ALASKA LAND USE BEFORE AND AFTER ANILCA

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During statehood's first twenty years, most of Alaska's federal land was open to the public for a variety of uses. There were few land-use conflicts back then, and both the state and federal governments wanted Alaska to become self-supporting, no longer a drain on the nation's taxpayers.

Throughout the state, excitement abounded among its citizens for creating new Alaska industries and jobs, bright futures for our children in this grand environment. Never mind that our distance from markets and costs of doing business would deter about any sane person from investing in the Great Land. Numerous development proposals were hoisted up the flagpole, only to plummet back down when the studies were done—without infrastructure, projects could not be made economic. "Cockeyed optimists," the outsiders called us as we would advance yet another unrealistic idea. Still, our can-do spirit was envied by almost everyone who visited the Last Frontier or who met us on our many self-financed trips to Washington, D.C. Alaskans were definitely different from the folks back home.

Suddenly, it seemed, the mood changed. The 80 million acres of conservation lands called for in ANCSA skyrocketed to 150 million acres, and Alaskans feared they would no longer have power, little though it was, over their own destinies. The realization dawned that, if the national environmental groups ganged up on our small population, we were in a world of hurt.

As it turned out, Alaskans, who represented the view that economic development and environmental protection were both worthwhile human endeavors, lost the effort to keep strategic multiple use lands open for present and future needs. When the d(2) dust finally settled, our attitude was "let's make the best of what we have left." I think most of us truly believed that, if everyone played by the rules, the new law could work.

Twenty Years Later

Had federal agency employees and environmentalists insisted these past twenty years, that ANILCA be implemented as the 1980 Alaska Lands Act was intended, Alaskans would have few complaints. Today they have many. In most cases, ANILCA's language was clear. It said valid mining claims would be honored, traditional access and uses would be guaranteed, resource exploration and evaluation would continue, state and local governments would help draft regulations, Alaskans would not be subjected to unreasonable regulations, and there would be no more land withdrawals.

The New Environmentalist Agenda

The ink was hardly dry on the agreement when the Wilderness Society, a leader in the "fight to save wild Alaska," began drafting its agenda for the twenty-first century. The Society's strategy was, simply, to undo the agreement

and go after what it didn't get in the 1980 withdrawals. It, and other environmental groups in the Alaska Coalition, has achieved considerable success; the act is coming undone. Alaskans have seen a stream of proposals for locking up more land, one lawsuit after another, and an endless list of administrative restrictions.

Land Withdrawal Proposals

First, there was the congressional bill to create buffer zones around the huge conservation units. At first glance this didn't seem serious, but viewed on a map, it was easy to see that all of Alaska's land and coastal waters would be sucked into buffer zones, depending upon whether the zones were one, two or five miles deep. We had to remind Congress that buffer zones had already been provided for in the 1980 law. Fortunately, that proposal died a merciful death after enormous opposition by Alaskans.

Since then we've had marine sanctuary proposals (involving some 18 million acres strategically sited where any coastal development might someday occur), illegal wilderness studies, and proposals for establishing world heritage sites, international parks (Beringia) and biosphere reserves. These last three are United Nations designations, to be applied without state or federal approval, that cede jurisdiction to an international body.

Still unresolved are proposals for millions of acres of spectacled eider critical habitat areas and protected areas for the Steller sea lion and beluga whale. Rest assured there are handy lists of about-to-be endangered species in the precise areas where future projects might occur.

Then there is the environmentalist/Clinton Administration roadless area plan that would prohibit road building in most of the Tongass and Chugach National Forests.

The Wilderness Society also wants 100 million more acres of Alaska designated wilderness (not just "wild land," which describes more than 99% of Alaska, but big-W wilderness). Other preservation groups have their own agendas, all of which violate the "no more" agreement. They say redesignating existing federal and/or conservation lands to more restrictive classifications does not violate the "no more" agreement; common sense says it does.

Lawsuits have been filed to prohibit mining within Forest Service boundaries, over numerous subsistence issues, against timber harvesting on native and Forest Service land, against oil and gas leasing on submerged lands, against regulation of mining by USGS, against land exchanges, over navigability issues, over cumulative impacts of mining claims, over access to inholdings, over mining plans of operation, against commercial fishing in nonwilderness lands, against cruise ship and airplane activities, and over allotment claims. For the environmental groups, lawsuits are a major fundraising activity.

Testimony on ANILCA Impacts

Last year the U.S. Senate Energy and Natural Resources Committee held hearings regarding the impacts of ANILCA implementation on Alaskans. Numerous witnesses testified, with the following issues highlighted:

- The compromises and concessions made by Congress have been violated through judicial activism, bureaucratic manipulation and blatant disregard for the language of ANILCA, particularly with regard to native corporation lands.

- ANILCA provisions to accommodate valid existing uses have continually been violated by zealous bureaucrats determined to use every mechanism possible to restrict or eliminate these traditional uses.

- The promise that agencies would continue to assess the mining and oil and gas resources within conservation units was never fulfilled.

- The "no more" provision of Section 3101(d) has been ignored. Areas continue to be studied for placement into more restrictive classifications in spite of the law, or regulated to the extent that they might as well be officially declared off limits to humans.

- Left to the discretion of agency personnel, even the most benign activities have been found to be "incompatible" with the purposes of the conservation unit. As we know, the law did not define "compatible." While the legislative history shows it was to be liberally interpreted, it has not.

- Traditional motorized access, which was to be subject to reasonable regulation in certain instances, has been vehemently opposed by agency regulators, and often denied without justification.

- Public hearings, consultations and cooperative approaches to coordinating management decisions with state and local entities, as required by the law, are blatantly disregarded.

- The often-stated assurances that Alaskans would not be subjected to living a "permit lifestyle" turned out to be meaningless.

- To make certain that applicants for permits do not get them, federal agencies require reimbursement of costs associated with evaluating all alternative routes for proposed transportation and utility corridors. Assessments of costs have ranged from $10,000 to $200,000.

- The commitment that the oil and gas, mining and timber industries would be allowed orderly development has been meaningless.

- The rights of access to private lands within conservation units have been violated at every turn. Inholders face significant, infuriating obstructions to enjoying the land they own. Examples are permit requirements and limitations on times they can travel to and from their property.

- To further limit access, federal agency personnel define words according to their own dictionaries: helicopters are not aircraft, certain types of watercraft are not boats.

- Federal agency personnel have gone so far as to require permits of people using *state* navigable waters when the state had no such requirement and the federal agency had no such jurisdiction.
- Despite ANILCA's requirement that remote lakes with no alternate access be open to aircraft access, hundreds of lakes have been arbitrarily closed to such use.
- Agency personnel have used devious means of assuring that access roads would not be built, such as requiring that borrow material come from outside conservation units.

Conclusion

Due to the manner in which ANILCA has been interpreted, administered and attacked, amendments to the law are necessary. It is hoped that these can be accomplished with the election of a new U.S. President in November and a supportive Congress. Let us not think for a moment that amending the law will be easily achieved. Alaskans must unite in force for such an undertaking and be prepared to offer our talents, time and money for the cause.