

THE TRANSFER OF PUBLIC LANDS MOVEMENT IN ALASKA

ALASKA STATE LANDS ADVISORY GROUP (ASLAG)

AUGUST 19, 2015

ASLAG

Special committee formed by CACFA to understand and explore the viability of transferring management or ownership of federal public lands in Alaska to the State of Alaska.¹

Mission:

- **Collaborate** with informed members of the Alaskan public;
- **Research** the legal, economic, jurisdictional, and political issues associated with such a transfer;
- **Identify** potential solutions to current problems with public land and resource management; and,
- **Inform** policy makers of findings and recommendations.

CURRENT ISSUES:

- ANILCA Sections 101(d) and 1326(b) violations^{2, 9}
- Fish and wildlife resource management regulations^{2, 3, 4}
- Inholder access and permitting issues⁵
- Preemptive administrative decisions to prevent development plans⁶
- Disregard for the interests and concerns of Alaska residents⁷
- Disregard for the established rights and guarantees made to the State of Alaska^{8, 9}

Figure 3. Federal Lands in Alaska and Hawaii



Image sourced from Gorte, Ross W., Carol Hardy Vincent, Laura A. Hanson, and Marc R. Rosenblum. *Federal Land Ownership: Overview and Data*. Report No. R43246. Congressional Research Office, 8 Feb. 2012. Web. 29 July 2015.

POTENTIAL SOLUTIONS

LITIGATION

- **Transfer of Public Lands Act¹¹**
- **Alaska Sovereignty Act (H.B. 115)¹²**
- **Extension of Equal Footing Doctrine¹³**
- **Pro-transfer ruling on states' Enabling Acts¹³**
- **CACFA-requested litigation¹⁴**

LEGISLATION

- **Decentralization of federal agencies¹⁰**
- **Mandatory transfers of public land**
- **Defunding of federal regulatory agencies who fail to enforce or respect existing rules and laws**
- **Creation of public lands trusts¹⁰**
- **“Law of the Sea”**

NEGOTIATION

- **Land swaps (e.g., Rep. Bishop's Public Lands Initiative)¹⁵**
- **MOUs, primacy and co-management**
- **Reinitiate Alaska Land Use Council¹⁶**
- **CACFA comments to federal agencies for consideration before preliminary and/or final rule decisions¹⁷**

WHAT GUARANTEES COULD BE MADE TO THE STATE?

- **What responsibilities could be devolved?**
 - Management of fish and game
 - Control of in-state waters, wetlands and waterways
 - Resource management and energy production
- **Where could we collaborate?**
 - Access and infrastructure
 - Revenue sharing
 - Permitting
 - Oversight and enforcement

WHAT RIGHTS COULD BE DEVOLVED TO THE STATE?

- **Devolution vs. Decentralization**
 - Would decentralization of federal agencies resolve current problems with public lands management?¹⁰
- **Enforcement of provisions within the Alaska Statehood Act and the Alaskan Constitution**
 - Does the Alaska Statehood Act require disposition?
 - Do current management policies violate the Alaskan Constitution?
- **Users' Rights**
 - Can users better manage public resources than the federal government?^{18,19}

CONCLUSION

“Our problems are diverse, deeply regionalized and localized, and too complex for any more one size fits all solutions.” – Professor Sally Fairfax¹⁰

How can ASLAG and CACFA work with the delegation to address current issues with federal land management policies in Alaska?