

# BURIED BURDENS: CONTAMINATED LANDS AND THE UNFINISHED BUSINESS OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

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## INTRODUCTION

In the remote village of Kivalina, Alaska, home to roughly 400 people, nearly all of whom are Iñupiat Alaska Natives, the coastline is eroding rapidly due to climate change, and residents face an urgent need to relocate.<sup>1</sup> Yet, despite this pressing crisis, efforts to secure funding and coordinate a relocation plan have been partially stalled by the corporate structure that governs Alaska Native lands under the Alaska Native Claims Settlement Act (“ANCSA”) of 1971.<sup>2</sup> Originally intended to grant Alaska Natives control over their land and resources, ANCSA’s corporate framework has complicated Kivalina’s attempts to mobilize resources for relocation<sup>3</sup> because land title is held by village and regional corporations rather than the tribal government, creating fragmented authority and making it difficult for the community to secure federal relocation funding or acquire new land through a single, unified governing body.<sup>4</sup>

This example from Kivalina underscores why the ANCSA, though groundbreaking, warrants reexamination today. Passed at a time when resource development—particularly oil—was rapidly transforming Alaska’s economy, ANCSA sought to resolve Native land claims through a model unlike any other in U.S. Indigenous policy.<sup>5</sup> Instead of establishing reservations, ANCSA transferred land and funds to newly formed regional and village corporations, which would manage these assets on behalf of enrolled Alaska Native shareholders.<sup>6</sup> These corporations are unique in that

<sup>1</sup> Rachel M. Gregg, *Relocating the Village of Kivalina, Alaska Due to Coastal Erosion*, CLIMATE ADAPTION KNOWLEDGE EXCH. (Dec. 18, 2010), <https://www.cakex.org/case-studies/relocating-village-kivalina-alaska-due-coastal-erosion> [<https://perma.cc/3VMA-4ZP3>] (“Kivalina continues to apply for state and federal funding and support to build capacity and technical assistance to facilitate the relocation process . . . the Strategic Management Plan notes that Kivalina may become uninhabitable by 2025.”).

<sup>2</sup> *Id.*

<sup>3</sup> For example, Kivalina has sought federal disaster relief funds, pursued grants from the Federal Emergency Management Agency (“FEMA”), and attempted to coordinate relocation planning through the Northwest Arctic Borough and the Kivalina Relocation Planning Committee. See *Alaska Native Villages: Limited Progress Has Been Made on Relocating Villages Threatened by Flooding and Erosion*, U.S. GOV’T ACCOUNTABILITY OFF. (June 3, 2009) <https://www.gao.gov/products/gao-09-551> [<https://perma.cc/5XEV-LJF2>].

<sup>4</sup> See Gregg, *supra* note 1. See also E. Barrett Ristroph, *How Can Laws, Institutions, and Plans Facilitate Alaska Native Village Adaptation to Climate Change?* 6-7 (Dec. 2018) (Ph.D. dissertation, Univ. of Haw. 2018), (on file with author) (explaining that, as a result of ANCSA, Alaska Native Villages “do not own their traditional lands and waters and are not free to simply pick up and move wherever they want,” and that land ownership by Alaska Native corporations does not necessarily facilitate relocation because corporations are legally separate from tribes and may pursue different development and adaptation goals).

<sup>5</sup> *About the Alaska Native Claims Settlement Act*, ANCSA REG’L ASS’N, <https://ancsaregional.com/about-ancsa> [<https://perma.cc/JB4T-YYL3>] (“At the time of its passage, ANCSA was entirely different than any previous federal Indian policy. ANCSA extinguished aboriginal land claims in Alaska and mandated a for-profit model with land title under corporate ownership.”).

<sup>6</sup> *Id.*

they are for-profit business entities created under state law, but ownership is restricted to Alaska Natives who were eligible under ANCSA and their descendants, making the corporations both economic enterprises and vehicles for Native self-determination.<sup>7</sup> In theory, this corporate model was intended to integrate Native communities into the state's economy, fostering self-sufficiency through profit-driven enterprise.<sup>8</sup> However, by aligning the management of Native land with business objectives, ANCSA introduced a fundamental tension between cultural and environmental preservation and economic imperatives that still complicates Alaskan Native life today.<sup>9</sup>

While ANCSA aimed to support Alaska Natives economically, its implementation has led to issues like persistent poverty and unsustainable resource use.<sup>10</sup> Unlike traditional governance structures, which emphasize collective stewardship and community cohesion (such as tribal councils that manage land and resources according to customary law and subsistence priorities), ANCSA's corporate framework requires Native corporations to operate as for-profit entities under state corporate law, obligating them to prioritize revenue generation for shareholders—even when profit-driven resource development may conflict with environmental or subsistence values.<sup>11</sup> Additionally, the Act's division of land into surface and subsurface rights—where “surface rights” refer to control over the land's surface for purposes such as housing, hunting, and local development, and “subsurface rights” refer to ownership of minerals, oil, and other underground resources—has further complicated land management.<sup>12</sup> These challenges

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<sup>7</sup> *Id.*

<sup>8</sup> *About ANCSA (Why Did ANCSA Happen)*, MYSEALASKA (Nov. 4, 2021), <https://www.mysealaska.com/news/item/mysealaska-content/about-ancsa-why-did-ancsa-happen> [<https://perma.cc/XRC2-M6CY>].

<sup>9</sup> Isaac Stone Simonelli, *50 Years of ANCSA: 'An Experiment Whose Results are Not Fully Realized'*, ALASKA BUS. MAGAZINE (Sep. 2021), <https://digital.akbizmag.com/issue/september-2021/50-years-of-ancsa> [<https://perma.cc/8Z9T-38RD>] (“The separation of economic accountability and land title from inherently governmental functions and sovereignty caused a rift between Alaska Native corporations and Alaska Native Tribes for decades. Only now are we seeing an effort to minimize discord and focus on a more united Alaska Native community.”).

<sup>10</sup> See Gigi Berardi, *Natural Resource Policy, Unforgiving Geographies, and Persistent Poverty in Alaska Native Villages*, 38 NAT. RES. J. 85 (1998) (critiquing the ANCSA for its role in perpetuating poverty in rural Alaskan villages by undermining Indigenous governance and traditional resource use; examining how the corporate structure imposed by ANCSA, alongside geographic and resource challenges, obstructs sustainable development).

<sup>11</sup> See William R. Robinson, *The Benefits of a Benefit Corporation Statute for Alaska Native Corporations*, 33 ALASKA L. REV. 329 (2016) (arguing that, because Alaska Native corporations created under ANCSA are organized as standard for-profit corporations with shareholder-value obligations, a benefit-corporation statute would better allow them to prioritize non-financial goals such as cultural and environmental stewardship alongside profit).

<sup>12</sup> Under ANCSA, village corporations (Native-owned corporations established to manage local surface lands) hold the surface estate, while regional corporations (larger Native-owned entities created under ANCSA) control the subsurface estate, leading to conflicts within and between these Native

have significant geo-political effects because ANCSA's legacy affects not only Alaska Native communities, but also the broader legal landscape of Indigenous rights in the U.S.<sup>13</sup> Reexamining this framework could lead to reforms that better support Indigenous autonomy and cultural preservation.<sup>14</sup> Furthermore, ANCSA stands in stark contrast to other Indigenous settlement acts, such as Hawaii's land trust model, which prioritize communal ownership and self-governance.<sup>15</sup> This contrast suggests alternative pathways that could potentially welcome new legislative reforms.<sup>16</sup>

This Note will first review ANCSA's historical context, its innovative but problematic structure, and the unique challenges to environmental preservation it created for Alaska Native communities. It will then outline specific issues stemming from ANCSA's corporate model, focusing on how profit imperatives conflict with environmental preservation. Next, it will examine the relevant case law and amendments that have attempted to address these conflicts, such as the Alaska National Interest Lands Conservation Act (ANILCA), which reinstated limited subsistence rights on federal lands.<sup>17</sup> Finally, this Note will propose legislative amendments aimed at aligning ANCSA's goals more closely with the needs and values of Alaska Native communities, ensuring that economic goals do not eclipse environmental and cultural preservation. Ultimately, the proposal to reform ANCSA seeks to enhance the Act's original intent—to empower Alaska

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corporations. See Vanessa Orr, *Long-Term Relationships*, ALASKA BUS. MAGAZINE (Jan. 2020), <https://digital.akbizmag.com/issue/january-2020/long-term-relationships> [https://perma.cc/HXT6-Z8NU]. Orr argues that both regional and village corporations should find ways to work together to provide huge economic advantages and understand the importance of combining their efforts to preserve their cultural traditions and lifestyles. *Id.*

<sup>13</sup> See DAVID S. CASE & DAVID A. VOLUCK, ALASKA NATIVES AND AMERICAN LAWS 171-72, 192-93 (3d ed. Univ. Alaska Press 2012). Case and Voluck critically examine ANCSA's impact on self-governance, economic development, and legal identity for Alaska Natives, and explains how Alaska Native legal status evolved under U.S. law, from early territorial governance to the recognition of land claims and sovereignty. *Id.* See also *infra* Part II, Section IV. (comparing ANCSA with Native land regimes in Hawaii).

<sup>14</sup> See Nathaniel Herz, *A Historic Settlement Turns 50, but Questions Linger over Whether It Was Fair*, ALASKA PUB. MEDIA (Dec. 7, 2021, 12:50 PM), <https://alaskapublic.org/ancsa50/2021-12-07/a-historic-settlement-turns-50-but-questions-linger-over-whether-it-was-fair> [https://perma.cc/7ECN-BNCX].

<sup>15</sup> See Tyrone Gutierrez, *Understanding the Hawaiian Islands Land Trust Law*, MCLT HAWAII (Aug. 24, 2023), <https://www.mclt-hi.org/what-is-the-land-trust-law-in-hawaii> [https://perma.cc/J8RR-JS8V].

<sup>16</sup> See William H. Holley, *Starting from Scratch: Reasserting "Indian Country" in Alaska by Placing Alaska Native Land into Trust*, 11 FLA. A&M U. L. REV. 333 (2016). Holly explores the challenges facing Alaska Native communities due to the ANCSA and proposes placing Native lands into federal trust to restore tribal sovereignty. *Id.*

<sup>17</sup> See Alaska National Interest Lands Conservation Act § 801, 16 U.S.C. § 3111 (recognizing the need to provide the opportunity for rural Alaska residents, including Alaska Natives, to continue subsistence uses on public lands).

Native communities, support sustainable development, and foster cultural and environmental justice in an increasingly complex world.

## I. BACKGROUND

### A. *Historical Precedents and the Longstanding Fight for Land Rights*

The ANCSA of 1971 marked a notable moment in the complex history of land rights and Indigenous relations in Alaska.<sup>18</sup> To understand the significance and implications of ANCSA, it is necessary to first examine the historical context that led to its creation. For over a millennia, Alaska Natives lived on and stewarded the lands of Alaska, meaning they managed the environment through subsistence practices such as hunting, fishing, and gathering, guided by cultural values that emphasized balance, respect, and sustainability.<sup>19</sup> These traditional systems of land use and ownership were rooted in collective responsibility and spiritual connection to place.<sup>20</sup> Russian colonization in the late eighteenth century disrupted this lifestyle, introducing new systems of governance, trade, and land use that clashed with Indigenous practices.<sup>21</sup> Russian traders and settlers exploited the land, disregarding Indigenous land rights and setting a precedent of intrusion and exploitation.<sup>22</sup> During this period, Alaska Natives' land rights were largely disregarded, setting the stage for future conflicts.<sup>23</sup> The situation further intensified when the United States (U.S.) purchased Alaska in 1867 through the Treaty of Cession, which transferred sovereignty without recognizing

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<sup>18</sup> See William Schneider, *Brief Interpretive History of the Alaska Native Claims Settlement Act (ANCSA)*, ALASKA HISTORICAL SOC'Y (Nov. 7, 2021), [https://alaskahistoricalociety.org/wp-content/uploads/Interpretive-History-of-ANCSA\\_Schneider.pdf](https://alaskahistoricalociety.org/wp-content/uploads/Interpretive-History-of-ANCSA_Schneider.pdf) [<https://perma.cc/R838-JDWP>].

<sup>19</sup> *ANILCA: Helping to Preserve Alaska Native Culture*, NATIONAL PARK SERVICE, <https://www.nps.gov/locations/alaska/nilca-preserve-alaska-native-culture.htm> [<https://perma.cc/BD7L-ADSF>]. (“For thousands of years, Alaska Native people have lived with and on the land, relying on fish, wildlife and plant resources for their sustenance and basic needs. In 1980, when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA), it recognized the importance of protecting Alaska’s splendid natural ecosystems and landscapes, while preserving the opportunity for traditional ways of living on the land to continue.”).

<sup>20</sup> *ANILCA: Helping to Preserve Alaska Native Culture*, *supra* note 19.

<sup>21</sup> See Schneider, *supra* note 18, at 3.

<sup>22</sup> *Id.* at 2 (“The Russian expansion to Alaska, beginning in the latter half of the 18th century, was based on a desire to acquire furs; control of Native land was of little interest as long as the Russian fur traders could continue to extract valuable pelts from Native hunters.”).

<sup>23</sup> See Samuel Kramer, *Selling Stolen Land: A Reexamination of the Purchase of Alaska and its Legacy of Colonialism*, THE ARCTIC INST. (Oct. 18, 2022), <https://www.thearcticinstitute.org/selling-stolen-land-reexamination-purchase-alaska-legacy-colonialism> [<https://perma.cc/7AXH-HVD9>] Kramer argues that the 1867 U.S. purchase of Alaska from Russia as an act of colonialism, disregarding Alaska Native sovereignty; Indigenous Alaskans were excluded from negotiations and subjected to U.S. military and cultural oppression. *Id.* He calls for a reexamination of Alaska’s acquisition, urging recognition of Indigenous rights and perspectives in Arctic governance. *Id.*

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Native occupancy or title.<sup>24</sup> Although the treaty acknowledged the rights of Alaska Natives, it ultimately did little to protect their land from settler encroachment and resource extraction.<sup>25</sup>

The transition to U.S. ownership brought new challenges and uncertainties for Alaska Natives, including the absence of formal recognition of their land rights, increased pressure from non-Native settlers and resource extraction industries, and the imposition of unfamiliar legal and governance systems.<sup>26</sup> Despite these challenges, the Organic Act of 1884 represented a small victory for Native land rights by promising that Native land use and occupation would not be disturbed.<sup>27</sup> Nevertheless, this Act fell short of granting formal title or fee simple ownership, meaning Indigenous communities were allowed to remain on their lands but held no legally recognized deeds or transferable property rights.<sup>28</sup> In the decades that followed, from the 1880s until Alaska achieved statehood in 1959, Alaska Natives lived under a precarious status: their occupancy was tolerated but unprotected, leaving their lands vulnerable to encroachment by settlers, canneries, and resource developers.<sup>29</sup> This legal uncertainty fostered repeated disputes over fishing, hunting, and land claims, setting the stage for the eventual passage of ANCSA in 1971.<sup>30</sup>

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<sup>24</sup> Treaty Concerning the Cession of the Russian Possessions in North America, U.S.–Russ., Mar. 30, 1867, 15 Stat. 539 [hereinafter Cession of Russian Possessions Treaty].

<sup>25</sup> After the U.S. purchased Alaska from Russia in 1867, the rights of Indigenous peoples were largely overlooked. Early governance involved military control, with documented instances of conflict and suppression of Native communities. Alaska Natives were not granted U.S. citizenship until 1924. See Cession of the Russian Possessions Treaty, *supra* note 24 (“The uncivilized tribes will be subject to such laws and regulations as the United States may from time to time adopt in regard to aboriginal tribes of that country,” showing treaty reference acknowledging Native inhabitants but without recognition of land title or occupancy rights). See also Van Ness Feldman, *A Reflection on ANCSA*, VNF NATIVE AFFAIRS QUARTERLY (2021), 3-4.

<sup>26</sup> Kramer, *supra* note 23.

<sup>27</sup> See *About the Alaska Native Claims Settlement Act*, *supra* note 5 (“The act states, ‘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.’”). See also Organic Act of 1884, ch. 53, § 8, 23 Stat. 24, 26 (1884) (providing 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”).

<sup>28</sup> Schneider, *supra* note 18, at 3-4 (“Despite any limitations on extent, the 1884 Organic Act is the earliest legislative action by the U.S. government to legally recognize Alaska Native land rights. However, when Natives met with government officials and asked for clarification of their legal rights, they were told the only options available to them for acquiring their land were either reservations or allotments. Reservations were discouraged and allotments depended on demonstration of their conformity with the norms and practices of Western civilization.”).

<sup>29</sup> See CASE & VOLUCK, *supra* note 13, at 11-15 (explaining that Native occupancy lacked legal recognition and was subject to displacement by non-Native economic interests).

<sup>30</sup> See generally *About the Alaska Native Claims Settlement Act*, *supra* note 5.

The Alaska Statehood Act of 1958 authorized the transfer of approximately 105 million acres of federal land to the new state, both to establish its economic foundation and to enable effective governance.<sup>31</sup> The Act then provided that lands “the title to which may belong to natives” would remain under the jurisdiction and control of the United States, leaving Native-claimed lands excluded from state selection and reinforcing federal authority over Indigenous land tenure.<sup>32</sup> This policy threatened to dispossess Alaskan Native communities of significant land areas, creating new conflicts between the state and the Native populations as the demand for natural resources grew.<sup>33</sup> Throughout the 1960s, Alaska Natives protested against incursions on their land, driven by growing concerns over state land claims, federal projects, and the rapid expansion of industries like oil and mining.<sup>34</sup> These protests, organized through groups such as the Alaska Federation of Natives, pressured federal officials to halt state land selections, leading the Department of the Interior in 1966 to impose a freeze on state land selections until Native claims were addressed, laying the groundwork for the passage of the Alaska Native Claims Settlement Act in 1971.<sup>35</sup>

*B. The Impact of AFN, Oil Discovery, and the Following Federal Intervention*

The Natives formed local organizations to represent regional interests, often uniting multiple tribal groups within a geographic area, and not long after, the statewide Alaska Federation of Natives (AFN) formally organized in 1966 and soon “became a forum for the diverse Native population to meet and develop common recommendations,” with its central goals being the protection of Native land rights, the settlement of unresolved land claims, and securing a stronger political voice for Alaska Natives.<sup>36</sup> In 1968, oil was discovered at Prudhoe Bay on Alaska’s North Slope, another major catalyst that expedited federal and state efforts to settle Native land claims.<sup>37</sup> Industry leaders and government officials proposed the construction of the Trans-

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<sup>31</sup> *Alaska Native Lands and the Alaska Native Claims Settlement Act (ANCSA): Overview and Selected Issues for Congress*, CONG. RSCH. SERV. (Dec. 22, 2021), at 4, [https://www.congress.gov/crs\\_external\\_products/R/PDF/R46997/R46997.4.pdf](https://www.congress.gov/crs_external_products/R/PDF/R46997/R46997.4.pdf).

<sup>32</sup> *About the Alaska Native Claims Settlement Act*, *supra* note 5.

<sup>33</sup> See generally *Native Land Claims in Alaska*, PBS, <https://www.pbs.org/wgbh/americanexperience/features/pipeline-native-land-claims-alaska> [<https://perma.cc/9CXN-YCQ4>].

<sup>34</sup> See generally Paul Ongtooguk, *Alaska Natives Fight for Civil Rights*, ALASKA HISTORY AND CULTURAL STUD., <https://akhistory.lpsd.com/alaskas-cultures/alaska-natives-fight-for-civil-rights> [<https://perma.cc/MT8X-JDUH>].

<sup>35</sup> DONALD CRAIG MITCHELL, TAKE MY LAND, TAKE MY LIFE: THE STORY OF CONGRESS’S HISTORIC SETTLEMENT OF ALASKA NATIVE LAND CLAIMS, 1960–1971 85–92 (2001).

<sup>36</sup> Schneider, *supra* note 18, at 8.

<sup>37</sup> *Id.* at 11.

Alaska Pipeline, a project designed to move crude oil from Prudhoe Bay to the southern port of Valdez.<sup>38</sup> However, the project was halted when unresolved Native land claims raised questions about ownership of the lands along the proposed route.<sup>39</sup> With the potential for enormous oil revenue, both federal and state authorities saw an urgent need to clarify land ownership, as unresolved Native land claims posed obstacles to building the Trans-Alaska Pipeline, a crucial route for transporting the oil.<sup>40</sup>

The AFN achieved a key milestone in 1966 when Secretary of the Interior Stuart Udall responded directly to Native advocacy and implemented a land freeze, halting state-land selections which Alaska Natives saw as encroachment.<sup>41</sup> The freeze required the State of Alaska, the federal government, and Native groups to settle Indigenous land claims before further selections could occur.<sup>42</sup> This federal intervention, one of the strongest government actions to support Indigenous rights at that time, signaled to the state and the industries the seriousness of the government's commitment to resolving Native claims before any resource extraction could proceed.<sup>43</sup> Unlike earlier federal interventions—often carried out by agencies such as the Bureau of Indian Affairs, which historically sought to manage or dispossess Native lands—this action by the Department of the Interior represented a protective stance, aimed at preserving Native claims until a political settlement could be reached.<sup>44</sup> This freeze, which remained in place until Congress resolved the issue through the Alaska Native Claims Settlement Act in 1971, was a central demand of AFN and gave the organization crucial leverage in negotiations.<sup>45</sup>

As pressure mounted to resolve Native land claims, Governor Walter Hickel created a Task Force on Land Claims to bring together representatives from the state and federal government, as well as Alaska Natives in order to negotiate a settlement.<sup>46</sup> These negotiations began in the late 1960s and became the primary forum for addressing the conflicting interests over land and resources.<sup>47</sup> The AFN played a central role in negotiations, alongside

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<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* (“Development could not proceed until claims were settled as well as the establishment of rights to build a pipeline across disputed Native land.”).

<sup>41</sup> *About the Alaska Native Claims Settlement Act*, *supra* note 5.

<sup>42</sup> *Id.*

<sup>43</sup> Schneider, *supra* note 18, at 10 (“This stands out as one of the most, if not the most, strident exertions of the federal government’s Trust responsibility for Alaska Natives.”).

<sup>44</sup> See CASE & VOLUCK, *supra* note 13, at 19-23 (contrasting federal land policies of dispossession with the 1966 land freeze).

<sup>45</sup> MITCHELL, *supra* note 35, at 101–05.

<sup>46</sup> Schneider, *supra* note 18, at 8-9.

<sup>47</sup> *Id.*

key figures such as Willie Hensley, an Alaska State Representative who chaired the Task Force on Land Claims established by Governor Walter Hickel to resolve the respective interests of each representative from AFN.<sup>48</sup> Following extensive internal negotiations among Alaska Native groups and discussions between the AFN delegates and state and federal representatives, Congress eventually passed the ANCSA.<sup>49</sup> On December 18 of 1971, President Nixon informed AFN delegates that he signed the legislation into law, marking a historic moment for Alaska-Native-land rights.<sup>50</sup>

*C. The Corporate Structure of ANCSA, Division of Land, and Resource Rights*

The key provisions of ANCSA were sweeping and transformative, introducing a corporate model for Native land ownership that was unprecedented in the history of Indigenous land settlements in the United States.<sup>51</sup> Rather than setting up a reservation system, the Act established regional and village corporations to manage land usage and monetary compensation.<sup>52</sup> In total, ANCSA allocated 44 million acres to these Native-owned, for-profit corporations—each governed by a board of directors elected by Native shareholders.<sup>53</sup> For example, the Arctic Slope Regional Corporation, formed under ANCSA, manages lands on Alaska’s North Slope and today operates in industries ranging from oil and gas to telecommunications, while distributing dividends to its Alaska Native shareholders.<sup>54</sup> AFN leaders and proponents believed that participation in a capitalist model could offer long-term stability and provide dividends for Alaska Natives without requiring them to leave their traditional lands.<sup>55</sup> This

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<sup>48</sup> *Id.* See also Willie Hensley, FIFTY MILES FROM TOMORROW: A MEMOIR OF ALASKA AND THE REAL PEOPLE 145–52 (2008) (describing his role in land claim negotiations and the work of the Task Force).

<sup>49</sup> *About the Alaska Native Claims Settlement Act*, *supra* note 5.

<sup>50</sup> *Id.*

<sup>51</sup> *A Reflection on ANCSA at 50*, *supra* note 25 (identifying ANCSA’s unique approach replaced traditional reservations with a corporate structure, establishing regional and village corporations to manage assets). See also Meghan Sullivan, *The Modern Treaty: Protecting Alaska Native Land, Values*, ALASKA PUB. MEDIA (Aug. 17, 2021, 3:19 PM), <https://alaskapublic.org/anca50/2021-08-17/the-modern-treaty-protecting-alaska-native-land-values> [<https://perma.cc/9ZJU-89VZ>].

<sup>52</sup> *About the Alaska Native Claims Settlement Act*, *supra* note 5 (“ANCSA original language addressed the specific congressional mandates of Alaska Native corporations: government oversight of the corporations, eligibility requirements to enroll shareholders, the land selection process, redistribution of monetized natural resource wealth among regional and village corporations.”).

<sup>53</sup> Schneider, *supra* note 18, at 12.

<sup>54</sup> See *About the Arctic Slope Regional Corporation*, ARCTIC SLOPE REG’L CORP., <https://www.asrc.com/about> [<https://perma.cc/ZA7E-PB48>].

<sup>55</sup> See Alaska Federation of Natives, *Perspectives from the Alaska Federation of Natives*, ALASKA FED’N NATIVES (Dec. 2018), <https://www.nativefederation.org/wp-content/uploads/2018/12/0-Perspectives-from-AFN.pdf> [<https://perma.cc/L7DR-FGA2>].

corporate structure was seen as a means for Alaska Natives to integrate economically with the broader U.S. capitalist system while still preserving a measure of control over their lands.<sup>56</sup> These corporations were governed by a board of directors elected by shareholder voting, mirroring standard corporate structures.<sup>57</sup>

The initial implementation of ANCSA presented numerous challenges.<sup>58</sup> Many newly formed Native corporations struggled financially in their early years due to limited business experience, inadequate access to capital, and difficulties managing large landholdings in remote areas with little infrastructure, and there were significant cultural challenges in adapting to the corporate model of governance and economic development.<sup>59</sup> Furthermore, the land selection process was complex and often contentious.<sup>60</sup> Regional and village corporations were required to choose specific parcels from vast areas of federal land, but these selections frequently overlapped with state claims, federal withdrawals for parks and military use, and the traditional subsistence areas of neighboring Native groups.<sup>61</sup> Since ANCSA was enacted, some Alaska Native corporations have still not received their full land conveyances as of 2024, largely due to unresolved land selections, competing claims, and ongoing federal administrative processing.<sup>62</sup> Additionally, various Alaska Native corporations conveyed lands to state and federal agencies and to other Native corporations, leading to a complex mixture of surface and subsurface rights held by both regional and village corporations.<sup>63</sup> Following the enactment of the Act, cases such as *Tyonek Native Corp. v. Cook Inlet Region, Inc.* have clarified corporate rights and responsibilities, illustrating the evolving legal landscape that ANCSA introduced.<sup>64</sup>

<sup>56</sup> *Alaska Federation of Natives*, *supra* note 55 (“The settlement of our land rights, and the recognition of our property rights gave up a foothold to participate in the modern economy, as well as protect our traditional cultures and homeland.”).

<sup>57</sup> Jennifer LaFleur & Michael Grabell, *What Are Alaska Native Corporations? Questions and Answers About Alaska Native Corporations*, PROPUBLICA (Dec. 15, 2010, 3:00 PM), <https://www.propublica.org/article/what-are-alaska-native-corporations> [<https://perma.cc/S5TV-34Y3>].

<sup>58</sup> *About the Alaska Native Claims Settlement Act*, *supra* note 5.

<sup>59</sup> *Id.* (“Many of the early leaders of the Alaska Native regional corporations had never worked in a corporate business and few had college degrees, let alone advanced degrees in business or law.”).

<sup>60</sup> *See About the Alaska Native Claims Settlement Act*, *supra* note 5.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.* (“Since the passage of ANCSA, some Alaska Native corporations still have not received their full conveyance of land.”).

<sup>63</sup> *Id.* (“[A] number of Alaska Native corporations have engaged in land transfers with state and federal agencies and with other Alaska Native corporations, resulting in a mix of surface and subsurface rights owned by regional and village corporations.”).

<sup>64</sup> *Tyonek Native Corp. v. Cook Inlet Region, Inc.*, 853 F.2d 727 (9th Cir. 1988). In *Tyonek Native Corp.*, the court upheld a precedent which held that sand and gravel rights were a part of the subsurface,

While the early years of ANCSA were marked by immediate financial instability and cultural adjustment, the corporate model also generated longer-term structural problems. This experimental corporate structure posed many other significant challenges, such as balancing profit-making obligations with the preservation of Native traditions, and navigating federal restrictions on stock ownership.<sup>65</sup> Alaska Native corporations had to adapt to corporate governance practices, including stock ownership and shareholder voting, which contrasted with traditional decision-making practices that were typically more communal.<sup>66</sup> These corporations were responsible for generating profit, a goal that sometimes conflicted with Indigenous values of environmental stewardship and community-based resource management.<sup>67</sup> The tension between economic development and cultural and environmental preservation became a recurring theme that still persists today, creating a complex legacy for ANCSA and the communities it aimed to empower.<sup>68</sup>

The Act also created a “split estate” system, meaning that ownership of the surface and subsurface of the same parcel of land was divided between different Native corporations, by assigning surface rights to village corporations and subsurface rights to regional corporations.<sup>69</sup> Regional corporations, which controlled subsurface rights, often had incentives to pursue resource extraction to generate profits, while village corporations

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not surface, estate and ruled in favor of appellee regional corporation in appellant village corporation’s claim for sand and gravel rights.

<sup>65</sup> See Gavin Kentch, *A Corporate Culture? The Environmental Justice Challenges of the Alaska Native Claims Settlement Act*, 81 MISS. L.J. 813, 819-23 (2012).

<sup>66</sup> Kentch, *supra* note 65, at 820-25. Kentch argues that the corporate structure of ANCs offers limited procedural safeguards for shareholders, who can theoretically influence board elections. ANCs’ proxy voting system often benefits incumbents and can undermine traditional consensus decision-making. *Id.* See also William Robinson, *The Benefits of a Benefit Corporation Statute for Alaska Native Corporations*, 33 ALASKA L. REV. 329, 336-40 (2016) Robinson argues that corporate structures imposed by ANCSA do not align with Indigenous lifestyles and have failed to reduce poverty among Alaska Natives. Despite some financial bailouts, these corporations often fall short in providing jobs and supporting traditional ways of life, raising questions about the effectiveness of this corporate approach in Indigenous communities. In many villages, decisions were historically reached through consensus in tribal councils or community gatherings, where elders and leaders played a guiding role and choices were made with the collective well-being of the group in mind, rather than by majority vote or shareholder interest. *Id.*

<sup>67</sup> Berardi, *supra* note 10, at 97-101. Berardi argues that the cultural geography of rural Alaska challenges the ANCSA corporate model, as subsistence remains central to Alaska Native communities. *Id.* Traditional practices emphasize resource sharing and sustainability, conflicting with corporate goals of profit-driven resource extraction. *Id.* ANCSA’s corporate structure shifted land control away from traditional communal governance to market-focused corporations, undermining subsistence values and creating tensions over development decisions. *Id.*

<sup>68</sup> Simonelli, *supra* note 9 (“[T]his was a contentious issue at the time that could not be adequately resolved prior to passage. It was meant to be resolved after passage, but fifty years later Alaska Native people are still fighting for the right to practice their traditional subsistence ways of life.”).

<sup>69</sup> 43 U.S.C. § 1611(a).

managed the land's surface, focusing on its preservation and sustainable use.<sup>70</sup> The federal government's elimination of native hunting and fishing rights under ANCSA further restricted traditional subsistence activities, forcing Alaska Natives to navigate a new landscape of corporate responsibilities and legal complexities.<sup>71</sup> Without federally protected subsistence rights, Native communities increasingly depended on the economic success of their corporations to provide dividends, jobs, and services that could offset the loss of traditional food security. At the same time, corporations were pressured to pursue resource development projects—sometimes at odds with subsistence values—in order to sustain their shareholder base.<sup>72</sup> Over time, this division created tensions as some village corporations sought to protect their lands from extractive activities promoted by regional corporations.<sup>73</sup> The split-estate system and restrictions on traditional subsistence rights affected the socio-economic wellbeing of Alaska Natives and contributed even more to the everlasting challenges in balancing cultural heritage with the demands of the corporate framework imposed by ANCSA.<sup>74</sup>

#### *D. Comparison to Other Indigenous Settlements & Key Amendments to ANCSA*

Compared to other Indigenous land claim settlements, ANCSA stands out for its corporate approach.<sup>75</sup> Native Hawaiian property rights, for instance, are structured around a land trust model established by the Hawaiian

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<sup>70</sup> CONG. RSCH. SERV., R46997, ALASKA NATIVE LANDS AND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA): OVERVIEW AND SELECTED ISSUES FOR CONGRESS 13-14 (Dec. 22, 2021) <https://crsreports.congress.gov/product/pdf/R/R46997/3> [<https://perma.cc/65CR-LGFK>].

<sup>71</sup> Meghan Sullivan, *Can Indigenous Subsistence Rights Still Be Protected in Alaska?*, ALASKA PUB. MEDIA (Oct. 14, 2021, 9:41 AM), <https://alaskapublic.org/2021/10/14/subsistence-is-absolutely-critical-to-our-survival-can-Indigenous-subsistence-rights-still-be-protected-in-alaska> [<https://perma.cc/SB76-6US7>] (“Outright subsistence protections were left out of the final legislation, due to disagreements and a pressured timeline to develop oil. Instead, ANCSA ended up extinguishing all aboriginal hunting and fishing rights as part of the settlement. Congressional intent was for the Secretary of Interior and state of Alaska to ‘take any action necessary to protect the subsistence needs of the Natives.’”).

<sup>72</sup> See CONG. RSCH. SERV., *supra* note 70, at 14.

<sup>73</sup> CONG. RSCH. SERV., *supra* note 70, at 14 (“The subsurface estate includes mineral rights and sand, rock, and gravel. Where the subsurface estate is owned by a regional corporation and the surface estate is owned by a village corporation, in order to access the subsurface estate, the regional corporation must seek the village corporation’s consent ‘to explore, develop, or remove minerals’ under the surface estate. ANCSA provided that regional corporations, however, require the village corporation’s consent to access the subsurface estate only if the subsurface estate is within the boundaries of a Native village.”).

<sup>74</sup> Berardi, *supra* note 10 (noting that the split between surface and subsurface rights created conflicts between village corporations that wanted to protect land for subsistence and regional corporations that prioritized resource development. The corporate model did not align with Native governance structures, leading to land mismanagement, economic inequality, and environmental degradation).

<sup>75</sup> *About the Alaska Native Claims Settlement Act*, *supra* note 5.

Homes Commission Act of 1920.<sup>76</sup> In Canada, comprehensive land claim agreements with First Nations typically emphasize self-government provisions alongside land rights.<sup>77</sup> For instance, the Yukon First Nations<sup>78</sup> in Canada presented grievances to Prime Minister Trudeau in 1973 and secured the Umbrella Final Agreement in 1988. This agreement provided land, funds, and management rights, including special hunting and fishing rights.<sup>79</sup> Unlike ANCSA, it allowed each Yukon First Nation to negotiate claims separately, retaining Aboriginal title and specific harvesting rights.<sup>80</sup> By contrast, ANCSA extinguished Aboriginal title and subsistence rights, creating lasting tensions as many Alaska Natives continued to seek recognition of these privileges.

Since 1971, ANCSA has been amended multiple times to address these ongoing challenges, including efforts to strengthen protections for subsistence, expand land entitlements for some villages, and clarify the authority of Native corporations.<sup>81</sup> Among them, the Alaska National Interest Lands Conservation Act (ANILCA) of 1980 provided rural subsistence protections on federal lands to mitigate the loss of traditional hunting and fishing rights extinguished by ANCSA.<sup>82</sup> However, the rural distinction was “a compromise meant to protect Native subsistence, while not discriminating on the basis of ethnicity—something that several influential non-Native groups in the state opposed.”<sup>83</sup>

In examining the long-term effects of ANCSA on environmental inequality and resource development in Alaska, it is crucial to understand this complex historical and legal context. The Act’s corporate model, its division of surface and subsurface rights, and its fundamental reshaping of Native land

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<sup>76</sup> Under this land trust system, roughly 200,000 acres of former crown and government lands were placed in trust for Native Hawaiians, with the Hawaiian Homes Commission empowered to lease parcels to individuals of at least fifty percent Native Hawaiian ancestry for residential, agricultural, and pastoral use. Hawaiian Homes Commission Act of 1920, Pub. L. No. 67-34, 42 Stat. 108 (1921).

<sup>77</sup> See *Modern Treaties*, CROWN-INDIGENOUS RELATIONS AND NORTHERN AFFS. CANADA, <https://www.rcaanc-cirnac.gc.ca/eng/1677073191939/1677073214344> [https://perma.cc/2CZF-S3YY] (explaining that modern treaties “define the ongoing rights and obligations of Indigenous peoples and the Crown,” including provisions on self-government, land ownership, and resource management).

<sup>78</sup> Schneider, *supra* note 18, at 22.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.* at 22-23.

<sup>81</sup> *About the Alaska Native Claims Settlement Act*, *supra* note 5.

<sup>82</sup> *ANILCA: Helping to Preserve Alaska Native Culture*, *supra* note 19 (“Congress acknowledged the exceptional and unique conditions of life in Alaska’s rural areas in Title VIII of the Act, noting that ‘The Congress finds and declares that the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on Native lands is essential to Native physical, economic, traditional, and cultural existence . . . .’”).

<sup>83</sup> Sullivan, *supra* note 51.

ownership have had far-reaching consequences, for Alaska Native communities and the state as a whole.<sup>84</sup>

## II. ISSUES

### A. *ANCSA's Corporate Framework and Environmental Justice*

These environmental challenges directly conflict with ANCSA's original goal of fostering economic self-sufficiency through corporate land management.<sup>85</sup> Village and regional corporations, already struggling with the complexities of the corporate model discussed earlier, must now allocate significant resources to environmental assessment and cleanup efforts.<sup>86</sup> In some cases, the cost of cleanup can exceed corporate resources, limiting development opportunities and reducing long-term economic benefit.<sup>87</sup> This situation particularly affects smaller village corporations, which typically have more limited financial capabilities than their regional counterparts.<sup>88</sup>

The corporate structure established by ANCSA, while groundbreaking in its approach to Indigenous land settlements, has created significant environmental justice challenges for Alaska Native communities.<sup>89</sup> The profit-driven mandate of ANCSA corporations fundamentally conflicts with traditional Indigenous approaches to land management.<sup>90</sup> Native corporations, required to operate as for-profit entities, often face pressure to pursue resource extraction activities to generate returns for their shareholders.<sup>91</sup> This economic imperative has created a persistent tension between maximizing profit and maintaining environmental integrity.<sup>92</sup> Regional corporations, in particular, have often prioritized resource development projects, such as mining and oil extraction, even when such

<sup>84</sup> *A Reflection on ANCSA at 50*, *supra* note 25.

<sup>85</sup> *About ANCSA*, *supra* note 8.

<sup>86</sup> *See generally* Simonelli, *supra* note 9.

<sup>87</sup> *See* CASE & VOLUCK, *supra* note 13, at 244–45 (2012) (discussing that ANCSA conveyances included lands contaminated by military and industrial activity, and that cleanup responsibility and liability issues have constrained Native corporations' capacity to develop land economically).

<sup>88</sup> *See* CASE & VOLUCK, *supra* note 13, at 184–86, 191–92 (explaining that regional corporations received substantially larger land entitlements and financial distributions than village corporations, resulting in greater long-term earning capacity and corporate capital).

<sup>89</sup> Lisa Murkowski, *Alaska's Contaminated Lands Are an Environmental Injustice*, AM. BAR ASS'N (Dec. 8, 2023), [https://www.americanbar.org/groups/judicial/publications/judges\\_journal/2023/fall/alaskas-contaminated-lands-are-environmental-injustice](https://www.americanbar.org/groups/judicial/publications/judges_journal/2023/fall/alaskas-contaminated-lands-are-environmental-injustice) [<https://perma.cc/9C7P-KM3N>].

<sup>90</sup> Kentch, *supra* note 65, at 838.

<sup>91</sup> *See* William Robinson, *The Benefits of a Benefit Corporation Statute for Alaska Native Corporations*, 33 ALASKA L. REV. 329, 332 (2016). *See also* Terri Marshall, *Clearing the Field: Alaska Native Corporations Receive EPA Brownfield Grants*, ALASKA BUS. (Sep. 2023), <https://digital.akbizmag.com/issue/september-2023/clearing-the-field> [<https://perma.cc/8A8G-88NJ>].

<sup>92</sup> Kentch, *supra* note 65, at 837–40.

activities potentially compromise environmental sustainability and traditional land use practices.<sup>93</sup>

The split estate system created by ANCSA has further complicated environmental stewardship efforts.<sup>94</sup> The separation of surface and subsurface rights between village and regional corporations has led to conflicts over resource management decisions.<sup>95</sup> Village corporations, responsible for surface lands often used for subsistence activities, frequently find themselves at odds with regional corporations seeking to develop subsurface resources.<sup>96</sup> This structural division has impeded coherent environmental management strategies and, in some cases, accelerated environmental degradation.<sup>97</sup> It has weakened the ability of communities to implement traditional conservation practices that have historically protected these ecosystems.<sup>98</sup> This environmental burden has profound implications for community well-being. Contaminated lands often become unusable for traditional subsistence activities, disrupting cultural practices that have sustained Alaska Native communities for generations.<sup>99</sup> The presence of environmental hazards also poses direct health to community members, contributing to disparities in public health outcomes.<sup>100</sup> These impacts are particularly concerning given that many contaminated sites are located near traditional hunting and gathering areas, creating potential exposure pathways through subsistence food sources.<sup>101</sup>

From an environmental justice perspective, ANCSA's corporate model has created a paradoxical situation in which Alaska Native corporations possess legal title to ANCSA lands, yet they continue to shoulder severe contamination risks and disproportionate cleanup burden.<sup>102</sup> This situation perpetuates historical inequities and undermines the Act's original intent of empowering Alaska Native communities.<sup>103</sup> These challenges highlight the need for a fundamental reassessment of how ANCSA's corporate framework addresses environmental justice concerns.

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<sup>93</sup> Berardi, *supra* note 10.

<sup>94</sup> Berardi, *supra* note 10.

<sup>95</sup> See Kentch, *supra* note 65, at 826.

<sup>96</sup> Berardi, *supra* note 10 (noting that the split between surface and subsurface rights created conflicts between village corporations that wanted to protect land for subsistence and regional corporations that prioritized resource development).

<sup>97</sup> Kentch, *supra* note 65, at 827-28 (discussing the Red Dog Mine and NANA Regional Corporation which illustrates the "development decisions taken by the regional corporations demonstrating some of these concerns with procedural justice playing out in practice").

<sup>98</sup> Kentch, *supra* note 65, at 827-28.

<sup>99</sup> Murkowski, *supra* note 89.

<sup>100</sup> *Id.*

<sup>101</sup> Simonelli, *supra* note 9.

<sup>102</sup> Murkowski, *supra* note 89.

<sup>103</sup> See *A Reflection on ANCSA at 50*, *supra* note 25.

*B. The Scope of the Contaminated ANCSA Lands*

The transfer of approximately 44 million acres to Alaska Native corporations under ANCSA came with an unforeseen environmental burden.<sup>104</sup> While the Act promised economic opportunity through land ownership, many Alaska Native corporations discovered they had inherited severely contaminated lands from previous federal and industrial activities.<sup>105</sup> Recent assessments by the Bureau of Land Management have documented nearly 1,200 contaminated sites on these transferred lands, hundreds of which still await remediation per the 2016 update to the U.S. Department of the Interior 1998 Report to Congress.<sup>106</sup>

This widespread contamination largely stems from military operations during World War II and the Cold War era when the U.S. military established numerous strategic installations across Alaska with minimal environmental oversight.<sup>107</sup> More broadly, Cold War–era military activity left a legacy of hazardous waste and contamination on Native lands, particularly in Alaska.<sup>108</sup> Military installations and industrial operations—including resource extraction projects—contributed to widespread pollution that continues to affect Native communities today.<sup>109</sup> In addition to military sites, the contamination extends to include abandoned fuel storage facilities, improper waste disposal areas, and deteriorating infrastructure from early 20th-century development projects.<sup>110</sup>

The environmental degradation of these lands has created a complex web of challenges for Alaska Native communities.<sup>111</sup> Many village corporations find themselves being forced to manage lands that pose direct threats to public health, with contaminated sites often located near traditional

<sup>104</sup> Murkowski, *supra* note 89.

<sup>105</sup> *Contamination on ANCSA Conveyed Lands*, ENV'T PROT. AGENCY (July 19, 2024), <https://www.epa.gov/r10-tribal/contamination-ancsa-conveyed-lands> [<https://perma.cc/5VV4-FGTL>].

<sup>106</sup> U.S. DEP'T OF THE INTERIOR BUREAU OF LAND MGMT., REPORT TO CONGRESS: HAZARDOUS SUBSTANCE CONTAMINATION OF ALASKA NATIVE CLAIM SETTLEMENT ACT LANDS IN ALASKA (2016). See also Ava White, *Federal Government Drops Case to Clean Up ANCSA Contaminated Lands*, KNOM (July 21, 2023), <https://knom.org/2023/07/21/federal-government-drops-case-to-clean-up-ancsa-contaminated-lands> [<https://perma.cc/X8TE-SH58>] (estimating that the number of identified contaminated ANCSA sites approached 1,200 based on updated BLM remediation records).

<sup>107</sup> See generally *supra* note 105.

<sup>108</sup> See *Contamination on ANCSA Conveyed Lands*, *supra* note 105.

<sup>109</sup> *Id.*

<sup>110</sup> Mercedes Smith, Renée Warren, Idriana Jan Abinales & Marcus Hutko, *The Yup'ik Fight for Environmental Justice: From Cold War Pollutants to Community Remediation*, ECOTOXICOLOGY (Nov. 13, 2024), <https://gardell.ds.lib.uw.edu/ecotox/the-yupik-fight-for-environmental-justice-from-cold-war-pollutants-to-community-remediation> [<https://perma.cc/8F8C-DKJK>].

<sup>111</sup> Murkowski, *supra* note 89.

hunting and gathering areas.<sup>112</sup> This proximity to hazardous materials has raised serious concerns about increased cancer rates, respiratory problems, and other health issues among community members.<sup>113</sup> The contamination has also disrupted local ecosystems, damaging the wildlife populations and plant species that form the backbone of traditional subsistence practices.<sup>114</sup> This degradation is not only an environmental problem but also a direct threat to cultural survival and community health: when fish runs are polluted or caribou herds decline due to toxic exposure, Native families lose critical sources of food, income, and cultural identity. The scope of contamination on ANCSA lands represents more than just an environmental challenge—it embodies a continued pattern of environmental injustice facing Alaska Native communities.<sup>115</sup>

Despite the Act's promise of economic empowerment through land ownership, the transfer of contaminated lands has, in many cases, perpetuated historical inequities rather than alleviating them.<sup>116</sup> Addressing this legacy of contamination is crucial not only for the health and economic well-being of Alaska Native communities but also for fulfilling ANCSA's original promise of meaningful self-determination.<sup>117</sup>

### III. LEGAL AND LEGISLATIVE EFFORTS

The issue of contaminated lands conveyed under ANCSA has not gone unnoticed by lawmakers and government officials.<sup>118</sup> Over the past thirty years, the most substantial policy response has been the 1991 amendments to ANCSA, which sought to address unresolved land conveyances and contamination concerns.<sup>119</sup> Congressional engagement with the ANCSA contamination issue took formal shape with the 1991 amendments, which directed federal agencies to identify contaminated lands conveyed to Native

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<sup>112</sup> Isaac Stone Simonelli, *Contaminated Conveyances: Determining Liability and Finding Funds Hinder Cleanup of ANCSA lands*, ALASKA NATIVE (Feb. 2020), <https://digital.akbizmag.com/issue/february-2020/contaminated-conveyances/> [<https://perma.cc/NW3X-4YBN>].

<sup>113</sup> *Id.*

<sup>114</sup> *Contaminated Sites FAQ*, DIV. OF SPILL PREVENTION AND RESPONSE, <https://dec.alaska.gov/spar/csp/faq> [<https://perma.cc/6YQG-WDEN>].

<sup>115</sup> Murkowski, *supra* note 89.

<sup>116</sup> *Id.*

<sup>117</sup> *See generally, id.*

<sup>118</sup> *Contaminated Land Conveyance: The Alaska Native Claim Settlement Act, the Detrimental Impact of Contamination on Native Communities and the Next Steps for Environmental Justice: Field Hearing before the S. Comm. On Indian Affs.*, 117<sup>th</sup> Cong. (2022) (statement of Steven M. Cohn, Alaska State Director, Bureau of Land Management) [hereinafter *Contaminated Land Conveyance*] (discussing the BLM's responsibility for site assessments and remediation on lands transferred under ANCSA).

<sup>119</sup> *About the Alaska Native Claims Settlement Act*, *supra* note 5.

corporations and evaluate cleanup responsibilities.<sup>120</sup> This initial directive was strengthened in 1995 through legislation mandating the Department of Interior to prepare a comprehensive investigation of contaminated sites and their impact on local environments and communities.<sup>121</sup>

A significant milestone in documenting the scope of contamination came with the 1998 Report to Congress, prepared by the Department of the Interior in consultation with the Bureau of Land Management (BLM), which formally acknowledged that numerous ANCSA-conveyed lands contained hazardous materials that rendered them unsuitable for traditional use or economic development.<sup>122</sup> This report marked the federal government's first formal recognition of its failure to ensure that transferred lands were free from contamination.<sup>123</sup> By 2014, Congress renewed its focus on the issue, instructing federal agencies to expedite remediation efforts and update their contaminated land inventories.<sup>124</sup> Although cleanup efforts have occurred since the 1998 report, progress has been gradual, and many contaminated sites remained without remediation even as inventories were refined and updated through the 2010s.<sup>125</sup> The Bureau of Land Management's 2016 follow-up assessment identified approximately 920 contaminated ANCSA sites, and subsequent tracking estimates suggest that the total may have exceeded 1,000 sites by 2019.<sup>126</sup> This comprehensive inventory documented various forms of contamination, including petroleum products, heavy metals, and chemical waste, while also highlighting the persistent challenges in coordinating federal and state remediation efforts.<sup>127</sup>

The slow pace of federal response led to significant legal action in 2022, when Alaska Governor Mike Dunleavy filed a lawsuit against the federal

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<sup>120</sup> *Introduction to Contaminated ANCSA Lands*, DIVISION OF SPILL PREVENTION AND RESPONSE, <https://dec.alaska.gov/spar/csp/ancsa/ancsa-contaminated-lands/#contaminated> [<https://perma.cc/Z494-WP36>] (“In 1990, 1995, and 2014 Congress ordered the federal Bureau of Land Management (BLM) to prepare reports and plans to clean these lands up.”).

<sup>121</sup> *Id.*

<sup>122</sup> U.S. DEP’T OF THE INTERIOR BUREAU OF LAND MGMT., *supra* note 106. *See Contamination on ANCSA Conveyed Lands*, *supra* note 107.

<sup>123</sup> Ava White, *Federal Government Drops Case to Clean Up ANCSA Contaminated Lands*, KNOM (July 21, 2023), <https://knom.org/2023/07/21/federal-government-drops-case-to-clean-up-ancsa-contaminated-lands> [<https://perma.cc/X8TE-SH58>] (“In 1995, DOI was directed to report on the extent of hazardous contamination on ANCSA lands. The report was sent to congress in 1998, acknowledging the unjustness of conveying contaminated lands in the settlement of aboriginal rights.”).

<sup>124</sup> White, *supra* note 123 (“In 2014, Congress requested DOI to report a comprehensive inventory, an update on the hazardous contaminants requested from 1995, and a detailed plan on how the Department intends to complete cleanup of each contaminated site.”).

<sup>125</sup> White, *supra* note 123.

<sup>126</sup> U.S. DEP’T OF THE INTERIOR BUREAU OF LAND MGMT., *supra* note 106.

<sup>127</sup> *Id.*

government.<sup>128</sup> This legal challenge argued that the federal government had failed to fulfill its fiduciary duty by transferring contaminated lands to Alaska Native corporations.<sup>129</sup> The lawsuit sought comprehensive remediation of polluted sites and financial compensation for environmental damage and economic losses.<sup>130</sup> Central to the state's position was that ANCSA was intended to provide Native corporations with economically viable and usable lands, and that the conveyance of contaminated parcels undermined the Act's purpose by limiting their ability to develop or benefit from those lands.<sup>131</sup> The state's lawsuit demanded monetary damages for breach of contract and takings, including compensation exceeding \$100 million per year and an estimated \$700 billion in just compensation, along with interest, fees, and any other appropriate relief.<sup>132</sup> The demands reflected growing frustration with the federal government's inadequate response to the contamination crisis.<sup>133</sup> While unresolved, the case underscores the depth of the conflict between the state, Native corporations, and federal agencies over the responsibility for the toxic legacy of ANCSA lands.

The Department of the Interior and Bureau of Land Management made limited responses to these challenges.<sup>134</sup> While these agencies have invested resources in documenting and inventorying contaminated sites, actual remediation progress has been minimal.<sup>135</sup> The jurisdictional disputes between federal and state has further complicated the coordination of cleanup

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<sup>128</sup> Complaint, U.S. v. ALASKA, 2022 WL 1746844 (2022) (D. Alaska May 17, 2022) (No. 3:22-cv-00107). See also *Alaska Governor Dunleavy Turns to Courts to Compel Feds to Address Contaminated Lands Conveyed under ANCSA*, OFF. OF GOVERNOR MIKE DUNLEAVY (July 15, 2022), <https://gov.alaska.gov/alaska-governor-dunleavy-turns-to-courts-to-compel-feds-to-address-contaminated-lands-conveyed-under-ancsa/> [<https://perma.cc/SL88-7LSH>].

<sup>129</sup> *Id.* at 5-7.

<sup>130</sup> *Id.* at 12.

<sup>131</sup> *Id.* at 2. See also *Alaska Governor Dunleavy Turns to Courts to Compel Feds to Address Contaminated Lands Conveyed under ANCSA*, *supra* note 128 (“Alaska Natives agreed to relinquish their aboriginal land rights in exchange for 44 million acres of land from the federal government under ANCSA in 1971. Neither Alaska Native people nor Alaska residents expected that these lands would be contaminated.”).

<sup>132</sup> *Id.* at 19.

<sup>133</sup> *Id.*

<sup>134</sup> *Alaska Governor Dunleavy Turns to Courts to Compel Feds to Address Contaminated Lands Conveyed under ANCSA*, *supra* note 128 (“In December 2021, Alaska (DEC), issued 548 notices of intent to sue the Interior Dept. for failing to clean up contamination on lands transferred to Alaska Native corporations. The federal government, however, has disclaimed any responsibility in letters sent on January 6, 2022, and April 8, 2022.”).

<sup>135</sup> See Press Release, Kelly Rawalt, State of Alaska Responds to Federal Hypocrisy of ANCSA Contaminated Lands Cleanup, Department of Environmental Conservation (May 5, 2023), <https://dec.alaska.gov/commish/newsroom/23-07-ancsa-contaminated-lands> [<https://perma.cc/SUP8-MHBF>] (“According to the Department of Justice, Congress has in ‘[no] way mandated the Department or the BLM take [cleanup] action.’”).

efforts.<sup>136</sup> Despite multiple congressional directives and legal challenges brought by the State of Alaska and Alaska Native corporations, progress in remediation remains inadequate, suggesting the need for structural reforms in how federal agencies approach their responsibilities to Alaska Native communities.<sup>137</sup> The history of limited action and delayed response continues to undermine ANCSA's original promise of providing Alaska Natives with viable lands for cultural preservation and economic development.<sup>138</sup> This ongoing situation underscores the gap between legislative recognition of the problem and meaningful implementation of solutions, highlighting the need for more robust federal engagement in addressing this environmental justice issue.<sup>139</sup>

#### IV. CASE STUDIES

The scope and complexity of contamination on ANCSA lands is best illustrated through specific examples that demonstrate the varied challenges facing Alaska Native communities.

##### A. *Fort Glenn and Fort Wainwright*

Fort Glenn on Umnak Island, which was conveyed to The Ounalashka Corporation under ANCSA, represents a particularly concerning example of military contamination.<sup>140</sup> Established in 1942 as a U.S. Army airfield and coastal defense base, the site remains heavily contaminated with wartime hazardous materials and abandoned infrastructure.<sup>141</sup> Recent cleanup efforts by the U.S. Army Corps of Engineers through the Military Munitions Response Program has documented extensive contamination at Fort Glenn, including unexploded ordnance and munitions debris.<sup>142</sup> During removal

<sup>136</sup> Rawalt, *supra* note 135 (“The Federal Government’s two-faced representations, denying any responsibility in the courts and now saying they are leading the effort, certainly does not inspire confidence,” said Alaska Attorney General Treg Taylor. “Regardless, the State will continue to act, both at the sites and in court, to clean up Alaska Native lands from federal contamination.”).

<sup>137</sup> Simonelli, *supra* note 9 (pointing out that the slow and complex clean-up situation underscores the ongoing struggle for Alaska Native corporations to balance the economic imperatives of resource development with the need to maintain environmental stewardship on their lands).

<sup>138</sup> Murkowski, *supra* note 89.

<sup>139</sup> *Id.*

<sup>140</sup> *Site Report: Fort Glenn MMRP OB/OD Area (MRS-04)*, ALASKA DEP’T OF ENV’T CONSERVATION, <https://dec.alaska.gov/Applications/SPAR/PublicMVC/CSP/SiteReport/4557> [<https://perma.cc/JM4R-57S9>].

<sup>141</sup> *Fort Glenn Army Air Base*, WIKIPEDIA, [HTTPS://EN.WIKIPEDIA.ORG/WIKI/FORT\\_GLENN\\_ARMY\\_AIR\\_BASE](https://en.wikipedia.org/wiki/Fort_Glenn_Army_Air_Base) [[perma.cc/ZDV3-BMNV](https://perma.cc/ZDV3-BMNV)].

<sup>142</sup> Tom Findtner & Rachel Napolitan, *Army Engineers Remove World War II-Era Explosives from National Historic Landmark on a Remote Alaskan Island*, U.S. ARMY (Aug. 31, 2022) [https://www.army.mil/article/259868/army\\_engineers\\_remove\\_world\\_war\\_ii\\_era\\_explosives\\_from\\_national\\_historic\\_landmark\\_on\\_a\\_remote\\_alaskan\\_island](https://www.army.mil/article/259868/army_engineers_remove_world_war_ii_era_explosives_from_national_historic_landmark_on_a_remote_alaskan_island) [<https://perma.cc/Y8YW-QMF6>].

operations in 2020 and 2021, crews discovered and disposed of numerous World War II-era explosives, including 500-pound bombs, manifesting the ongoing dangers these sites pose to local communities.<sup>143</sup> The presence of hazardous materials has effectively cordoned off traditional subsistence areas, disrupting hunting and fishing practices that are fundamental to community life.<sup>144</sup> This restriction of access to ancestral lands directly contradicts ANCSA's goal of supporting Native self-determination and cultural preservation.<sup>145</sup>

Similar challenges are evident at Fort Wainwright near Fairbanks. The U.S. Army's activities contaminated the land so severely that the Environmental Protection Agency designated the site a Superfund location.<sup>146</sup> The presence of solvents, petroleum products, pesticides, and other hazardous substances has created significant groundwater and soil contamination, posing long-term risks to environmental and human health.<sup>147</sup>

### B. *The Red Dog Mine*

The Red Dog Mine site presents a different but equally challenging case of industrial contamination.<sup>148</sup> As one of the world's largest zinc and lead mines, its operations released substantial quantities of toxic substances, including lead and cadmium, into the surrounding environment.<sup>149</sup> The U.S. Department of the Interior's 2016 update to its 1998 Report to Congress documented the persistence of significant toxic releases and their cumulative impact on Alaska Native communities and traditional lands.<sup>150</sup> Petroleum contamination, common throughout the state due to spills and leaks from

<sup>143</sup> *Id.*

<sup>144</sup> See Simonelli, *supra* note 9.

<sup>145</sup> See generally Alaska Native Claims Settlement Act, Pub. L. No. 92-203, 85 Stat. 688 (1971) (establishing Native corporations and transferring title to Alaska Native lands for the purposes of economic development, cultural continuity, and Indigenous self-determination).

<sup>146</sup> A "superfund site" is land contaminated by hazardous substances that the U.S. Environmental Protection Agency (EPA) designates for cleanup under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601–9675. See U.S. ENV'T PROT. AGENCY, SUPERFUND RECORD OF DECISION: FORT WAINWRIGHT, OPERABLE UNIT 1, PB97-964608 EPA/541/R-97/054 NOVEMBER 1997 FAIRBANKS NORTH STAR BOROUGH, AK, (1997), <https://semspub.epa.gov/work/11/158423.pdf> [<https://perma.cc/K7XY-GV5H>].

<sup>147</sup> *Contamination on ANCSA Conveyed Lands*, *supra* note 105 ("These contaminants—which include but are not limited to arsenic, asbestos, lead, mercury, pesticides, polychlorinated biphenyls, and petroleum products — can pose health concerns to Alaska Native communities, impact subsistence and cultural resource activities, and impair economic opportunities.").

<sup>148</sup> Kentch, *supra* note 65, at 827-33.

<sup>149</sup> *Id.* at 827-28 (discussing the Red Dog Mine and NANA Regional Corporation).

<sup>150</sup> U.S. DEP'T OF THE INTERIOR BUREAU OF LAND MGMT., *supra* note 106 (noting that contamination from petroleum products, solvents, and heavy metals not only degraded soil and water quality but also disrupted subsistence practices by limiting access to safe hunting and fishing areas, thereby compounding the economic and cultural harms faced by Alaska Native communities).

military fuel depots, airfields, and storage tanks, poses particular challenges due to the high toxicity of substances like aviation fuel and gasoline, which contain carcinogenic aromatic compounds such as benzene.<sup>151</sup> Cleanup of former military sites presents a distinct remediation challenge, as removal efforts often involve unexploded ordnance, munitions fragments, and associated explosive hazards that require specialized clearance and long-term site monitoring.<sup>152</sup> Furthermore, the presence of unexploded ordnance at former military sites creates immediate physical dangers while also severely restricting land use options.<sup>153</sup>

The variety and extent of contamination across these sites demonstrate why standard remediation approaches often prove inadequate in the Alaska context—each type of contamination requires specific technical expertise and resources that many Native corporations struggle to access.<sup>154</sup> Moreover, the remote location of many sites, combined with Alaska’s extreme weather conditions, significantly complicates cleanup efforts and increases remediation costs.<sup>155</sup> The challenges of addressing these varied forms of contamination underscore the need for a more comprehensive and coordinated federal response, as well as increased support for Native corporations tasked with managing these environmental burdens.<sup>156</sup> Effective remediation requires not only technical solutions but also a deeper understanding of how contamination affects traditional land use and cultural practices.

## V. PROPOSED SOLUTIONS AND PATH FORWARD

The remediation of contaminated ANCSA lands requires a comprehensive approach that addresses both immediate cleanup needs and long-term environmental stewardship.<sup>157</sup> This section outlines necessary legislative reforms, institutional partnerships, and funding mechanisms to effectively address the environmental justice challenges.

Meaningful change must begin with urgent legislative reform. ANCSA should be amended to directly confront land contamination and to establish

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<sup>151</sup> DIV. OF SPILL PREVENTION AND RESPONSE, ALASKA DEP’T OF ENV’T CONSERVATION, RISK ASSESSMENT PROCEDURES MANUAL (2018), [https://dec.alaska.gov/media/7545/20180201\\_rapm.pdf](https://dec.alaska.gov/media/7545/20180201_rapm.pdf) [<https://perma.cc/L9B3-NJVJ>].

<sup>152</sup> Findtner & Napolitan, *supra* note 142.

<sup>153</sup> *Id.*

<sup>154</sup> Simonelli, *supra* note 112.

<sup>155</sup> See ALASKA, DEP’T OF ENV’T CONSERVATION, DIV. OF SPILL PREVENTION AND RESPONSE, CONTAMINATED SITES PROGRAM, CLEANUP PROCESS, <https://dec.alaska.gov/spar/csp/faq/cleanup-process> [<https://perma.cc/2FQS-DVC8>].

<sup>156</sup> Murkowski, *supra* note 89.

<sup>157</sup> *Id.*

a clear, enforceable framework for remediation.<sup>158</sup> Current legislative efforts, such as Senate Joint Resolution 13, demonstrate the growing recognition of the need to update ANCSA's implementation framework to address unresolved land entitlement issues affecting Alaska Native communities.<sup>159</sup> These amendments should include provisions for releasing heavily contaminated lands from Native corporate ownership and establishing liability protections. Under current law, Native corporations can be held responsible for contamination they did not cause, creating a chilling effect on remediation.<sup>160</sup> By shielding Native corporations from such liability, Congress could encourage voluntary cleanup efforts and enable corporations to focus on sustainable land management rather than protracted legal and financial risks.<sup>161</sup>

Institutional collaboration must form the foundation of remediation efforts. The Environmental Protection Agency's Contaminated ANCSA Lands Assistance Program offers a model for federal-tribal partnership in addressing contamination.<sup>162</sup> This program demonstrates how federal expertise and resources can support tribal entities in assessing and remediating contaminated sites.<sup>163</sup> The Department of Interior's recent implementation of co-stewardship agreements provides another promising framework for shared management of public lands.<sup>164</sup> These agreements are formal partnerships between federal agencies (such as the Bureau of Land Management, the U.S. Fish and Wildlife Service, and the National Park Service) and tribal governments that recognize tribes as active co-managers of ancestral lands. They are typically implemented through collaborative co-management programs that outline shared responsibility for habitat restoration, subsistence protections, wildfire management, and cultural resource preservation.<sup>165</sup> Expanding these collaborative approaches to

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<sup>158</sup> See Simonelli, *supra* note 9 (“[W]e have yet to see the true potential of ANCSA realized because it is a living law that is constantly evolving . . .”).

<sup>159</sup> A joint resolution proposing an amendment to the Constitution of the United States relative to balancing the budget. S.J. Res. 13, 118th Cong. (2023) (enacted).

<sup>160</sup> See Small Business Liability Protection Act, Pub. L. No. 107-118, 115 Stat. 2356 (proposing to promote the cleanup and reuse of brownfields and provide liability relief for small businesses).

<sup>161</sup> Simonelli, *supra* note 9 .

<sup>162</sup> U.S. ENV'T PROT. AGENCY, CONTAMINATED ALASKA NATIVE CLAIMS SETTLEMENT ACT LANDS ASSISTANCE PROGRAM, (2025) <https://www.epa.gov/system/files/documents/2025-04/ancsa-lands-assistance-program-guidance-april2025.pdf> [<https://perma.cc/SLM3-4GGX>].

<sup>163</sup> *Id.*

<sup>164</sup> Interior Department Issues Guidance to Strengthen Tribal Co-Stewardship of Public Lands and Waters, U.S. DEP'T OF THE INTERIOR (Sep. 13, 2022), <https://www.doi.gov/pressreleases/interior-department-issues-guidance-strengthen-tribal-co-stewardship-public-lands-and> [<https://perma.cc/RJM2-272R>].

<sup>165</sup> See Gavin Kentch, *A Corporate Culture: The Environmental Justice Challenges of the Alaska Native Claims Settlement Act*, 29 HASTINGS ENV'T L.J. 215, 240–42 (2023) (describing ANCSA-related

contaminated ANCSA lands would leverage the strengths of multiple stakeholders—federal agencies with technical and financial resources; state entities with regulatory authority; and Native corporations with intimate knowledge of local ecosystems and cultural priorities.<sup>166</sup> A co-stewardship framework in this context would not only center Alaska Native perspectives in remediation decisions, but also ensure that cleanup plans align with subsistence practices and community health.

Securing adequate funding remains critical to implementing effective remediation programs. The EPA’s recent \$20 million initiative for contaminated lands in Alaska represents an important step forward but falls short of addressing the full scope of contamination.<sup>167</sup> A more comprehensive funding approach should combine dedicated federal allocations with state-level support and private sector involvement.<sup>168</sup> The Alaska Native Village Corporation Association (“ANVCA”), a statewide advocacy organization representing the interests of over 200 village corporations established under ANCSA, has become a central policy voice on issues of contaminated lands.<sup>169</sup> The ANVCA’s proposal for mitigation cleanup credits and tax incentives offers innovative mechanisms for incentivizing remediation efforts.<sup>170</sup> These financial tools could help overcome the economic barriers that have historically impeded cleanup efforts.

Moreover, any comprehensive solution must address the structural limitations of ANCSA’s corporate model discussed earlier. This includes reconsidering how the split estate system impacts environmental management decisions and developing mechanisms to better align corporate

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co-management programs focused on habitat restoration, wildfire control, subsistence protection, and cultural resource stewardship).

<sup>166</sup> *Interior Department Issues Guidance to Strengthen Tribal Co-Stewardship of Public Lands and Waters*, *supra* note 164.

<sup>167</sup> See Suzanne Skadowski, *EPA launches \$20M program to address contaminated lands in Alaska*, U.S. ENV’T PROT. AGENCY (May 5, 2023), <https://www.epa.gov/newsreleases/epa-launches-20m-program-address-contaminated-lands-alaska> [<https://perma.cc/63KS-C7N6>].

<sup>168</sup> Simonelli, *supra* note 9.

<sup>169</sup> *About Us*, ALASKA NATIVE VILLAGE CORP. ASS’N, <https://anvca.biz/about-us> [<https://perma.cc/KPC9-TUT9>].

<sup>170</sup> The ANVCA has advocated for remediation frameworks that pair tax incentives with cleanup credits. Under this model, corporations that remediate contaminated ANCSA-conveyed lands could offset their federal tax liabilities or generate transferable “credits” akin to carbon credits. These mechanisms would lower the financial burden of cleanup, encourage investment from outside partners, and align economic incentives with the public health goal of ensuring Alaska Native lands are safe for habitation and traditional use. See *Priorities: Contaminated Lands Legislative Objectives*, ALASKA NATIVE VILLAGE CORP. ASS’N, <https://anvca.biz/priorities> [<https://perma.cc/S7Y2-86S2>]. The sample language of the objective said to “adopt mitigation clean-up credits and tax credits for clean-up activities on ANCSA lands.” *Id.*

responsibilities with traditional stewardship practices.<sup>171</sup> Policymakers should establish statutory reforms that (1) create a joint federal–state–Native remediation authority with clearly defined responsibilities; (2) mandate binding timelines for the cleanup of contaminated ANCSA lands; and (3) provide dedicated, long-term funding streams insulated from annual appropriations battles. Additionally, federal agencies should expand co-stewardship agreements to give Native corporations direct authority over cleanup planning, supported by technical and scientific resources. Implementing these measures would not only address the persistent environmental harms facing Alaska Native communities, but also operationalize ANCSA’s promise by ensuring that self-determination is coupled with the resources and authority needed to protect Native lands for future generations.<sup>172</sup>

### CONCLUSION

The issue of contaminated lands transferred under ANCSA represents more than just an environmental challenge—it embodies the fundamental tensions inherent in the Act’s corporate framework and raises critical questions about environmental justice for Alaska Native communities. The transfer of contaminated lands has undermined ANCSA’s original promise of economic self-determination while creating lasting environmental burdens for Native communities. The corporate structure established by ANCSA, while innovative in its approach to Indigenous land settlements, has proven inadequate for addressing complex environmental challenges.

The pressure to generate profits, combined with the split-estate system and insufficient federal support, often forces Native corporations to prioritize immediate economic returns over long-term environmental stewardship. This tension has been particularly acute in cases where contamination from military installations, industrial activities, and resource extraction has rendered lands unsuitable for both traditional use and sustainable development. The federal government’s slow response to contamination issues highlights the need for structural reform in the protection and management of Indigenous land rights.

Looking forward, addressing the contamination of ANCSA lands requires not only technical solutions and funding mechanisms but also a fundamental shift in how we conceptualize the relationship between economic development and environmental preservation in Indigenous contexts. This shift must recognize that true economic self-sufficiency for Native communities cannot be achieved without ensuring the environmental

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<sup>171</sup> Kentch, *supra* note 65.

<sup>172</sup> Murkowski, *supra* note 89.

integrity of their lands. The proposed solutions outlined in this Note—legislative amendments, collaborative management approaches, and sustainable funding mechanisms—represent important steps toward rectifying ANCSA’s unintended consequences.

The contaminated lands issue also serves as a reminder that environmental justice must be central to any framework for Indigenous land rights. The disproportionate environmental burden placed on Alaska Native communities through the transfer of contaminated lands represents a continuation of historical inequities that ANCSA was meant to address. Resolving these issues is essential not only for the well-being of Alaska Native communities but also for upholding the federal government’s trust responsibilities to Indigenous peoples.

As we look toward the future of ANCSA and Indigenous land rights more broadly, the lessons learned from addressing contaminated lands must inform a more balanced approach to land management, one that respects both the economic aspirations and environmental values of Native communities. Only by acknowledging and actively addressing these environmental justice challenges can we begin to fulfill ANCSA’s original vision of empowering Alaska Native communities while preserving their cultural heritage and traditional relationships with the land.