's, there has not been an updated report on the Alaska Native population and its socio-economic conditions. Thus, in August, 2003 AFN asked UAA's ISER to update and expand the 1989 Report. AFN wanted to know how the landscape of Alaska Native well-being had changed in the intervening years.

ISER recently completed its work, entitled the *Status of Alaska Natives Report 2004* (hereafter referred to as *Natives 2004*). That Report is a 400-page document which contains very detailed information on the population, health, economy, and education status of Alaska Natives.

AFN also wanted the updated statistics to be shared with the Alaska Native Community, and it wanted to know what the Native Community thinks about the statistics. Accordingly, AFN contracted with the First Alaskans Institute's Alaska Native Policy Center in a knowledge development effort to:

- bring ISER's updated statistics back to the Native community in order to get feedback from Native

people on what the data mean and what actions can be taken to improve the statistics, and

- write and publish an analysis of the 2004 statistics from a Native point of view, for a Native audience

The *Natives 2004* data report and the Alaska Native Policy Center's analysis can be used to gain a better understanding of the Alaska Native population and the issues Alaska Natives face. More importantly, the data can be used to understand the status of rural and Native communities today, in order to plan effectively for tomorrow.

Both the ISER *Natives 2004* Report and this analysis of its data were funded by AFN, utilizing grant monies from the Substance Abuse and Mental Health Services Administration of the U.S. Department of Health and Human Services.

## The Process

In order to guide this 11-month project and to oversee the writing of its analysis, the Policy Center formed a seven-member Project Team made up of experienced leaders from around the state. The Project Team met between November, 2003 and June, 2004. They kept the project on track, guided this analysis, and assisted in bringing data presentations to the regions. The team included:

- Kanaqlak, Dr. George P. Charles, Assistant Professor, Department of Alaska Native and Rural Development, UAF, Director/Principal Investigator, National Resource Center for American Indian, Alaska Native, & Native Hawaiian Elders, "Voices of our Elders", UAA, Bethel Native Corporation and Calista Corporation Shareholder, Alaska National Guard, US Army Reserve and US Navy Vietnam veteran (Calista region)
- Linda Joule, Executive Director and former Wellness Director, Native Village of Kotzebue (Kotzebue IRA (NANA region))
- Susan LaBelle, Community & Social Services Division Director, Chugachmiut, Former Trustee,

Alaska Mental Health Trust Authority, Adjunct Faculty, UAA (Chugach region)

- Will Mayo, sole proprietor - Nagheltaale Consulting, President, VINE Alaska, Inc., a Native ministry for wellness, former President of Tanana Chiefs Conference, Inc, former Senior Advisor on Rural Policy under former Governor Tony Knowles (Doyon Region).
- Dr. Gordon L. Pullar, Director, Department of Alaska Native and Rural Development, UAF, President, Leisnor Village Tribal Council and former President, Kodiak Area Native Association (Kenaiq Region)
- Ricardo Worl, Loan Program Manager, Tlingit Haida Regional Housing Authority, Dartmouth College Admissions Office Alumni Director for Alaska, Native Youth Olympics coach, former Assistant Vice President of National Bank of Alaska and Editor of *Alaska Native Magazine*. (Sealaska region)
- Miranda Wright, Academic Program Head and Assistant Professor, Department of Alaska Native and Rural Development, UAF, Treasurer and member, Board of Directors for Doyon, Limited (Doyon region)

Because of limited time and budget, the Policy Center used two criteria to select the regions it would visit to bring the information to the Native community. 1) Coverage of all major ethnic groupings of Alaska Natives (Athabascan, Aleut/Unangan, Alutiiq/Sugpiaq, Inupiaq, Tlingit, Haida, Tsimpsian, and Yupik); and 2) Coverage of those regions with the largest numbers of villages. Using the numbers of villages from the membership of the Alaska Federation of Natives, the Policy Center chose five regions:

- Bering Straits/Kawerak region, representing 20 villages
- Calista/Association of Village Council Presidents region, representing 57 villages
- Bristol Bay Native Corporation/Bristol Bay Native Association region, representing 31 villages
- Doyon/Tanana Chiefs Conference region, representing 42 villages
- Sealaska/Central Council of Tlingit Haida Indian Tribes of Alaska region, representing 21 villages

By the end of the dissemination project, the Policy Center had reached seven regions including Bering Straits, Calista, Chugach, Cook Inlet, Bristol Bay, Doyon, Sealaska and had made 20 formal presentations to Elders, high school and college students, regional and village leaders, and to Native community members:

- Four presentations of data to the Alaska Native Policy Center Discussion Series held in the Anchorage area. Each meeting in the Series focused on a separate data category (population, health, education or economy). Participation in the Series included representatives from Native organizations, including the Cook Inlet Tribal Council, the Alaska Native Tribal Health Consortium, and the Native Village of Barrow. Representatives from organizations like Alaska Pacific University, the Denali Commission, the Alaska Industrial and Export Authority, and the Alaska Energy Authority also participated in the discussion series.
- A presentation to the Bristol Bay Village Leadership Workshop in Anchorage, reaching dozens of regional and local leaders.
- A presentation to students from the Kuspuk School District Career Exploration program.
- A presentation to the UAA College of Education's faculty and administrators in Anchorage.
- A presentation to the College of Rural Alaska's "Federal Law and Alaska Natives" course, by teleconference through UAF.
- A presentation to Elders and community leaders at the Chugachmiut Regional Wellness Conference in Anchorage.
- A presentation to the Kawerak Elders and Youth Conference in Nome, which was also broadcast by radio across the region.
- A presentation to regional and village leaders attending the Calista Regional Economic Summit in Bethel, also broadcast region-wide by radio.
- Another large community presentation in Bethel.
- A presentation to the Bristol Bay Land and Resources Conference in Dillingham, also broadcast region-wide by radio.
- A presentation to regional and village leaders at the Tanana Chiefs Conference's Annual Convention in Fairbanks, also web-cast by the Internet.

- A presentation to Native youth participating in the Alaska Native Professional Association/ Alaska Native Heritage Center Mentor Program in Anchorage
- A presentation to Native and non-Native college students at the UAA's "Alaska Native Perspectives" Class
- A presentation to Native and non-Native college students at the UAA's "Alaska Native Politics" Class
- A presentation to members of the Alaska Legislature's Bush Caucus (House and Senate) in Juneau
- A presentation to 120 Native and non-Native high school student government leaders attending the semi-annual meeting of the Alaska Association of Student Governments in Yakutat
- A presentation to regional and village leaders and delegates to the 2004 General Assembly of the Central Council of Tlingit and Haida Indian Tribes of Alaska in Juneau

More than 1,400 people have seen selected data from the *Natives 2004* Report and have discussed them in some detail. Many more have heard some of these presentations aired over radio stations KDLG, KYUK and KNOM. The feedback, comments and questions received during these discussions are an important part of the analysis that follows.

## Structure of the Report

This report examines selected data that give a good overview of the current health, economic and education situation of Alaska Natives. They were selected from among the several hundred data findings in ISER's *Natives 2004* Report.<sup>4</sup>

**Chapter One** is the introduction to this analysis, including a brief project background and summary of the project process.

**Chapter Two** summarizes the sources of these data, the limitations of the data, and why it is important to know and understand data.

**Chapters Three, Four, Five, and Six** present a discussion of selected data on Alaska Native

population, health, economy and education and includes feedback from participants in the Policy Center discussions and regional meetings and information on programs that address many of the issues raised by the data. Each chapter closes with issues and implications of the selected data.

**Chapter Seven** is an overview of selected data by the 12 Native regions in Alaska. As the Policy Center presented this material in each region, participants requested many of the statewide statistics for their own region. The Policy Center has made an effort to accommodate those requests where such regional data are available.

**Chapter Eight** summarizes the issues and implications of the data from the previous chapters.

A glossary, works cited, and selected resources for further study follow Chapter Eight.

When the Policy Center took the data to the Native Community, meeting participants consistently noted that the data do not stand in isolation from one another. They are inter-related and influence one another in daily life. Thus, there is a reason why the data sections of this analysis focus first on population, then health, economics, and education. Population identifies who and where Alaska Natives are. Health provides fundamental indicators of physical well-being. Economics and education are important "drivers" of issues presented under health.

## Endnotes

<sup>4</sup> For the detailed *Status of Alaska Natives 2004* report, please visit these websites: Alaska Federation of Natives at [www.nativefederation.org](http://www.nativefederation.org); First Alaskans Institute at [www.firstalaskans.org](http://www.firstalaskans.org); or ISER at [www.iser.uaa.alaska.edu](http://www.iser.uaa.alaska.edu)



- Why data are important to know and understand
- Data sources
- Discussion of data limitations
- Issues and implications

*"This brings to mind how, as a trapper, I would look for signs in the snow. Going over the ridge, rounding the bend, every turn brought new information to consider. Should I explore this area or move on? You always have to pay attention to the signs in order to succeed and not waste time. Looking at this data reminds me that we have to carefully read the signs in order to make good decisions."*

--Will Mayo, April 2004, Alaska Native Policy Center Project Team, comments regarding the Status of Alaska Natives Report 2004

### Why Data are Important to Know and Understand

Data are used for understanding the condition of populations, communities, or businesses - for planning and for decisions about allocation of resources. For example, demographics are used to distribute federal dollars for programs such as Medicaid, Head Start, Unemployment Insurance, and Social Service block grants. Demographics are also used to distribute state funds to local communities for programs such as the State Revenue Sharing and Municipal Assistance (not funded in FY 04).

Demographic data are also used to determine "populations at risk" in order to develop rate computations which quantify the possible existence of a problem and its severity.<sup>14</sup> Examples would include birth rates, death rates, teen pregnancy rates and crime rates.

As the Policy Center presented these data to the Native community in discussions and regional meetings across the state, it became clear that Alaska Natives wanted to know and understand these data. They wanted the information to be presented in a statewide format, in a 12-region (ANCSA) format, and in an urban-rural format, so they could see and understand trends.

In preliminary discussions with the Institute of Social and Economic Research (ISER), the Policy

Center recommended that the data be broken out in a 12-region format so that the data would be relevant to Alaska Natives. In some cases, ISER accommodated this request, and in some cases they were unable to do so because the data were not available. Where possible, the Policy Center has presented data in a 12-region format to accommodate the requests of Alaska Natives.

### Data Sources

This section discusses the sources of data in the *Natives 2004* report, and analyzes those data limitations. The *Natives 2004* report was compiled from many existing sources of data. Although ISER conducted some interviews, no primary research, such as surveying, was done. When reviewing statistics, one must determine the source of the information and the assumptions used in presenting the data. The main sources of data for the *Natives 2004* included the:

- U.S. Census 2000, including Summary Files 1 through 4 (SF1, SF2, SF3, and SF4) and the American Indian Alaska Native Summary File (AIANSF) and the Equal Employment Opportunity File (EEO). SF1 and SF2 are based on a 100 percent count of population and provide geographical and racial data. SF3 and SF4, and the AIANSF are based on sample data. [www.census.gov](http://www.census.gov) Map 2-1 shows census areas and the 12 ANCSA regional boundaries.
- Public Use Microdata Sample (PUMS). See glossary for more information.
- U.S. Censuses 1990, 1980, 1970 and 1960
- U.S. Department of Commerce
- U.S. Bureau of Economic Analysis
- Alaska Department of Labor, Research and Analysis Section
- University of Alaska Cooperative Extension Service
- Alaska Department of Education and Early Development
- University of Alaska Office of Institutional Planning, Research and Assessment

Map 2-1. Native Regional Corporations and Census Areas



Source: ISER, *Status of Alaska Natives Report, 2004*, page A-26

- Zick Report: Federal Programs and Alaska Natives
- U.S. Centers for Disease Control and Prevention
- National Center for Health Statistics
- Alaska Native Health Service
- Alaska Bureau of Vital Statistics
- Alaska Division of Public Health
- Alaska Department of Health and Social Services
- Alaska Native Tribal Health Consortium
- Alaska Native Health Board

### Discussion of Data Limitations

The *Natives 2004* report presents historical and current data on population, health, economy, and education of Alaska Natives, using the above sources of information. Much of the report is based on the Census 2000 which ISER states is the most "important, single source of

information on the status of Alaska Natives." However, there are limitations to the Census and other types of data that one must be aware of in order to interpret it accurately. In the *Natives 2004* report, ISER identifies a number of these limitations, and we agree with ISER's assessment. The limitations that ISER noted as well as those identified by the Policy Center are discussed below.

### Census Data

- **Counting and Sampling:** Census data can be a 100% count, compiled from all households in Alaska, or it can be based on a sampling of households. In order to address the issues of accuracy in sampling the population in rural Alaska, the 2000 Census sampled a higher proportion of households than it did elsewhere (up to 50% of households in some places).

*"In general, does the Census accurately count lower-income, transient and minority populations? More specifically, did the 2000 Census get an accurate count of all Natives living in both urban and rural areas of Alaska?"*

*"How does migration affect the Census calculations? Many of our village residents move between the village and regional hubs or urban centers several times per year."*

*"What implications do these population figures have on the need for future services like public school education, health services, job training and Elder care?"*

*--Comments and questions from Population Discussion Series, October 2003 regional meetings January through May 2004*

- **Human Errors in Processing:** Among possible non-sampling errors, the process of identifying places to do the count of households can result in undercounting. ISER gives the example of the 1980 and 1990 censuses that "estimated an undercount of about 2 percent of the entire population of the state."<sup>4</sup> The timing of the census can cause non-sampling errors if not all residents are present during the time of the count.
- **Under-counts and Over-counts:** According to the Alaska Department of Labor, in at least 10 census areas (Wade Hampton, Valdez-Cordova, Bethel, Northwest Arctic Borough, Dillingham, Yukon-Koyukuk, Nome, Southeast Fairbanks, North Slope Borough, and Lake and Peninsula), the 2000 Census under-counts children between birth and 9 years old and over-counts youths 10-17 years.<sup>5</sup> Other age categories were not affected.
- **A New Census Definition of Race:** The 2000 Census gave people the choice of identifying themselves as Alaska Natives of *single race* or of *mixed race*. This choice was not available prior to 2000. The choice causes difficulties in comparing the 2000 census with previous censuses, which had counted only those who

identified themselves as Natives of single race. Because comparisons are necessary, ISER developed a "bridging" process, which estimates how many Alaska Natives in prior censuses would have identified themselves by mixed race, if they had been allowed to. The methodology is presented in Appendix A of the *Natives 2004* report.

- Some state and federal agencies have not yet determined how they will accommodate the change in definition of population from 2000 to prior Census. E.g., the change in definition affects such calculations as birth rates and death rates. Thus, some of the data presented in the *Natives 2004* report do not have the most recent statistics.
- The Integrated Public Use Microdata Sample (IPUMS) allows researchers to look at relationships between different variables – for example, educational levels in a household. However, the IPUMS data set has a shortcoming in that it does not provide data on a regional basis for Alaska because of the relatively small size of regional populations. Only Anchorage and the "rest of Alaska" can be identified consistently over time using the IPUMS.

## Health Data

The health data are presented in a statewide format. When the Policy Center presented data to regional meetings, participants wanted to see them for their respective ANCSA regions.

*"Statewide data don't tell me what's happening in my region, or locally."*

*"What is happening at the regional level? Priority issues at regional and local levels often differ from statewide issues."*

*"What do the FASD, obesity and diabetes numbers look like for my region?"*

*--Comments and questions from Discussion Series, October 2003, regional meetings, January through May 2004*

Like the Census data, there were some limitations to the uniformity of health data sources. The questions regarding health data sources are listed below.

- Some health data are available by ANCSA region, for example, birth rates. [An example of health data that can be seen by 12 regions is birth rates. See [http://health.hss.state.ak.us/dph/bvs/birth\\_statistics/nrc.htm](http://health.hss.state.ak.us/dph/bvs/birth_statistics/nrc.htm) (link to the 'state totals').] However, the issues of time series and using the new Census definitions of race may affect the uniformity across data sources.
- Data on rural plumbing statistics used in the ISER report come from the Department of Environmental Conservation, Village Safe Water Program and the Census data. The data do not correspond one-to-one due to differences in the data gathering process.
- Health data are often age-adjusted to account for the fact that the incidence of some diseases changes with age. Thus, as the Native population ages, the prevalence of some diseases may increase and the prevalence of other diseases may decrease.
- The standard population age rate was changed in 2000 which can affect comparisons of age rates using the old standard.<sup>9</sup> ISER has attempted to present their data recognizing these difficulties.
- The control groups against which Alaska Natives are compared are inconsistent, "non-Native Alaskans," "all Alaskans," and "White Alaskans" are often used.

#### General Data

- **Geographic comparisons:** ISER noted that there are at least seven ways for geographic comparisons among data, census areas, boroughs, election districts, judicial districts, urban-rural, ANCSA regions, school districts, local governments, census designated places, Alaska Native village statistical areas, and Tribal-designated statistical areas.<sup>10</sup> This many break-outs of data can lead to questions

of uniformity and interpretation in trying to compare the numbers across differing regional break-outs.

- **Lack of Uniformity in Data from Different Sources:** Many agencies did the primary data research used in the *Natives 2004* report. But they gathered their information in different ways, for different purposes. For example, the Census includes Lower 48 Indians who live in Alaska in the count of "Alaska Natives." But other data gatherers (for example, health organizations and school districts) may separate these groups for purposes of service delivery and public funding. This can affect the accuracy of comparisons between data from different sources.
- **Data calculation:** Calculation methods for certain data, such as drop-out rates (gathered by school districts) and village unemployment rates (gathered by the Alaska Department of Labor) were questioned at virtually every discussion held by the Policy Center. People wanted to understand how these numbers were gathered and why they do not seem to represent the true situation seen every day in their communities.
- There is a lack of *cultural indicators* that measure such things as 1) subsistence participation (family harvesting and communal sharing) and 2) Native language use in different regions of the state.

## Issues and Implications – The Alaska Native Policy Center View

ISER took measures to identify the data sources and the limitations of the data used in the *Natives 2004* report. Throughout this analysis, the Policy Center will discuss data that raise questions and will identify data that should be included in any further study of the socio-economic condition of Alaska Natives. Until data-gathering methods are modified, researchers, policy makers and others will either have to rely on current methods used by

federal and state agencies, or conduct their own primary research to gather the information.

*"The North Slope Borough, recognizing limitations of the U.S. Census, has conducted its own local census periodically since 1989 in order to reflect accurately the population of its communities. The North Slope Borough Census captures the same information as the U.S. Census—and in some cases goes into more detail than the federal census. The local census is 70-90% accurate, depending on specific community responses. Since 1989, the Borough has successfully challenged the State of Alaska's population estimates for Tribal Cap Determination purposes by utilizing its own census figures. The data captured by the local census is used to make decisions and plan for local communities."*

*—Harczarek, Robert Senior Planner, The North Slope Borough. Personal Interview (2004, June 21)*

Alaska Natives are not the only ones to question the accuracy of Census data. On December 5, 2003, the Anchorage Daily News ran an Associated Press article on census counts of Indian reservations in the Lower 48 which states: "Reservations posed a multitude of problems, not the least of which were ever-changing households, frequent moves, mistrust of government officials, and differing definitions of who is an Indian. But, for the first time, tribes do not have to accept the official census number and more than 100 tribes nationwide are challenging the 2000 Census results."

The *Natives 2004* report provides a very detailed look at the socio-economic status of Alaska Natives. The Alaska Native Policy Center views this report as the beginning of a process of periodic updates to that information. The data will change over time and should be regularly updated in a consistent format.

*Regarding the collection of health data, the Alaska Natives Commission's Report recommended that, "A coordinated data system should be established that integrates*

*the efforts of the Alaska Area Native Health Service, the Centers for Disease Control and Prevention, the State of Alaska, the Veterans Administration, other cognizant agencies and Native health corporations."*

*—Irwin, M. (Ed.) (1994) Alaska Natives commission final report (Vols I). Anchorage, AK. Alaska Native Commission. Page 97*

The Policy Center is seeking feedback on what the data mean to you. It aims to track certain data in order to monitor what is happening within the Native Community and to measure progress over time. It wants to be responsive to the Native Community's need to be able to "drill down" from the statewide and regional levels of data to see how issues affect local communities. In fact, the Policy Center has already begun that process with its Alaska Native K-12 Education Indicators Report (see [www.firstalaskans.org](http://www.firstalaskans.org)).

Finally, as reported in Chapter One, the Policy Center has already taken data to many meetings for participant discussions. However, this analysis is likely to generate more discussion and thought on the data found in the *Natives 2004* report. Look closely at the data. Send your feedback to the Alaska Native Policy Center on how you view the accuracy of the data and the root causes of the serious issues that the data raise—and about what the Native Community can do in order to improve the quality of life for Alaska Natives.

## Endnotes

<sup>1</sup> Williams, J. G. (2004, February) *Alaska population overview, 2001-2002 estimates and census 2000*. Alaska Department of Labor and Workforce Development, Research and Analysis Section. Page 7.

<sup>2</sup> Institute of Social and Economic Research (2004, May) *The status of Alaska Natives report 2004*. (Vols. I-III) Anchorage, AK. Page A-1.

*ibid.*, page A-18.

<sup>3</sup> Williams, J. G., *Alaska Population Overview, 2001-2002 Estimates and Census 2000*, February 2004. Department of Labor and Workforce Development, Research and Analysis Section. page 23. Further discussion of this issue is in the *Status of Alaska Natives Report 2004*, page A-13.

<sup>4</sup> Alaska Department of Health and Social Services (Winter 2000) *The Impacts of Changing to the Year 2000 Standard Population on Age-Adjusted Death Rates in Alaska*. *Alaska vital signs*. No. 2. Vol. 8.

<sup>5</sup> Institute of Social and Economic Research (2004, May) *The status of Alaska Natives report 2004*. (Vols. I-III) Anchorage, AK. Page A-23.

<sup>6</sup> The Associated Press (2003, December 5) *Tribes challenge accuracy of 2000 census results*. *Anchorage daily news*.

In the 1989 *AFN Report on the Status of Alaska Natives: A Call for Action*, ISER reported that the Alaska Native population included approximately 75,000 people. Data from the 2000 census show an increase of the Alaska Native population to 119,241 people. The Alaska Native population is predicted to be 165,000 by the year 2020. What will the future look like?

### Alaska Native Population Facts at a Glance

The majority of the Alaska Native population (58%) lives in rural Alaska, and there is a growing urban Alaska Native population (42%). Both rural and urban Native populations are young, living longer, and experiencing a changing household composition.

- Census 2000 shows a statewide Alaska Native population of 119,241 people (19% of the total state population of 626,932).
- 82% of the population living in remote rural areas are Alaska Natives.
- Alaska Natives are comparatively young, with a median age of 24 years.
- More than 44% of all Natives in Alaska are 19 years of age or younger.
- The Native population is statistically balanced between males and females, 50.2% male, and 49.8% female.
- 42% of all Alaska Natives live in urban Alaska, and 58% live in rural areas of the state. There is great geographical mobility among Native people, and the 2000 Census shows a trend of people moving from rural villages to regional centers and urban areas of Alaska.
- The life expectancy of the Native population is increasing, and more people now survive to old age than in prior decades.
- If the Native population continues to grow at the rates by which it increased during the 1990's, it is predicted to number 140,000 people in the year 2010 and 165,000 in 2020.

### Discussion of Selected Data from the Status of Alaska Natives Report 2004

The following section discusses selected data on Alaska Native population and is taken from the *Status of Alaska Natives Report 2004 (Natives 2004)*. The Policy Center's Project Team identified these data as those that provide a good overview of the Alaska Native population. These selected data compare the numbers of Alaska Natives to American Indians, and the age, gender, statewide and urban/rural differences among Alaska Natives. This chapter also presents additional data on households and where Alaska Natives live. When the Policy Center presented these data in regional meetings, the Alaska Native Community said it wanted to see these numbers on a 12-region basis. We have provided that in Chapter Seven.

### Alaska Natives and American Indians

#### State of Alaska: Largest Percentage of Native Population

Five states have Native American populations greater than 7% of the total state population. Of these states, shown in Table 3-1, Native Americans are a larger percentage of Alaska's total population than are Native Americans in any other state. The actual numbers of Native Americans in several other states are greater than the number of Native Americans that live in Alaska.

Table 3-1. States with Native Americans Greater than 7 percent of Population in 2000

State	Total Population	Native American Race, Alone or Mixed*	Percent of State Population
Alaska	626,932	119,241	19.0%
Oklahoma	3,450,654	391,949	11.4%
New Mexico	1,819,046	191,475	10.5%
South Dakota	754,844	68,281	9.0%
Montana	902,195	66,320	7.4%

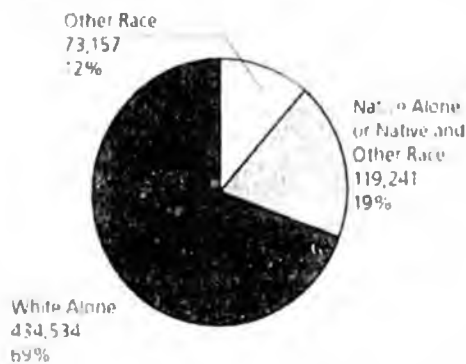
\*American Indian and Alaska Native alone or in combination with one or more races.  
Source: Census 2000 Summary File 2 (SF 2) 100-Percent Data

Source: ISER, Status of Alaska Natives Report, 2004, page 2-5

### Racial Composition of Alaska

In Alaska, 19% of the total population are Alaska Natives (by single race or in combination with another race), 12% are Other Races (Black, Asian, Pacific Islander, Hispanic, and other), and 69% are White, as illustrated in Figure 3-1. The Alaska Native population includes many

Figure 3-1. Racial Composition of the Alaska Population, 2000



Source: ISER, Status of Alaska Natives Report, 2004, page 2-6

ethnic groupings and cultural affiliations. The major ethnic backgrounds include Athabascan, Aleut/Unangan, Alutiq/Sugpiaq, Inupiaq, Tlingit, Haida, Tsimpsian, and Yupik.

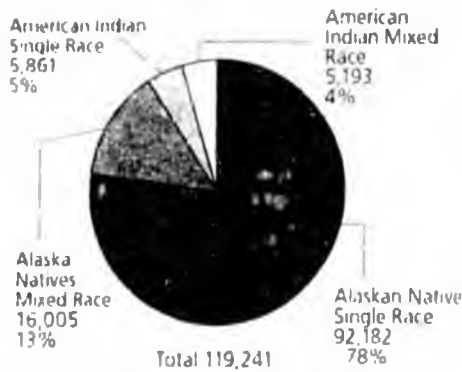
### Composition of the Alaska Native Population

The Census defines the "Alaska Native" population as *all Native Americans living in Alaska at the time of the Census* - whether they are Eskimos/Indians/Aleuts from Alaska or Lower 48 Indians. Of this total of 119,241 people in 2000, approximately 11,000 were Lower 48 Indians, and about 108,000 were Eskimos/Indians/Aleuts from Alaska. 78% of the 119,241 were Alaska Eskimos/Indians/Aleuts of single race, and 13% were Alaska Eskimos/Indians/Aleuts of mixed race. 5% of the 119,241 were Lower 48 Indians of single race, and 4% were Lower 48 Indians of mixed race.

ISER further concluded that 119,241 is the number that should be used as the total Alaska Native population for these reasons:

1. The American Indian population in Alaska is a small share of the total Native American population and its characteristics are not significantly different from the Alaska Native. Consequently, including them in the Alaska Native population does not materially influence our analysis and conclusions.
2. Most of the American Indian population in Alaska is located in urban areas, so the snapshot of rural Natives is not influenced by the inclusion of American Indians.
3. Since Alaska Statehood, the Census has combined Alaska Eskimos/Indians/Aleuts with Lower 48 Indians in our state in order to see population trends, the ISER report and this analysis compare five censuses from the past 40 years (1960, 1970, 1980, 1990, and 2000). This is possible only if we use the same uniform definition of "Alaska Natives" that the Census publishes.

Figure 3 Composition of Alaska Native Population in Alaska, 2000



Source: ISER, Status of Alaska Natives Report, 2004, pages 2-3

In recent years, the Alaska Native population has become more mixed by race than in earlier decades. In 2000, only 7.6% of Natives who were 75 or older were of mixed race, but 22% of Natives less than 20 years of age were of mixed race. Alaska Natives were far less likely to report mixed race (17.7%) than were Native Americans living in the Lower 48 states (52.1%).<sup>14</sup>

## Alaska Natives: Growing, Young, and Changing

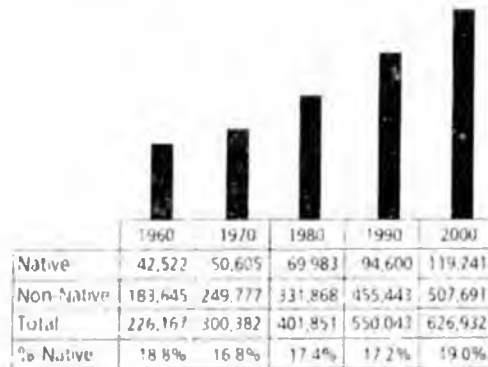
### Population Trends

The Alaska Native population has grown over the last 40 years. Figure 3-3 shows that in 1960, the Native population was estimated at 42,522 (18.8% of the population); and in 2000, it was estimated at 119,241 people (19% of the population). Even with the large in-migration of non-Natives to Alaska in the last 40 years, the percentage of the Native population has remained close to 19%.

### Population Projections

In the *Natives 2004* report, ISER provided a population forecast. Based on assumptions of stable rates of natural increase, ISER predicted that the Alaska Native population would

Figure 3-3 Alaska Native and non-Native Population, 1960-2000



Source: ISER, Status of Alaska Natives Report, 2004, pages 2-7

increase to 140,000 by 2010, and to 165,000 in 2020, Figures 3-4 and 3-5, respectively (see page 33).

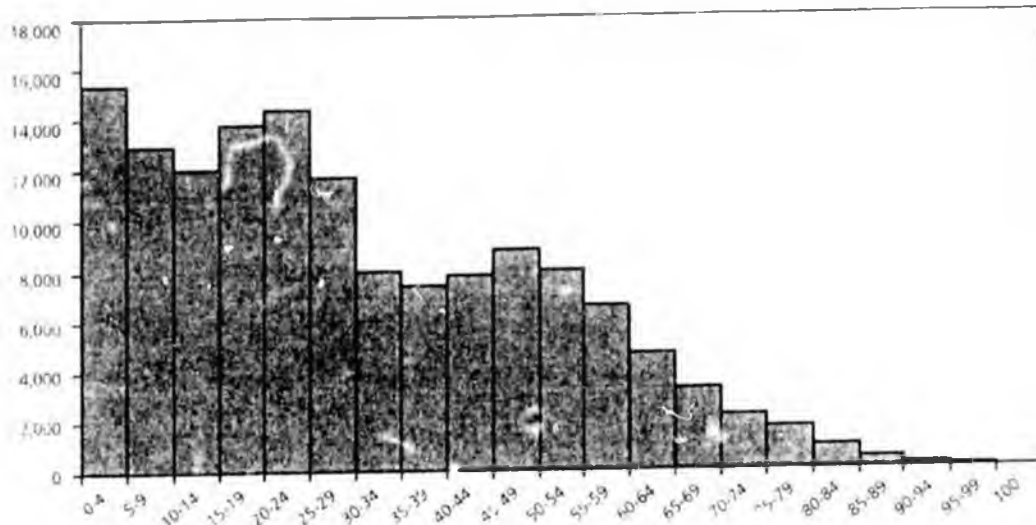
As the 2010 projection indicates, the Native population will see "age bubbles" in the workforce ages of 20-24 and 45-49, and by 2020, the Alaska Native population would have another age bubble of 5 year-olds and younger. The implications of these population forecasts are:

- Growing numbers of people in the workforce age group that will require job creation and placement.
- Growing numbers of Elders who live longer and who will require home care, health care, and other services.
- Growing numbers of school-age children that will need an education system that meets the needs of Alaska Native students.<sup>15</sup>

### Population by Age Group

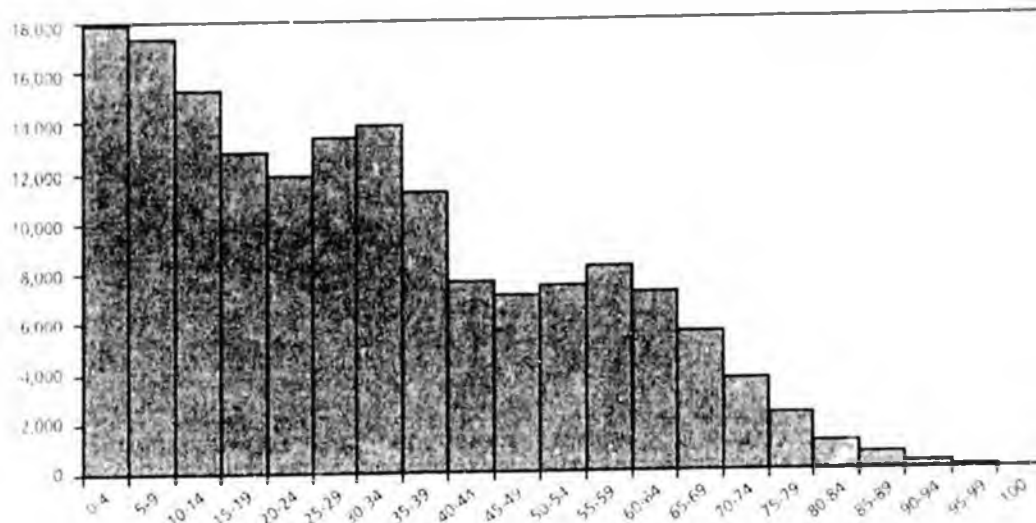
The population growth of Alaska Natives is due in part to annual birth rates (the number of births per 1,000 of population, each year), which have historically been higher than those of non-Natives. It also comes from decreasing annual death rates and the fact that Alaska Natives are living longer. Alaska Native median

Figure 3-4 Alaska Native Population Forecast 2010



Source: ISEER, Status of Alaska Natives Report, 2004, pages 2-60

Figure 3-5 Alaska Native Population Forecast 2020



Source: ISEER, Status of Alaska Natives Report, 2004, pages 2-60

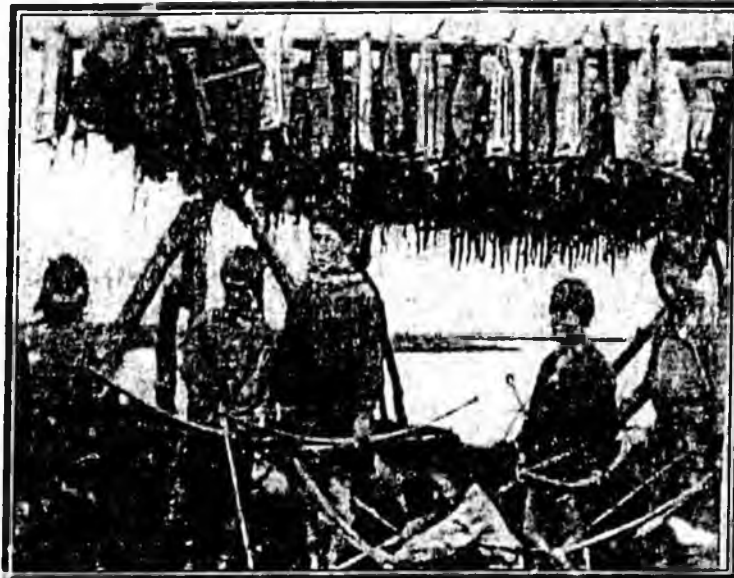
**HJR**

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**FILE 3**

## VOLUME II

# A REPORT CONCERNING ALASKA NATIVE ALLOTMENTS AND ALASKA NATIVE VIETNAM VETERAN ALLOTMENTS



Young bowhunters photographed at a fishcamp.

Prepared for the Honorable John Coghill Jr. in support of the Alaska Legislature's Joint Resolution to encourage the United States Congress to amend the Alaska Native Vietnam Veterans Allotment Act and to reopen and approve previously rejected allotments in the Tongass National Forest.

SUBMITTED BY:

ALASKA LEGAL SERVICES CORPORATION  
NATIVE ALLOTMENT PROGRAM  
1016 WEST SIXTH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501  
907-272-9421

## VOLUME II: TABLE OF CONTENTS

- A. Fact Sheet #2
- B. Examples of Veteran Allotment Cases Illustrating Problems With Existing Law
  - 1. James Witten's Report dated 1903.
  - 2. H.R. Report No. 3295, dated April 16, 1906.
  - 3. Veterans Allotment Act, Public Law 108-452, December 10, 2004.

A

## ALASKA NATIVE ALLOTMENT FACT SHEET #2

The following information summarizes the Alaska Native Allotment Act of 1906 and the Alaska Native Vietnam Veterans Allotment Act of 1998:

- The Alaska Native Allotment Act was enacted in 1906 following an investigation ordered by President Theodore Roosevelt after he discovered Alaska Natives were dying of starvation because they could not get title to lands used for subsistence.<sup>1</sup>
- Alaska Natives could not obtain title to land in the territory of Alaska under Alaska's homestead laws because the law required homestead applicants to be U.S. citizens but it was believed that Alaska Natives were not citizens,<sup>2</sup> until 1924 when Congress conferred citizenship by statute.<sup>3</sup>
- Most Alaska Natives were not informed of the opportunity to obtain allotments and as a result from 1906 to 1970, only 245 allotment parcels had been approved.<sup>4</sup>
- In 1970, the year before the Allotment Act was repealed, some (but not all) Alaska Natives were notified of allotments and between 1970 and 1971, there were 10,000 allotment applications filed even though there were approximately 58,000 Alaska Natives living in Alaska.
- Of the 10,000 allotment claims filed, only 509 were for land in Southeast Alaska and 399 of the 509 allotments were rejected and closed because the applicants were not born before the withdrawals for the Tongass National Forest which occurred between 1898 and 1909.<sup>5</sup>
- In 1998 Congress enacted the Alaska Native Vietnam Veterans Allotment Act<sup>6</sup> for the purpose of giving certain veterans another chance to file allotment applications because

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<sup>1</sup> Report on Conditions in Alaska, by James W. Witten, Special Inspector, General Land Office (1903). A copy is attached hereto as Attachment #1. See also, H.R. Rep. No. 3295, 59<sup>th</sup> Cong., 1<sup>st</sup> Sess. (1906), attached hereto as Attachment #2; and S. Doc. No. 101, 59<sup>th</sup> Cong., 1<sup>st</sup> Sess. (1906), attached hereto as Attachment #3.

<sup>2</sup> Attachment #2 (H.R. Rep. No. 3295, at 0, 31, 59<sup>th</sup> Cong., 1<sup>st</sup> Sess. (1906)). See also, Attachment #3 (S. Doc. No. 101, 59<sup>th</sup> Cong., 1<sup>st</sup> Sess. (1906)).

<sup>3</sup> *Hynes v. Grimes Packing Co.*, 165 F.2d 323, 326 (9<sup>th</sup> Cir. 1948).

<sup>4</sup> DAVID CASE & DAVID VOLUCK, ALASKA NATIVES AND AMERICAN LAWS 110 (2d ed. 2002) (citing Bureau of Indian Affairs 1956-1993 Annual Caseloads Report, Summary of Native Allotment Numbers (Juneau 1994)). Relevant portions of this book are attached as Attachment #5 in Volume I of this report.

<sup>5</sup> The rule is that applicants must prove personal use of the allotment land prior to the land's withdrawal and therefore in Southeast Alaska, the applicant must have been born and used the land before 1898 to 1909. By the time the government gave notice of the allotment opportunity, most of the eligible applicants in Southeast Alaska were deceased. Although heirs of such applicants can pursue an already filed application, heirs are not allowed to file an application on behalf of a deceased relative. *Shields v. United States*, 698 F.2d 987 (9<sup>th</sup> Cir. 1983).

<sup>6</sup> A copy of this Act is attached hereto as Attachment #4.

many Alaska Natives served in the military in 1970 and 1971 and therefore were not in Alaska when the government gave notice of allotments and took applications.<sup>7</sup>

- It was reported to Congress by the Bureau of Indian Affairs that about 2,800 Alaska Natives who served in the military during the Vietnam era did not receive allotments of land under the Alaska Native Allotment Act.<sup>8</sup>
- Because the Veterans Allotment Act is so restrictive, only 743 veteran allotment applications were filed and to date, none have been certified.
- There are three major reasons why so many veterans will not obtain allotments under the 1998 Act: lack of available land; eligible military service dates are extremely limited; and use and occupancy is required instead of legislative approval.
- Little land is available because the 1998 Act expressly prohibits veteran allotments on land in national forests, land conveyed to the State or Native Corporations, and land withdrawn before the veteran began using it.<sup>9</sup>
- Limited military service dates prevent many deserving veterans from obtaining allotments because the 1998 Act defines eligibility as Alaska Native Vietnam veterans who served in active military duty from January 1, 1969 to December 31, 1971 even though the Vietnam era began August 5, 1964 and ended May 7, 1975.<sup>10</sup>
- Use and occupancy requirements will prevent many veterans from obtaining allotments and legislative approval is not available to veterans as it is to all other allotment applicants under 43 U.S.C. Section 1634(a)(1)(A).<sup>11</sup>

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<sup>7</sup> *A Report Concerning Open Season for Certain Native Alaska Veterans for Allotments*, Prepared for Congress by the Department of the Interior in Response to Section 106 of Public Law 104-42, p. 6 (June 1997). A copy of this report is included in Volume I of this report as Attachment #1.

<sup>8</sup> *Id.*

<sup>9</sup> This means there is no land available to Southeast Alaska veterans because all of the land in Southeast is either the Tongass National Forest or it has been conveyed to the State or a Corporation. In addition, all federal land in Alaska had been withdrawn in 1968 before most veterans could have made qualifying use of the land and therefore, there is no land available for veteran allotments under the existing Veterans Allotment Act unless their use began before 1968. See, 43 CFR 2568.90. Other types of land not available to veterans include lands that are: mineral, without gas; valuable for minerals; has campsites; selected by the State of Alaska or a Native Corporation; designated as wilderness; acquired federal lands; contain a building or structure; withdrawn or reserved for national defense; National Forest land; BLM land with conservation system unit sites, (unless the manager consents); claimed for mining; claimed for homesites, trade and manufacturing sites and headquarters site; reindeer sites; and cemetery sites.

<sup>10</sup> The limited military service dates in the 1998 Act has excluded over 1,500 Native veterans who bravely served during the Vietnam era.

<sup>11</sup> Congress ordered legislative approval of allotments pending in 1971 under ANILCA to prevent costly and lengthy adjudication of use and occupancy issues but there is no such similar approval provision in the existing Veterans Allotment Act. BLM's lengthy adjudication procedures will mean that many veteran applications will take another 20 or more years to finalize. Further, many veterans cannot meet the use and occupancy requirements as a result of their service to their country. For example, a deserving veteran who was paralyzed in the war would be rejected if that veteran had not used the land for five years before reporting for duty, and was unable to complete the 5 years after discharge.

B

There are many more examples like Ronald Paul. Ruben Moxsooke also volunteered and bravely served in Vietnam but on January 23, 1969 he was forced to leave military service because both legs were blown off by a mine and the military told him he could only be properly treated in a VA hospital. Because the existing law requires 6 months of military service between January 1, 1969 and December 31, 1971, the Interior Board of Land Appeals upheld BLM's rejection of Ruben's veterans allotment application.<sup>1</sup> Ruben would receive an allotment under an amended Act that expands the military service dates to include the entire Vietnam era.

---

<sup>1</sup> A copy of this IBLA Order is attached.



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
Interior Board of Land Appeals  
801 N. Quincy St. Suite 300  
Arlington, VA 22203

RECEIVED

AUG 2 9 2005

ALASKA LEGAL SERVICES  
CORPORATION

703 235 3750

AUG 19 2005

703 235 8349 (fax)

IBLA 2004-1 : AA-83975 A and B  
: :  
REUBEN M. MIXSOOKE : Alaska Native Allotment  
: :  
: Decision Affirmed

## ORDER

Reuben M. Mixsooke appeals from a decision issued on August 22, 2003, by the Alaska State Office, Bureau of Land Management (BLM), rejecting his application filed February 4, 2002, to acquire parcels AA-83975 A and B under the Alaska Native Veterans Allotment Act (ANVAA), 43 U.S.C. § 1629g (2000).<sup>1/</sup> BLM's decision stated:

Information on your application indicates your military service dates were March 29, 1967 through January 23, 1969. To be eligible under the [ANVAA], your military service must have included at least six months between January 1, 1969, and December 31, 1971, or you must have enlisted or been drafted after June 2, 1971, but before December 3, 1971. In view of the above, your application AA-83975 is rejected.

Mixsooke timely appealed. In his statement of reasons (SOR), Mixsooke contends that he is entitled to an "equitable adjudication" of his claim under 43 U.S.C. § 1161 (2000), because he was forced to retire from the Army in January 1969 to receive better quality medical care than he could get remaining in the active military.<sup>2/</sup> Mixsooke further claims that without this forced separation from the Army, he would have served until 1971, making him eligible to claim an allotment under ANVAA. He claims, therefore, his service qualifies as "substantial compliance" under 43 CFR 1871.1-1. We cannot agree. For the reasons set forth below, we affirm BLM's decision.

<sup>1/</sup> This statute amended the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et seq. (2000).

<sup>2/</sup> In 1968 Mixsooke suffered the loss of both his legs while serving in Vietnam. He states that the medical care he would have received if he had remained in the active military would not have enabled him to be ambulatory.

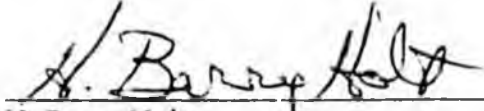
have served in the active military for six months between January 1, 1969 and December 31, 1971. He acknowledges he did not. (SOR at 4; Reply at 3.) As unfortunate as his reason was, he separated from the military on January 23, 1969, having served only three weeks during the statutory period for eligibility. There cannot be substantial compliance when the appellant has failed to comply with a fundamental requirement of the statute. See, e.g., Basic Rock & Sand, Inc. (On Reconsideration), 110 IBLA 1, 4-5 (1989) (no substantial compliance when the appellant failed to meet a statutory deadline).

Assuming that Mixsooke would have been eligible under the Act of May 17, 1906, and that he would have otherwise been eligible under ANVAA, we cannot find that he substantially complied with ANVAA because he did not serve six months between January 1, 1969 and December 31, 1971. This requirement must be satisfied before the claim could qualify for equitable adjudication under 43 U.S.C. § 1161 .

Therefore, pursuant to the authority delegated to the Interior Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

  
\_\_\_\_\_  
Will A. Irwin  
Administrative Judge

I concur:

  
\_\_\_\_\_  
H. Barry Holt  
Chief Administrative Judge

# Table of Contents

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2

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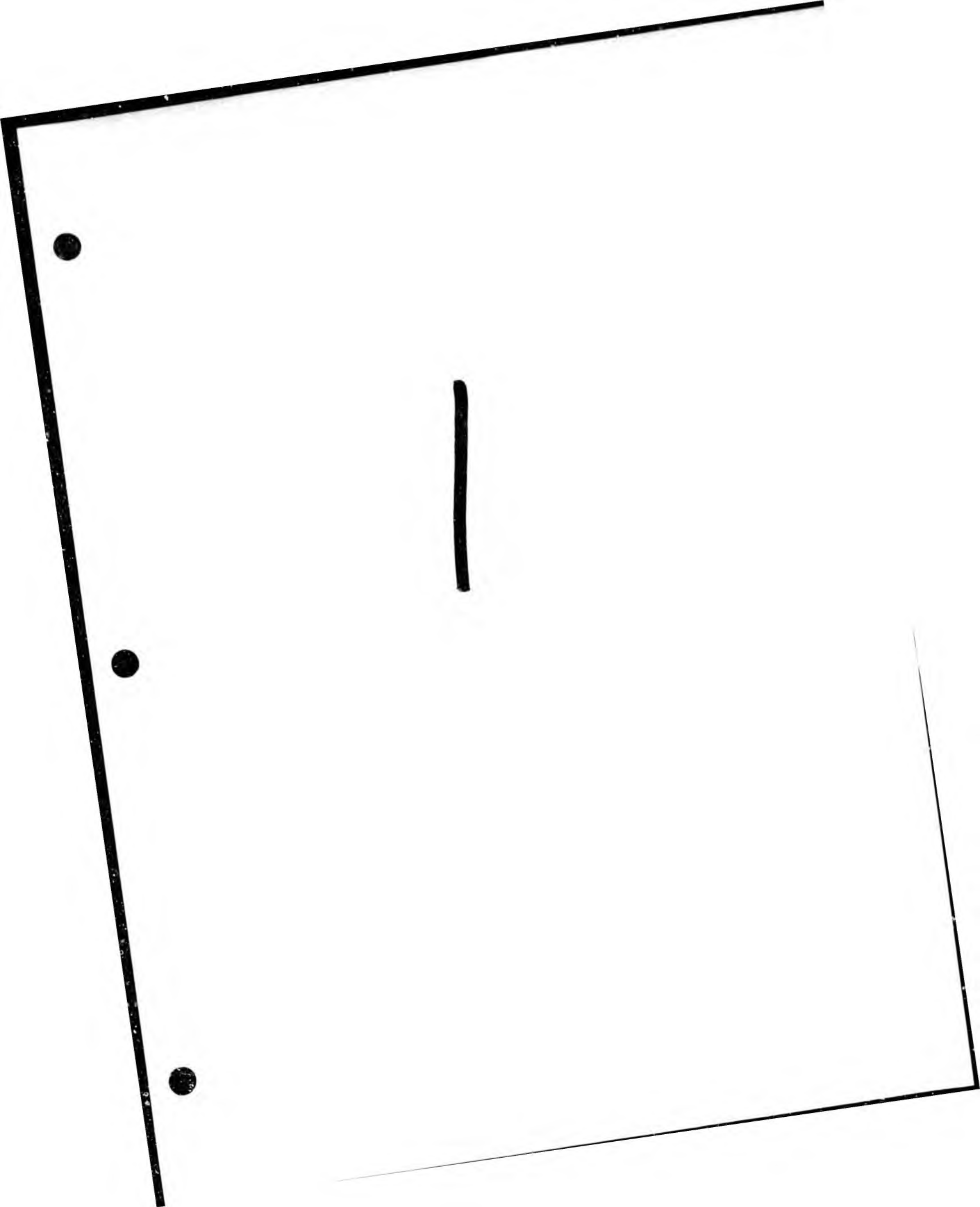
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REPORT

ON THE

AGRICULTURAL PROSPECTS, NATIVES, SALMON FISHERIES, COAL  
PROSPECTS AND DEVELOPMENT, AND TIMBER  
AND LUMBER INTERESTS

OF

ALASKA.

1903.

BY

JAMES W. WITTEN,  
SPECIAL INSPECTOR GENERAL LAND OFFICE.

WASHINGTON:

GOVERNMENT PRINTING OFFICE.

1904.

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DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE.

*Washington, D. C., April 9, 1904.*

SIR: I herewith transmit a copy of final report of James W. Witten, law clerk of this Office, who was recently detailed as special inspector to make a tour of general investigation into conditions in Alaska of interest to your Department. This report embraces agricultural conditions and prospects, natives, fish and fisheries, coal and timber. Mr. Witten has heretofore submitted reports on other subjects which have already received attention, among them a report on the propagation of foxes in that district, which was printed in your last annual report.

Such features of this report as may seem to need specific attention will hereafter be made the subject of further communications, with appropriate recommendation.

Very respectfully,

W. A. RICHARDS,  
*Commissioner.*

Hon. E. A. HITCHCOCK,  
*Secretary of the Interior.*

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE.

*Washington, D. C., April 8, 1904.*

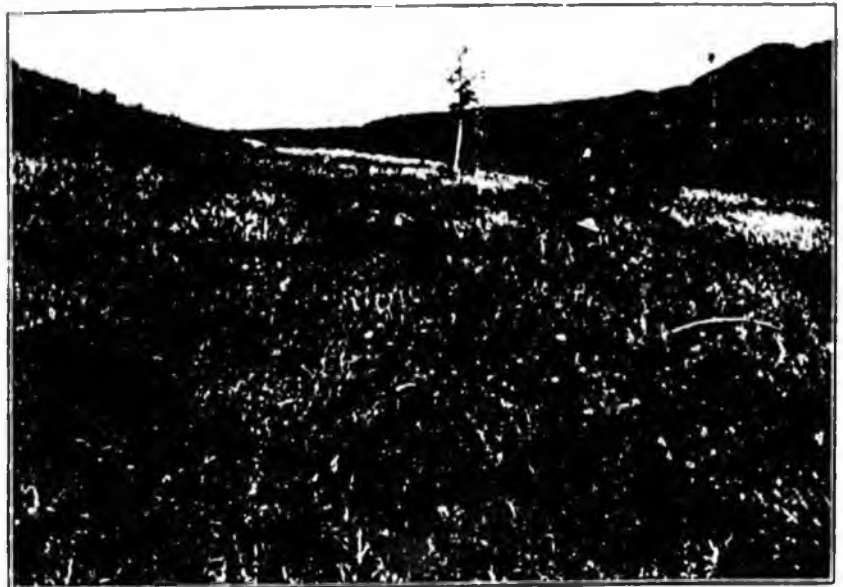
SIR: In addition to the various reports heretofore submitted on other subjects as to the result of my recent general investigations in Alaska, I beg to submit herewith a final report on agricultural possibilities and prospects, natives, timber and lumber interests, and fish and fisheries. These reports are made up from personal observations and from data collected by correspondence and otherwise, and are believed to fairly represent actual conditions in that district in so far as the Interior Department is interested in the subjects mentioned.

I am indebted to the valuable reports of Prof. A. H. Brooks, of the United States Geological Survey, Prof. C. C. Georgeson, of the Agricultural Department, and Mr. H. M. Kutchin, of the Treasury Department, for some of the facts recited in connection with other data gathered by myself, as well as for some of the photographic views used in this report.

Agricultural Prospects of Alaska.



"ITS RUGGED MOUNTAINS, ITS GLACIERS, ITS ICEBERGS, AND ITS SNOW-CAPPED PEAKS."



"ITS ACRES OF FLOWERS, ITS WAVING GRASSES."

AGRICULTURAL PROSPECTS, NATIVES, SALMON FISHERIES,  
COAL PROSPECTS AND DEVELOPMENT, AND TIMBER AND  
LUMBER INTERESTS OF ALASKA.

ALASKAN AGRICULTURE.

Until quite recently the agricultural possibilities of Alaska have been given but little consideration, and even now this subject is not seriously thought of by many persons who visit that district. The discovery of gold and the development of mines seem to have attracted the attention and fixed the gaze of the public. To those unacquainted with actual conditions, the thought of Alaska carries with it the idea of rugged mountains, perpetual snow and ice, and a generally cold and inhospitable climate. These conceptions have been planted in the public mind by newspaper accounts of the hardships endured by the gold hunters who a few years ago had the hardihood to cross the mountain passes to the Klondike country in midwinter, many of whom were little prepared by experience or otherwise for such a journey. Every camera taken to Alaska brings back pictures of its rugged mountains, its glaciers, its icebergs, and its snow-capped peaks, and but few of them ever tell us of its acres of flowers, of its waving grasses, or its growing gardens.

The coast regions of Alaska usually visited by tourists are indeed rugged and mountainous, but what one sees of Alaska from the water is simply its rougher edges. Many people do not stop to think that Alaska reaches as far south as  $54^{\circ} 40'$  north latitude, and that it stretches northwest and westward, covering an area greater than the combined area of England, Scotland, Ireland, France, and Spain; that it is larger than twenty of the smaller States of the Union; that it is four times as large as the combined area of the Philippine Islands, fourteen times as large as Cuba, eighty-eight times as large as the combined area of the Hawaiian Islands, and one hundred and sixty-five times as large as Porto Rico. They do not stop to think that more than two thousand miles of its coasts are swept and warmed by the ocean stream commonly known as the Japan Current, and comparatively few people are aware that almost this entire southern coast is open to navigation at all seasons of the year, or that it is never as cold at Sitka, the capital of Alaska, as it sometimes is in Washington, the nation's capital. In