

**Alaska State Land  
History and Federal Land Issues**  
for Citizens Advisory Commission on Federal Areas  
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# Presentation Objective

- To provide Historical Background regarding federal, state and Native lands for the Summit
- To provide information on land entitlements and land status
- To advance a few recommendations for consideration

# Alaska's Relationship to the Federal Government on Land Issues is Unique

- Amount of Federal Land
  - Most acreage of federal land of any state
  - 60% of state - only Nevada (88%); Utah (68%); Idaho (65%) have higher percentage
  - Large percentage in Conservation Systems
  - ANILCA created rules unique to Alaska
- ANCSA created unique relationship between federal and Native land interests
  - vibrant Native communities and culture
  - not reservations, not "Trust" lands

# Relationship is Unique ...

- Huge Acreage of State Land
  - Created huge, unique land transfer obligations
  - more state land than all other states combined
  - Other Western states only received “Trust” lands and were mostly “in place”
  - Alaska was allowed to select which federal lands it wanted, with limitations
  - Alaska had 25 + 10 years to exercise its selection rights
  - Alaska deals with Federal agencies as

# Presentation Outline

- State Land History
  - Native use and occupancy
  - Russian ownership
  - Federal ownership
  - Statehood (including navigable waters)
  - Alaska Native Claims Settlement Act
  - Alaska National Interest Lands Conservation Act

# Current Land Ownership

- State Land - 100 million acres
- Native Corporation Land - 46 million acres
- National Parks and Refuges - 124 million acres
- National Forest – 22 million acres
- US Bureau of Land Management – 73 million acres
- Municipal and Private – 5 million acres

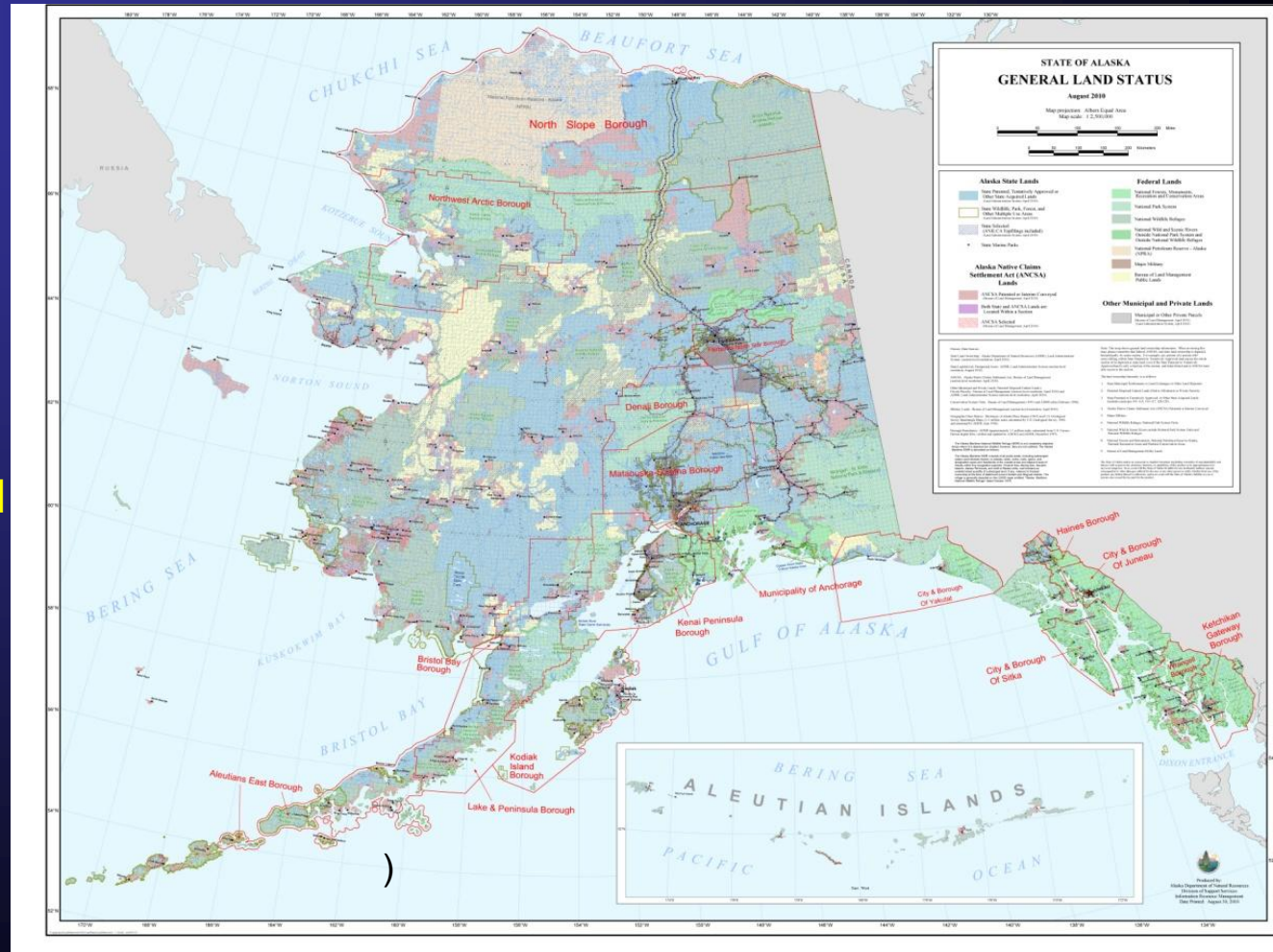


# State, Municipal, ANCSA, private lands

State Land – (blue)  
105 million acres  
(28% of Alaska)

Native Corporation Land  
– (pink) 46 million acres  
(11% of Alaska)

Private or municipal  
land – (grey) 5 million  
acres  
(1% of Alaska)





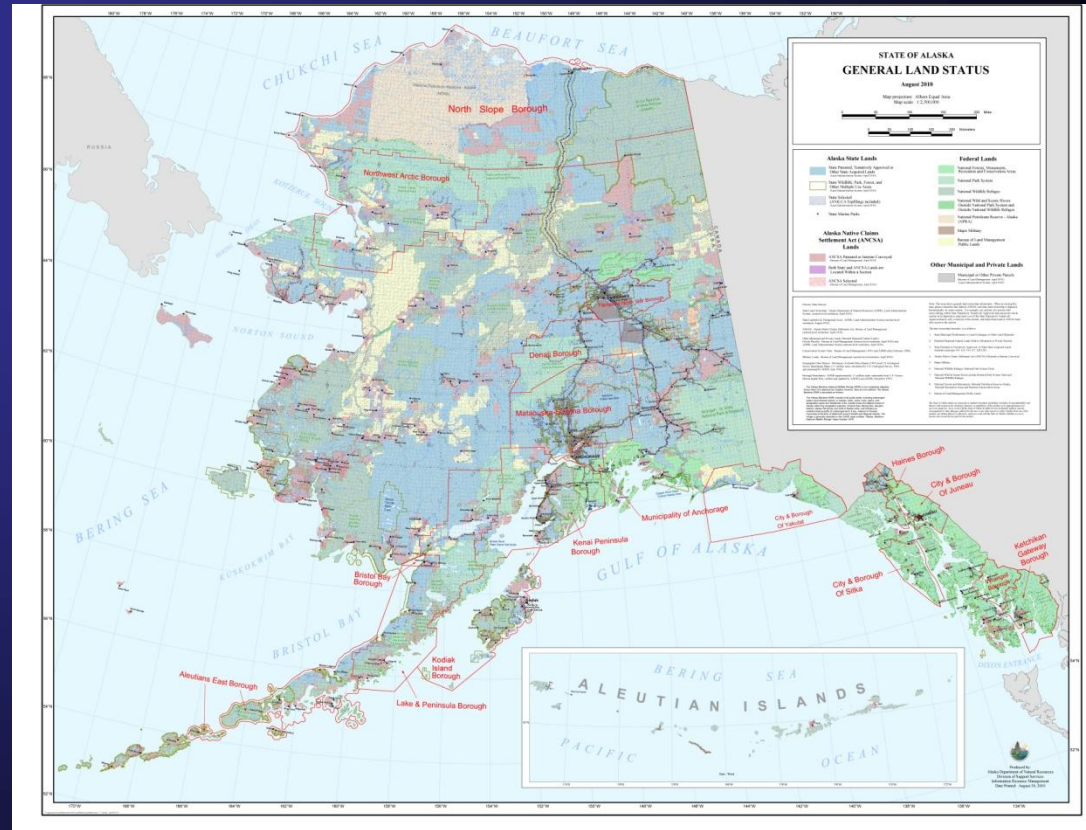
# State, Municipal, ANCSA, private lands - example

State Land – Chugach State Park, Mount Alyeska, Prudhoe Bay

Native Corporation Land – Eklutna Village, Cook Inlet Region

Municipal – school sites, Kincaid Park

Private – homes and businesses



Pre 1867 – Native Alaskans used and “owned” most land.

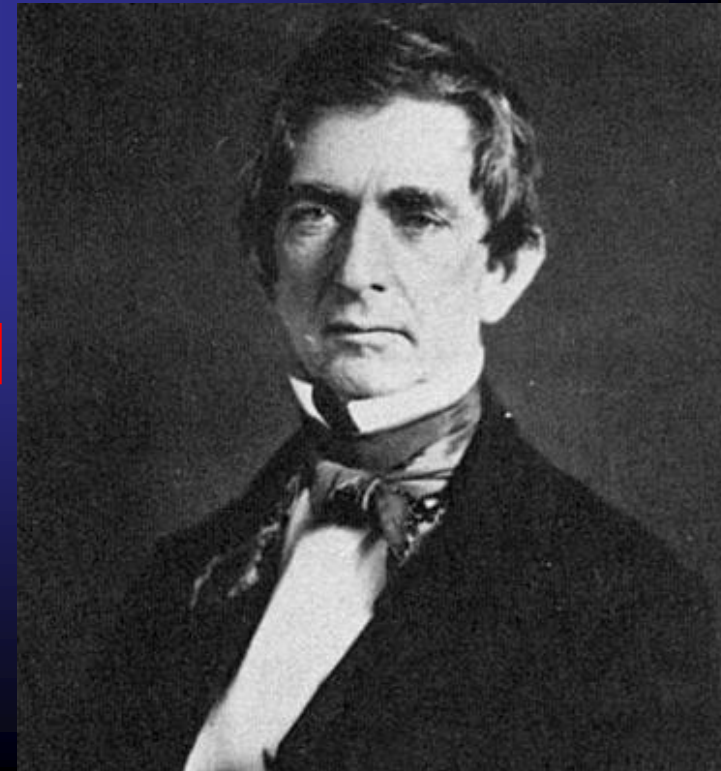


Russian occupation – 1700s to 1867 - Russia established several forts for trade, but settlement and land claims were limited to a few areas (Sitka, Kodiak)



# 1867 – Treaty of Cession

- United States purchased the Alaska Territory from Russia
- Negotiated by Secretary of State William H. Seward
- All of Alaska is federal land





\$7.2 Million – less than 2c/acre



# Major Territorial Land Events

- 1870 gold discovered at Sumdum (SE Alaska)
- 1880s – gold discovered at Juneau, Fortymile
- 1884 – Congress extended federal mining law to Alaska, the first federal land law in Alaska, recognized Native possession of lands
- 1897-98 – Klondike Gold Rush
- 1899 -1900 – Nome Gold Rush
- 1900 - Kennecott Copper discovered
- 1903 – Alaska open to Federal Homesteading
- 1906 – Alaska Native Allotment Act

# Pre-statehood Federal Land Withdrawals

- Chugach and Tongass National Forests (1907)
- Mt McKinley National Park (1917)
- Katmai (1918) and Glacier Bay (1925) Monuments
- Naval Petroleum Reserve #4 (NPRA - 1923)
- National Wildlife Refuges: Kenai (Moose Range), Kodiak, Arctic, Aleutian Islands
- Indian Reservations:
  - St Lawrence Island, Tetlin, Elim, Arctic Village – Venetie
  - Unalakleet, Tyonek, others
  - Annette Island (Metlakatla)

# Significance of Pre-statehood Federal Land Withdrawals

- Largely off limits to Statehood Land Selections (400,000 acre exception from Chugach and Tongass National Forests)
- Often constrained ANCSA selections
- Generally closed these lands to public land laws (such as mining claims, except National Forest)
- May defeat the state's title to navigable waters
- Withdrew these areas from further RS 2477 claims



# Federal Land Grants to States

- Land Ordinance of 1785
- Established Public Land Survey System (township and ranges)
- New states get Section 16 for public schools (first was Ohio – 1806)
- 1853 – California rec' d 2 sections
- 1894 – SW states rec' d 4 sections
- Grants also given for prisons, public buildings, etc.
- These are all trust lands

# Alaska Territorial Land Grants

- School Trust – 104,000 acres
- University – 111,000 acres
- Mental Health – 1 million acres
- These are all trust lands

# Alaska Statehood Debate

- Major federal spending during WW II
- Most public services were provided by the federal government
- Congress concerned about how the state would support itself
- Statehood advocates argued for a large federal land grant – for development and to fund state services

# 1959 - Alaska Statehood Act

EXTRA

Anchorage Daily Times

EXTRA

READ BY ALASKANS EVERYWHERE

FORTY-THIRD YEAR

PHONE 56201

ANCHORAGE, ALASKA, MONDAY, JUNE 22, 1959

20 PAGES

PRICE 10 CENTS

# WE'RE IN

## 64-20 VOTE MAKES ALASKA 49th STATE

### Victory Brings Quick Reactions

Leaders of the Anchorage community could hardly contain their exuberance today as the news came from Washington, D.C., that the Senate had passed the statehood bill. Reactions ranged from the ecstatic to the serene as 200 well-wishers gathered in every phase of Anchorage to share in the news that Alaska had become the 49th state. Many spectators waiting on the Edna Lane bus were unable to contain their excitement as they entered the courtroom, where the news was announced. Many were seen in the courtroom with their mouths open in awe and others were seen along the highways of the courthouse. Judge McCarthy announced, "Hurray, I'm delighted."

### She Goes Up Tonight



### Historic Vote Ends 6 Days Of Debate

WASHINGTON (AP) — Alaskan statehood forces won their most historic congressional battle tonight by pushing the statehood bill through the Senate in a whirlwind finish. Opposition forces utterly collapsed tonight after six days of debate. The historic moment came at 8 o'clock EDT. (2 p.m. Anchorage time). The vote was 64-20. Victory came on the vote of 33 Republicans and 31 Democrats. Opposing it were 12 Democrats and 8 Republicans. Fighting off all amendments and efforts to sidetrack the bill in a committee for further study, Senator Jackson led statehood backers to the victory they have waited many years to celebrate. At his side throughout the long debate was Alaskan Delegate Bob Bartlett. The bill now goes to the White House for the signature of President Eisenhower, making it the law of the land.

SALE

'Great Day' In History

# Alaska Statehood Act

- 1959 – Alaska became the 49<sup>th</sup> state and received a 103,350,000 acre land grant in Statehood Act
- Section 6(a) Community Grant: 400,000 acres from both National Forests and BLM
- Section 6(b) General Grant – 102,500,000
- Section 6(m) Submerged Lands Act applied to Alaska
- Section 4 – acknowledges Native land rights

# All State Land Grants

## Promised Land – 105 million acres

- All statehood and territorial land grants total over 105 million acres
- 100 million acres transferred to date
- 64 million acres patented (surveyed)
- 36 million acres tentatively approved (state owned but not surveyed)
- Most not trust land
- Revenue from State land has supported state government since 1979

# Promised Land – the last 5 million acres

- All state grants total over 105 million acres
- 100 million acres transferred to date
- University, School and Mental Health Grants largely fulfilled
- Remaining 5 million acres:
  - 2 million acres set aside for withdrawn lands
  - 1 million acres set aside for inholdings
  - 2 million acres for good ANCSA leftovers and other state interest

# State owned shorelands, tidelands and submerged lands – 60-65 million acres

- Shorelands – land under inland navigable waters – e.g. Yukon, Tanana, Gulkana
  - Acquired under equal footing doctrine
  - Includes land within federal Conservation System Units established after statehood
- Tidelands – lands under tidal influence
  - Acquired under submerged lands act/ equal footing doctrine



# State owned shorelands, tidelands and submerged lands

- Submerged lands – lands out to three mile territorial limit
  - Acquired under submerged lands act
- **EXCEPTION** – lands withdrawn at statehood – resolved by Supreme Court
  - Utah Lake
  - ANWR, NPRA (Dinkum Sands)
  - Glacier Bay

# What are the State Owned Navigable Waters ?

State acquired title in 1959, BUT –

- There is no list
- There is disagreement about what is navigable
- Pre-statehood withdrawals may have defeated state title
- There is disagreement about the impact of pre-statehood withdrawals

# How do we determine what are the navigable waters ?

- Federal courts have established criteria
- State asserts ownership and manages waterways it feels meet criteria
- Finality may require Quiet Title through federal court
- State and BLM have used Recordable Disclaimer of Interest

# Impact of Pre-Statehood Withdrawals on Ownership of Navigable Waters

Withdrawal must show intent to defeat a future state's title and specifically include waters (Utah v United States, 1987 – aka Utah Lake)

## Pre-statehood withdrawal determinations:

- Defeated State Title: NPRA, ANWR, Glacier Bay, Kenai Moose Range
- State Received Title: Tongass National Forest marine waters, Chugach NF rivers
- Currently in dispute: Stikine River

# Alaska – state owned land

165 million total acres

- 105 million acres of uplands
- 60 million acres of tidelands, shorelands and submerged lands
- Equal in area to California, Oregon and Washington combined
- Alaska is second largest landowner in US

# State Constitution – Article VIII

- Encourage settlement of its land and development of its resources by making them available for maximum use consistent with the public interest
- Provide for the utilization, development, and conservation of all natural resources belonging to the State, including lands and waters, for the maximum benefit of its people.
- Fish, wildlife and waters available for common use

# State Constitution – Article VIII

- Manage renewable resources for sustained yield
- Legislature can establish special sites and areas (parks, refuges, etc.)
- State must give public notice of and safeguard public interest in any disposal (sale, lease, etc.)
- Mineral rights by discovery and appropriation (claims), but only for minerals
- Public access to navigable waters assured

# State Land Selection History

- 1960' s – State selected slowly at first
- Initial selections were surveyed lands near population centers – Kenai, Mat-Su, Fairbanks, SE Communities
- Selections at Prudhoe Bay inspired by oil seeps, advocated by DGGS.



## State Selections History – 1960s

- State selections in conflict with land that Native groups felt was theirs.
- Native groups filed claims covering 80% of state by 1966
- 1966 - Secretary of the Interior Udall imposed land freeze until the federal government resolved Aboriginal land claims
- 1968 - oil was discovered at Prudhoe Bay – conflicting land claims made it impossible to identify a pipeline route
- 1969 – land freeze converted to a withdrawal, impacted RS 2477

# Alaska Native Claims Settlement Act

1971 – Congress passed the Alaska Native Claims Settlement Act (ANSCA). ANSCA established 224 village corporations, 12 regional corporations in Alaska, one regional corporation for Alaska Natives living out of state.

# Alaska Native Claims Settlement Act

- Provide land near Native Villages – lands used for hunting, fishing, etc.
- Provide economic opportunities for Natives
- Native ownership of the lands – not trust lands, private lands
- Monetary compensation for additional lands and money to help corporations get started

# Alaska Native Claims Settlement Act (ANCSA) - 1971

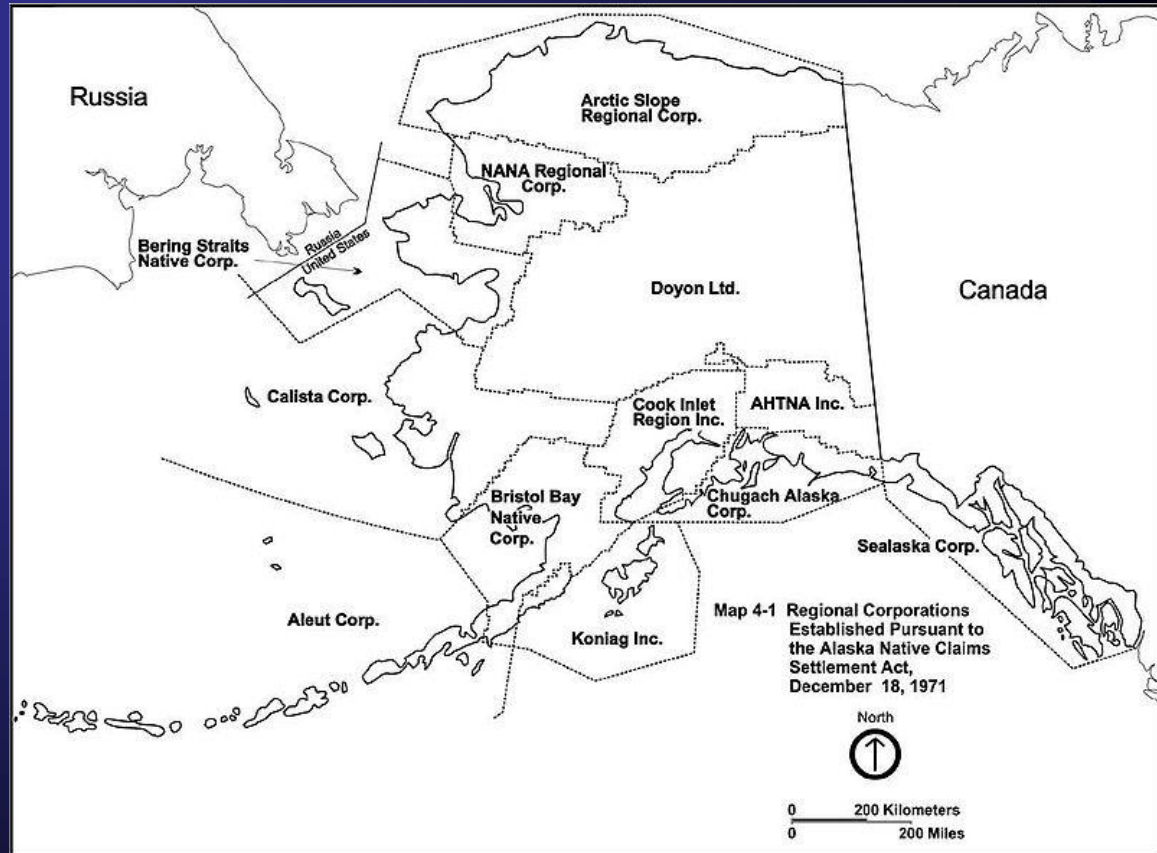
Received 46 million acres

224 Village Corporations received surface estate

12 Regional Corporations received subsurface under village lands

Some Village and Regional corporations received surface and subsurface

Village corporation selection rights generally supersede state selection rights



# ANCSA Section 17(d)(1)

- Secretary of Interior to withdraw land from public land laws to enable ANCSA selections and for further “study and classification”
- Most of these withdrawals are still in place
- Congress in 2004 directed Secretary to identify (d)(1) lands to open, 2006 report back says do it through BLM land plans
- Four adopted BLM plans recommend most (d)(1) withdrawals be revoked
- Secretary has not followed through on BLM recommendations

## ANCSA 17(d)(2)

- ANCSA Section 17(d)(2) – Secretary of Interior to withdraw from state selection lands for study as future National Interest Lands (parks, refuges, etc.).
- Public debate raged over proposals for federal parks, refuges, etc.
- “(d)(2)” led to ANILCA

## d-2 lands – examples of disputes:

- Mining vs Preservation – Wrangell Mountains
- Timber production vs. Wilderness – Southeast Alaska – Tongass
- Oil and Gas vs. Wilderness – Arctic Coastal Plain
- State Multiple Use vs. National Wildlife Refuge – Lake Iliamna (incl Pebble Mine)
- Traditional Alaskan lifestyles vs. restrictive land use

# 1976 – Federal Land Policy Management Act (FLPMA)

- Comprehensive federal law for managing Bureau of Land Management (BLM) lands
- Established land management requirements and process for BLM lands
- Repealed RS 2477 (although 1969 withdrawal essentially closed Alaska lands to new RS 2477s) – subject to any valid, existing RS 2477 claims



# 1980 – Alaska National Interest Conservation Act (ANILCA)

- Created or expanded National Parks, Wildlife Refuges, National Forests, National Monuments or other protected federal lands.
- New Conservation System Units (CSU' s) areas totaled about 104 million acres
- Protected federal lands now total 137 million acres (37% of the state)
- ANILCA established new wilderness areas
- Established new procedures for public access across federal CSU' s

# ANILCA and state lands

## Title 9 – Amendments to Statehood Act and ANCSA

- Sec. 906 deals with state land selections
- identifies state selections to be approved or rejected
- confirms that Tentatively Approved (TA' d) selections are state owned, lands not yet surveyed
- established right to “topfile” land selections on administratively withdrawn lands
- extended land selection deadline by 10 years (to 1994)
- gave state right to over-select by 25%
- requires BLM to follow state priority list for conveyances
- requires (allows for) state concurrence for actions on state selected land

## State Land History ...contd.

### 1990' s

- 1990 Tongass Timber Reform Act repealed ANILCAs 4,500 MMBF/10 year supply requirement and added protected areas to Tongass National Forest
- 1993 Alaska completed land selections to fulfill its entitlement before 1994 selection deadline
- Native and State selections overlap in many areas
- BLM must adjudicate and survey these conflict areas
- Goal was to complete land transfer by 2009, final resolution could take decades

# BLM – Land Transfers

- Alaska Land Transfer Acceleration Act of 2004
- Goal – 95% of land transfers by 2009
- Increased federal funding - especially for survey
- Recent Federal budgets propose significant reduction in funding

# 2013 - Outstanding Federal Land Obligations

- 5 million acres still to be transferred to State of Alaska
- About 21 million acres of state selections and topfilings
- Many selections conflict with ANCSA lands and Native Allotments
- 42 million acres to survey/patent to state
- 2 million acres still to transfer under ANCSA
- 13 million acres to survey/patent under ANCSA
- About 370 Native Allotment parcels to transfer

# State Land – “the Owner State”

- Alaskans own 28% of our state
- Includes land for conservation – such as state parks, state refuges
- Includes land for settlement – community expansion, new communities
- Development – Prudhoe Bay, Usibelli Coal Mine, Pebble Mine ??
- Has funded state budget since 1980 – NO STATEWIDE TAXES
- Created the \$ 46.2 billion Permanent Fund

# Three Laws to Remember

- Alaska Statehood Act – established what the state owns (1958)
- Alaska Native Claims Settlement Act – resolved Aboriginal land claims (1971)
- Alaska National Interest Lands Conservation Act (ANILCA) – determined what lands the federal government would keep (1980)

# For Consideration

- Advocate for continued funding for land surveys and patents – State and ANCSA conveyances largely completed except fine tuning, but not all surveyed
- Request Secretary of Interior to implement BLM's plans by revoking outdated and obsolete (d)(1) withdrawals
- Educate state and federal agencies about promises of statehood, ANCSA and ANILCA, especially the latter (Institute of the North – Dept. of Interior training)



