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DIVIDING ALASKA, 1867-2000: CHANGING LAND OWNERSHIP AND MANAGEMENT

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When the U.S. bought Alaska in 1867, it acquired an area twice the size of the 13 original American colonies and three quarters as big as the Louisiana Purchase. This paper looks broadly at changing land ownership and management in Alaska from 1867 through today.

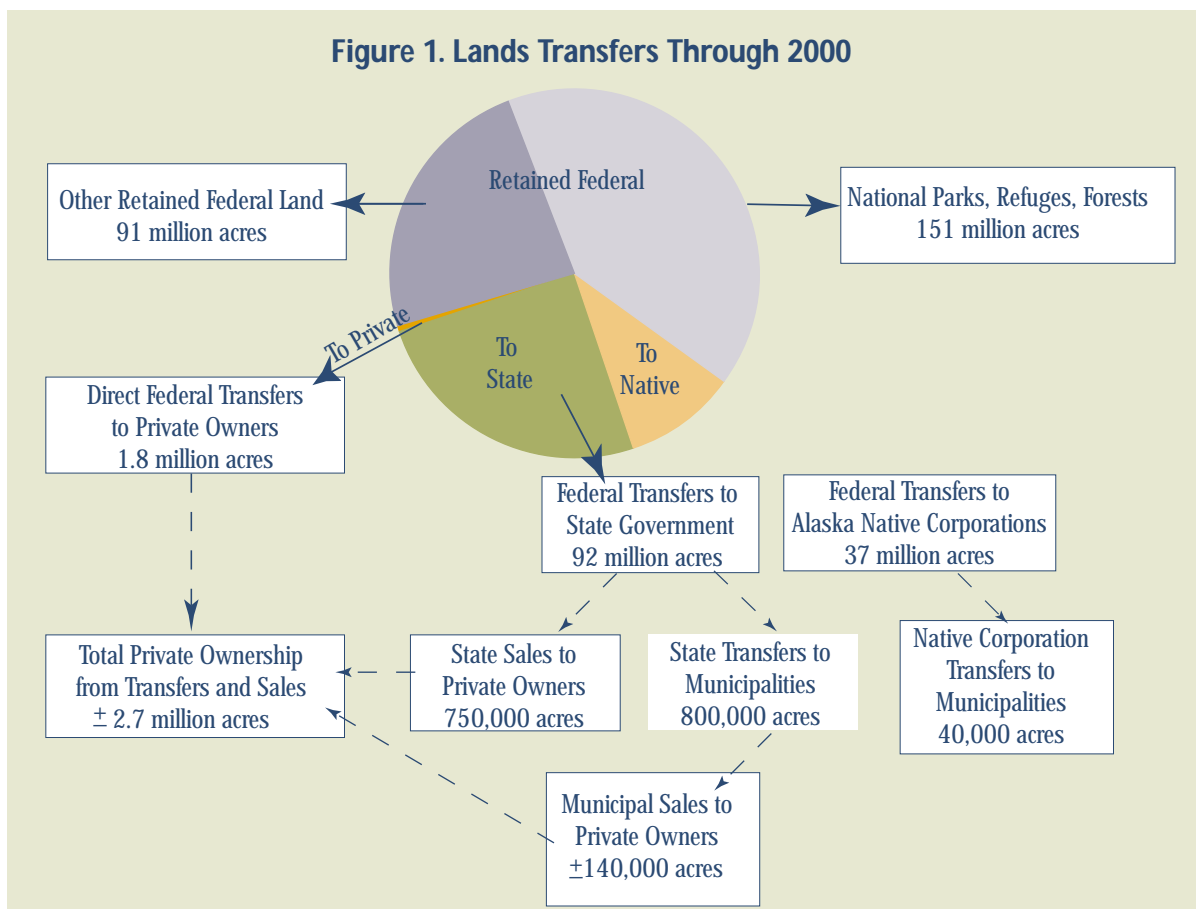
For almost a century, the federal government gave up only a sliver of Alaska's 375 million acres, mostly through homesteading and other land programs.

But when Alaska became a state in 1959, Congress gave the new state rights to about 104 million acres. Then, in 1971, Congress settled Alaska Native land claims with a land grant of 44 million acres and payment of \$1 billion.

The last major division of Alaska lands came in 1980, when Congress added 104 million acres to national parks, wildlife refuges, and other conservation units.

Figure 1 shows land transfers to date resulting directly and indirectly from federal programs and laws. The picture will change in the future, as land transfers and sales continue. The federal government kept land for national conservation systems and other purposes and transferred land directly to private owners, the state, and Alaska Native corporations. The state and the corporations have subsequently transferred land to municipalities. The state and the municipalities have in turn sold land to private owners.

Figure 1. Lands Transfers Through 2000



SCOPE AND ORGANIZATION

This paper is an overview, to give readers the big picture of how Alaska's current land ownership and management developed. Because of limited space, it doesn't cover all the details of this complex topic.

- Background, [pages 2 and 3](#). We begin by briefly discussing the evolution of Alaska land ownership, including the three major federal laws shaping recent ownership and management in Alaska: the 1958 Alaska Statehood Act, the 1971 Alaska Native Claims Settlement Act (ANCSA), and the 1980 Alaska National Interest Lands Conservation Act (ANILCA).
- Chronology, 1867-2000, [pages 4 and 5](#). From a variety of sources, we compiled this chronology of significant events, laws, and court decisions affecting land ownership and management since Alaska became a U.S. territory.
- Land Ownership, 1960 and 2000, [pages 6 and 7](#). Here we compare current Alaska land ownership with ownership in 1960, including notes describing special circumstances.
- Estimated Private Ownership, [pages 8 and 9](#). Lands awarded Alaska Natives under ANCSA make up most private lands in Alaska, and their extent is well-documented. This is an estimate of other private ownership—acreage private owners have acquired in other ways.
- Ownership and Management Issues, [pages 10 and 11](#). Here we briefly describe some of the major issues that have grown out of the recent land transfers.
- Map of Major Federal Land Withdrawals, [click here](#). This map shows national conservation units (including wilderness areas) and other withdrawals as of 2000. The small size of the map limits our ability to show inholdings.
- Map of State and Native Corporation Lands, [click here](#). This map illustrates the broad picture of current state and Native corporation lands; again, its small size limits our ability to depict precise boundaries and other details.

BACKGROUND

The U.S. bought Alaska from Russia in 1867. The vast new territory lay far to the north, its climate and terrain were often forbidding, and it was largely unmapped. Almost all the 35,000 or so residents were Alaska Natives, whose ancestors had been in Alaska for thousands of years.

For nearly 20 years after the U.S. acquired Alaska, Congress excluded it from the public land laws—meaning no one could get title to land. In 1884, Congress opened the territory to mining laws. Near the turn of the century, it began opening Alaska to homesteading and other programs that allowed individuals and businesses to apply for land.

Congress also acknowledged, beginning in 1884, that Alaska's Native peoples had rights to land. But it would take nearly 100 years for Congress to link land claims to

land title. In 1906 Congress did create a program under which individual Alaska Natives could claim up to 160 acres, and in 1926 it provided a way for Alaska Natives to acquire lots within Native townsites.

Various federal programs over the years offered individuals, schools, missionaries, and others the chance to acquire land. But on the eve of statehood, all but about half a percent of land still belonged to the federal government.

Historians cite various reasons (including, especially at first, federal indifference) for the slow pace of land transfers. But one significant reason was that lands had to be surveyed before they could be transferred. Surveying was difficult and expensive in a huge territory with short summers, vast roadless areas, and unknown terrain. Only an estimated one percent of Alaska lands had been surveyed by 1960. (And surveys continue today; see page 10.)

Also, federal programs like homesteading—which required settlers to clear and cultivate land—were poorly suited to most of Alaska. It was chiefly fishing and mining rather than agriculture that drew immigrants to Alaska.

Still, even though the amount of land patented under federal programs is relatively small compared with Alaska's vast expanses, such private lands are more significant than they might seem based on size. That's because many now fall within national conservation units or Alaska Native corporation lands—and they can affect land management in various ways, as we discuss on page 11.

Alaska Statehood Act

Big changes in land status began when Alaska became a state and got rights to select about 104 million acres of federal land. Unlike in other states, where the federal government specified tracts for land grants, Alaska could choose from lands that weren't reserved for national parks, military bases, or other purposes. The land grant was to help Alaska develop an economic base.

With statehood also came ownership of submerged lands under most navigable waterways and submerged lands up to three miles offshore. But which rivers and lakes are "navigable," and where the offshore boundaries fall, remain points of contention between the state and federal governments (see pages 10 and 11).

The statehood act also gave Alaska the authority to manage fish and wildlife. Gaining that authority had in fact been one of the main forces behind the statehood drive. Now, in 2000, a clash with federal law has cost Alaska authority to regulate subsistence hunting and fishing on federal lands, as we discuss on page 11.

Land Freeze and Oil Discovery

Alaska Native land claims had been building for years, particularly in southeast Alaska. But in the 1960s, when the state began selecting lands, Native groups saw increasing threats to lands they had traditionally used—and they organized statewide to press their land claims.

By the end of the 1960s, Native land claims blanketed Alaska. The Secretary of the Interior responded by halting land transfers until those claims were settled.

At about the same time, in 1968, the Prudhoe Bay oil field was discovered on the North Slope. This was to prove the largest oil field in North America, and it was on state-owned land.

The oil companies planned to transport the oil south by building a pipeline across Alaska.

The state government and the oil companies now had compelling reasons to support a claims settlement—because only then would the federal government resume state land transfers and issue right-of-way permits for a trans-Alaska oil pipeline.

Alaska Native Land Claims Settlement

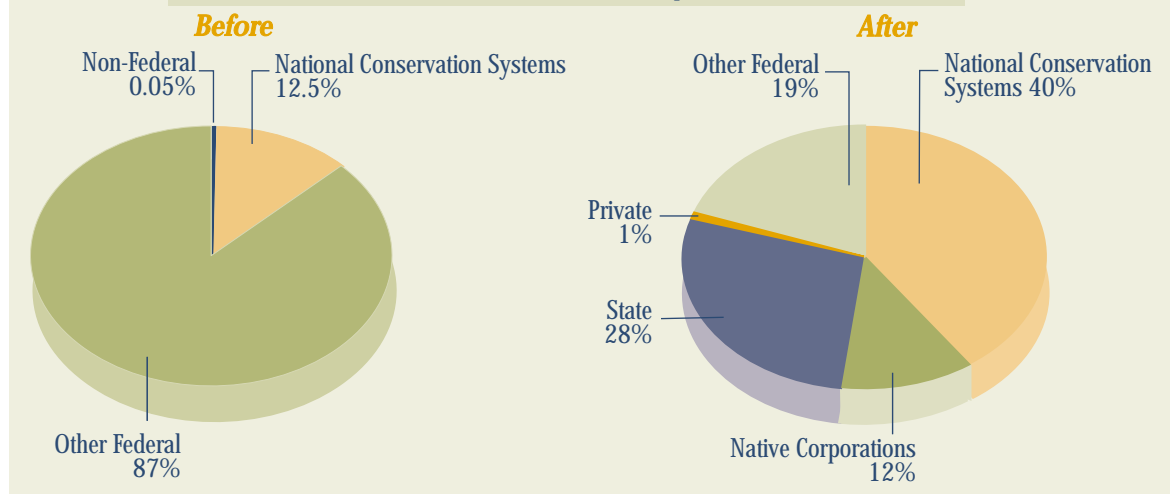
In 1971, Congress passed the Alaska Native Claims Settlement Act (ANCSA). The act settled Alaska Native land claims with a grant of 44 million acres and payment of \$1 billion. It also provided for village and regional corporations to manage that land and money. Part of the reason for this land grant was—like the state land grant—to help provide a long-term economic base for the corporations. Corporations were to select mainly from tracts the federal government withdrew near villages, but when there wasn't enough available land near villages, they could also choose from other unreserved federal land.

ANCSA also authorized the Secretary of the Interior to withdraw 80 million acres in Alaska for possible inclusion in national parks and other conservation units. That provision grew partly out of the national environmental movement of the 1960s, which saw the passage of federal environmental protection legislation and the rise of environmental groups calling for protection of undeveloped lands.

LANDS ACT

The years from 1971 to 1980 saw bitter controversy over how much land would be added to national parks, wildlife refuges, and other conservation units in Alaska. Opponents argued that taking large areas out of the public

Figure 2. Land Status Before 1958 and After 1980
(When Transfers are Complete)*



*Major Transfers from Unreserved Federal Lands in Alaska

Alaska Statehood Act (1958): 104 million acres

Alaska Native Claims Settlement Act (1971): 44 million acres

Alaska National Interest Lands Conservation Act (1980): 104 million acres

domain—and out of the selection pool for the state and Native corporations—would hinder economic development. Supporters argued that protecting some of the nation's largest and most scenic undeveloped lands should take priority.

In the end, the 1980 Alaska National Interest Lands Conservation Act (ANILCA) added nearly 104 million acres to conservation systems in Alaska, with 56 million acres designated as “wilderness,” the most protected classification. These withdrawals, together with existing reservations, make up about 40 percent of Alaska lands.

ANILCA generated management issues and conflicts that remain unresolved today, as described on page 15. One of the most prominent is a clash between federal and state law over subsistence hunting and fishing on federal lands. Another is a debate over the future of the coastal plain of the Arctic National Wildlife Refuge.

Figure 2 shows land ownership before and after the major federal legislation we just described. When transfers are complete, the federal government will own nearly 60 percent of Alaska, largely in national conservation units. The state will own about 28 percent, the Alaska Native corporations 12 percent, and other private owners about 1 percent.

The chronology on pages 4 and 5 cites major events affecting land ownership and management in Alaska from 1867 through 2000. The federal laws we just discussed strongly influenced the current patterns, but many other events over the years also contributed.

LAND OWNERSHIP AND MANAGEMENT CHRONOLOGY

1867: U.S. buys Alaska from Russia for \$7.2 million; Department of the Interior says no one can acquire land in Alaska until Congress enacts legislation.

1870: Congress declares Pribilof Islands the first national wildlife refuge; it was to be managed for seal harvests.

1884: Congress passes Organic Act of 1884, extending public mining laws to Alaska. It allows only U.S. citizens to stake claims—thereby excluding Alaska Natives, who were not recognized as citizens until the 1920s. The act also grants missionaries rights to sites they occupy and declares that Alaska Natives “shall not be disturbed in the possession” of any lands they occupy or use.

1891: Congress approves establishment of townships; allows individual Alaskans to apply for lots within those townships; allows businesses to acquire up to 160 acres for “trade and manufacturing sites”; and designates Annette Island (87,000 acres) as a reservation for Tsimshian Indians.

1903: Congress extends U.S. homesteading program to Alaska. Executive order declares St. Lawrence Island (1.2 million acres) a reindeer reserve for benefit of Alaska Natives.

1906: Congress passes Native Allotment Act, allowing individual Alaska Natives to apply for up to 160 acres.

1907: President Theodore Roosevelt establishes Tongass National Forest (16 million acres) and Chugach National Forest (4.8 million acres).

1912: Congress approves territorial government for Alaska, but retains control of land, minerals, and fish and wildlife.

1914-17: Executive orders establish 10 Native reserves totaling nearly 500,000 acres, with the largest at Norton Bay (316,000 acres) and Kobuk (144,000 acres).

1915: Federal government begins building Alaska Railroad. Construction creates town of Anchorage.

1915: Athabascan chiefs in the Interior meet with territorial delegate to protest taking of land for railroad—possibly the first formal Alaska Native protest.

1915: Congress “reserves” an estimated 250,000 acres for the future University of Alaska and 20 million acres for schools, with transfers contingent on surveys. But very little acreage had been transferred by 1958, when the act was revoked.

1917: Congress establishes 1.9-million acre Mt. McKinley (now Denali) National Park.

1918: President Woodrow Wilson establishes Katmai National Monument (2.7 million acres).

1923: President Warren Harding establishes Naval Petroleum Reserve No. 4 (23 million acres). It is now known as National Petroleum Reserve-Alaska (NPRa).

1925-1933: Executive orders establish Tetlin “public purpose” reserve (768,000 acres) and four small reserves to “promote the interests of the Natives.”

1925: President Calvin Coolidge establishes Glacier Bay National Monument, originally 1.1 million acres but enlarged to 2.3 million acres in 1937.

1926: Congress passes Native Townsite Act, allowing Alaska Natives to apply for lots in Native townships.

1929: Congress grants University of Alaska 100,000 acres. The same year it declares Nunivak Island (1.1 million acres) a national wildlife refuge.

1935: Congress authorizes the Tlingit and Haida Indians of Southeast Alaska to bring a land claims suit against the federal government in the U.S. Court of Claims.

1936: Congress extends Indian Reorganization Act (IRA) to Alaska, providing means for Native villages to form federally-chartered governments and to petition the Department of the Interior for establishment of reservations.

1941: Congress establishes Kenai National Moose Range (1.7 million acres).

1941-1946: Secretary of the Interior Harold Ickes withdraws 1.5 million acres for the Venetie Native reservation and several smaller reservations.

1956: Congress enacts Alaska Mental Health Enabling Act, with a grant of one million acres to be managed for benefit of mental health programs.

1958: Congress passes Alaska Statehood Act, granting Alaska the broad governmental powers of all states and rights to select about 104 million acres.

1959: U.S. Court of Claims rules (in the 1935 case cited above) that Tlingit and Haida Indians are entitled to compensation for southeast Alaska lands taken from them. Compensation of \$7.5 million paid in 1968.

1960: Secretary of the Interior Frederick Seaton withdraws 9 million acres for Arctic National Wildlife Range (now Arctic National Wildlife Refuge).

1966: Native groups establish Alaska Federation of Natives as statewide organization to press for land claims settlement.

1966-1971: Most land transactions in Alaska halted, pending settlement of Alaska Native land claims. Secretary of the Interior Morris Udall informally began the “land freeze” in late 1966 and formalized it in 1969 with a public land order that remained in effect until 1971.

1968: Oil companies discover Prudhoe Bay oil field on state-owned lands. The land freeze cited above initially blocked issuance of right-of-way permits the oil industry needed for construction of a pipeline south across Alaska.

1971: Congress passes Alaska Native Claims Settlement Act (ANCSA), awarding Alaska Natives 44 million acres and \$1 billion in settlement of their land claims. ANCSA eliminated all Native reserves in Alaska, except Annette Island. It also authorized the Secretary of the Interior to withdraw up to 80 million acres for possible inclusion in national conservation units in Alaska.

1976: Congress passes Federal Land Policy and Management Act, establishing the policy of retaining rather than disposing of public lands and ending most federal land disposal programs.

1978: Alaska Legislature passes law giving subsistence uses priority over other uses of fish and game.

1980: Congress passes Alaska National Interest Lands Conservation Act (ANILCA), adding 104 million acres to national conservation units in Alaska and including a provision giving priority to subsistence uses on federal land, with subsistence users defined as rural residents.

1986: Alaska Legislature revises state law to specify that subsistence users are those “domiciled in a rural area.”

1986: End of federal homesteading program in Alaska. Homesteading in other states ended 10 years earlier.

1989: Alaska Supreme Court rules that Alaska’s constitution prohibits allocating fish and game on the basis of residence. Eliminating “rural” from the state definition of subsistence users puts state law at odds with federal law.

1990: Federal government takes over regulation of subsistence hunting on federal lands.

1995: A panel of the U.S. Ninth Circuit Court of Appeals rules (*Katie John v. United States*) that “public lands” as defined in ANILCA include navigable waters in and near national parks and other conservation areas. That ruling gave the federal government authority to regulate subsistence fishing on many navigable waterways that the state had previously regulated. Alaska’s Congressional delegation was able to delay implementation of the ruling until 1999.

1995: Alaska Supreme Court rules (*Totemoff v. Alaska*) that “public lands” as defined in ANILCA exclude navigable waters—and that federal law pre-dating ANILCA gives the state control of navigable waters.

1998: U.S. Supreme Court rules (*Alaska v. Native Village of Venetie Tribal Government*) that lands Native villages received under terms of ANCSA are not “Indian country,” a term used to designate areas where federal Indian laws apply. The ruling means that on ANCSA lands, Alaska Native governments do not have tax and other authority granted to tribal governments in Indian country.

1997: The state government loses an 18-year dispute with the federal government over setting the boundary between state and federal submerged lands offshore from the North Slope. If the state had prevailed, it would have controlled more lands with potential for oil and gas development. But the U.S. Supreme Court ruled in favor of the federal government (*United States v. Alaska*; commonly known as Dinkum Sands).

1999: Federal government takes over regulation of subsistence fishing on navigable waters in and near conservation units—an estimated 60 percent of Alaska’s inland waters.

2000: U.S. Supreme Court appoints a special master to make recommendations about the state’s claim to submerged lands off southeast Alaska, including waters in Glacier Bay National Monument. The state’s appeal was prompted by the National Park Service’s decision to phase out commercial fishing in Glacier Bay.

2000: The state government appeals the 1995 *Katie John* ruling. The full Ninth Circuit Court of Appeals (11 judges) agrees to hear the state’s appeal.

2000: State of Alaska intervenes in cases that could raise the issue of whether Native allotments and townsite lots are “Indian country.” In 1998, U.S. Supreme Court said (*Alaska v. Native Village of Venetie Tribal Government*) such lands *might* be Indian country.

Sources

Anchorage Daily News archives, 1985-2000, at adn.com/archives.

Robert D. Arnold. *Alaska Native Land Claims*. Anchorage, Alaska: Alaska Native Foundation, 1978 edition.

David S. Case. *Alaska Natives and American Laws*. Fairbanks, Alaska: University of Alaska Press, 1984.

Terrence Cole. *A Land Grant College Without the Land: A History of the University of Alaska’s Federal Land Grant*. A report to the University of Alaska, Statewide Office of Land Management. November 1993.

Federal Field Committee for Development Planning in Alaska. *Alaska Natives and the Land*. Anchorage, Alaska. October 1968.

Federal Land Law Review Commission. *Federal Land Laws and Policies in Alaska*. Prepared for commission by Center for Resource Policy Programs and Studies, University of Wisconsin, March 1969.

Ernest Gruening. *The State of Alaska*. New York: Random House, 1954.

Dorothy Knee Jones. *A Century of Servitude: Pribilof Aleuts Under U.S. Rule*. Washington, D.C.: University Press of America, 1980.

Donald Mitchell. *Sold American. The Story of Alaska Natives and Their Land, 1867-1959*. Hanover, New Hampshire: University Press of New England, 1997.

Thomas Morehouse, ed. *Alaska Resources Development*. Boulder, Colorado: Westview Press, 1984.

Claus-M. Naske and Herman E. Slotnick. *Alaska: A History of the 49th State*. Grand Rapids, Michigan: William B. Eerdmans Publishing Company, 1979.

Public Land Law Review Commission. *Federal Laws and Policies in Alaska*. Washington, D.C.: NTIS, October 1970.

Table 1. Alaska Land Ownership, 1960 and 2000
(In Millions Of Acres¹)

	1960	2000
Total Federal Lands	374.00	242.00
Public Domain ²	290.30	61.40
National Parks, Refuges, and Forests	46.90	150.50
<i>National Wildlife Refuges</i>	18.70	76.50
<i>National Parks, Preserves, Monuments</i>	7.50	52.00
<i>National Forests and Monuments</i>	20.70	22.00
National Conservation and Recreation Areas	-	2.20
National Petroleum Reserve-Alaska ³	23.00	23.00
Military Reserves	2.60	1.80
Native Reserves ⁴	4.10	0.08
Other Withdrawals ⁵	7.50	2.60
Total State Lands ⁶	-	89.50
General State Lands ⁷	-	77.90
Legislatively-Designated Areas	-	11.30
<i>Parks</i>	-	3.30
<i>Game Refuges, Sanctuaries, CHAs⁸</i>	-	3.20
<i>Forests</i>	-	2.20
<i>Other Special Categories</i>	-	2.60
Mental Health Trust (MHT) Land ⁹	1.00	1.00
University of Alaska Lands ¹⁰	0.15	0.17
Municipal Lands ¹¹	-	0.66
Total Private Lands	0.50	40.09
Alaska Native Corporation Lands ¹²	-	37.40
Other Private	0.50	2.69
<i>Federal Land Programs¹³</i>	0.50	1.80
<i>State Land Programs¹⁴</i>	-	0.75
<i>Municipal Land Sales¹⁵</i>	-	0.14

OWNERSHIP, 1960 AND 2000

The events chronicled on pages 4 and 5 shaped ownership in 1960, when Alaska was a new state, and today, 40 years later. The table notes below provide more information about specific categories.

Ownership Notes

1. We relied on many sources that produce a good picture of changing land ownership. But the acreage figures are not entirely consistent. One of the differences is that some agencies count submerged lands and some don't. For that

and other reasons, the amounts we cite in individual categories don't total to exactly 375 million acres, the size most commonly cited for Alaska.

2. Federal lands managed by the Bureau of Land Management and not withdrawn for specific federal uses. The year 2000 figure includes acreage the state government and Native corporations have selected but the federal government hasn't approved for transfer. About 20 million more acres from the public domain will be transferred to the state and Native corporations.

3. Formerly known as Naval Petroleum Reserve No. 4.
4. All Native reserves except for the Annette Island Reserve in Southeast Alaska were revoked by the 1971 Alaska Native Claims Settlement Act.
5. Withdrawals by various federal agencies.
6. State land received under the Alaska Statehood Act. This includes both acreage that has been patented to the state and acreage that has been tentatively approved for patent. The 2000 figure is reduced by acreage the state has transferred to municipalities and sold to private owners. The state has so far received title to about 91 million acres under the statehood act and will ultimately receive about 104 million. It has transferred 800,000 acres to municipalities and plans to transfer another 550,000. It has sold 750,000 acres to private owners so far.
7. Lands the state legislature has not designated for specific purposes. The Alaska Department of Natural Resources classifies these lands by multiple-use management categories, designating the most suitable uses but not necessarily excluding others.
8. Critical habitat areas.
9. The federal government granted Alaska one million acres under the 1956 Alaska Mental Health Enabling Act, to be used for the benefit of mental health programs. The Mental Health Trust has sold a small amount of land.
10. The Alaska Legislature approved a bill awarding the university rights to an additional 250,000 acres. The status of that bill is not clear as of late 2000. But if it does go into effect, the new grant combined with the university's current 170,000 acres would bring total university lands to 420,000 acres. The university has sold a few thousand acres.
11. This figure includes lands the state and the Native corporations have transferred to municipalities. As of 2000, the state has transferred close to 800,000 acres to municipalities under the Municipal Entitlement Act and will transfer about 550,000 more, for a total of 1.35 million acres. Municipalities have in turn sold about 140,000 acres to private owners. Alaska Native corporations have transferred about 40,000 acres to municipalities for community needs, as required by the Alaska Native Claims Settlement Act. The corporations will transfer more land to municipalities, but how much is not clear. Individual municipalities and Native corporations can negotiate amounts to be transferred.
12. Lands awarded Alaska Natives so far under the 1971 Alaska Native Claims Settlement Act (ANCSA), including both patented land and interim conveyances.
13. This includes lands deeded to private owners under various federal land programs and federal mining laws, described on pages 8 and 9. The land programs have all

ended, but some additional land will be transferred to individual Native applicants under the Native Allotment Act. When that program closed in 1971, more than 15,000 applications were pending. The BLM estimates that in 2000 about 3,800 of those applications are still pending. Congress has also approved a new opening for Native veterans who served in the military between 1969 and 1971 and did not previously apply for allotments. In late 2000, Congress was considering adding another opening for descendants of Native veterans who died in the Vietnam War between 1964 and 1971.

14. Includes various programs as described on page 9.

15. This estimate is based on information from municipalities with the largest land sales.

What About the Future?

The federal public domain will decline by about 20 million acres, as the federal government transfers another 13 million acres to the state government and 7 million more to the Alaska Native corporations.

Municipal ownership will increase, as municipalities receive more state and Native corporation lands.

Private ownership will increase for several reasons. The state and municipal governments will continue to sell some land. The University of Alaska and the Alaska Mental Health Trust also sell land; those sales amount to only a few thousand acres as of 2000, but may be larger in the future. Also, individual Alaska Natives will receive more acreage under the Native allotment program.

Sources

U.S. Department of the Interior

Bureau of Land Management, Division of
Conveyance Management

U.S. Fish and Wildlife Service

National Park Service

U.S. Forest Service

Alaska Department of Natural Resources

Division of Mining, Land, and Water

Alaska Mental Health Trust Office

University of Alaska, Statewide Office of Land Management

Municipalities: Municipality of Anchorage; Kenai Peninsula Borough; Mat-Su Borough; Fairbanks North Star Borough; City and Borough of Juneau; Kodiak Island Borough; Ketchikan Gateway Borough; City and Borough of Sitka

See also the source documents cited for the land ownership chronology, page 5.

PRIVATE LAND OWNERSHIP IN ALASKA

About 40 million acres are in private ownership in Alaska today. But most of that was awarded Alaska Natives in a single large grant, in settlement of their land claims. Its extent is well-documented. How much land has become private through many smaller, individual transactions?

Excluding ANCSA lands, private land in Alaska totals about 2.7 million acres today. We developed that estimate with the help of federal, state, and local governments.

Figure 3 shows that about two thirds of this private land was originally transferred under federal land programs and mining law. Until fairly recent times, the only way private owners could get title to land was through federal programs (or through someone who had already acquired title from the federal government). Many of these private parcels are now inholdings in national conservation units or on Native corporation lands.



Federal Land Programs

Federal land programs all closed at least by the 1980s (although in some instances the federal government continues to process applications). Figure 4 breaks down acreage patented under various federal land programs from 1867 to 2000. The largest amounts were patented under the Native allotment and homesteading programs.

For most of the 1900s, individuals and businesses could apply for lands under various programs—although getting title could take years. One of the big problems was that less than 1 percent of Alaska was surveyed before 1960, and lands had to be surveyed before applicants could get title.

Under some programs applicants didn't pay for the land but instead proved they used and occupied it. In other cases, they paid fees or modest charges per acre. Those who acquired lands under most federal programs gained *unrestricted* title—meaning they could sell or otherwise dispose of the lands as they chose, once they had met program requirements and gained title.

But lands conveyed to Alaska Natives under the Native allotment and the Native townsite programs have *restricted* title. To sell or lease these lands, owners have to work with the Bureau of Indian Affairs (or with BIA-approved Native contractors). But the lands aren't taxed, they can't be seized for debts, and they're protected from foreclosure. Owners can also apply for unrestricted title.

Homestead program: Individual citizens could stake a claim on up to 160 acres of unreserved federal land. After five years claimants could get unrestricted title to this land, if they had built a house on it, lived there for a specified period, and cultivated part of it.

Homesite program: Individuals could acquire up to 5 acres, if they built a house on the land and lived there for a specified period.

Native allotments: Alaska Natives could apply for up to 160 acres, if they could show past use. The program formally ended in 1971, when the Alaska Native Claims Settlement Act passed, but the BLM continues to process existing claims, and Congress recently approved a special opening for Native veterans; see note 13 on page 7.

Native townsite lots: Alaska Natives could apply for lots in federally-recognized Native townsites. This program closed in 1971, but the BLM is still processing a few applications.

Townsite programs: Non-Natives could apply for lots within the townsites where they lived, once the federal government had approved establishment of the townsites.

Small-tract sales: Allowed individuals to buy tracts of up to 5 acres, mainly for recreational uses, in designated areas.

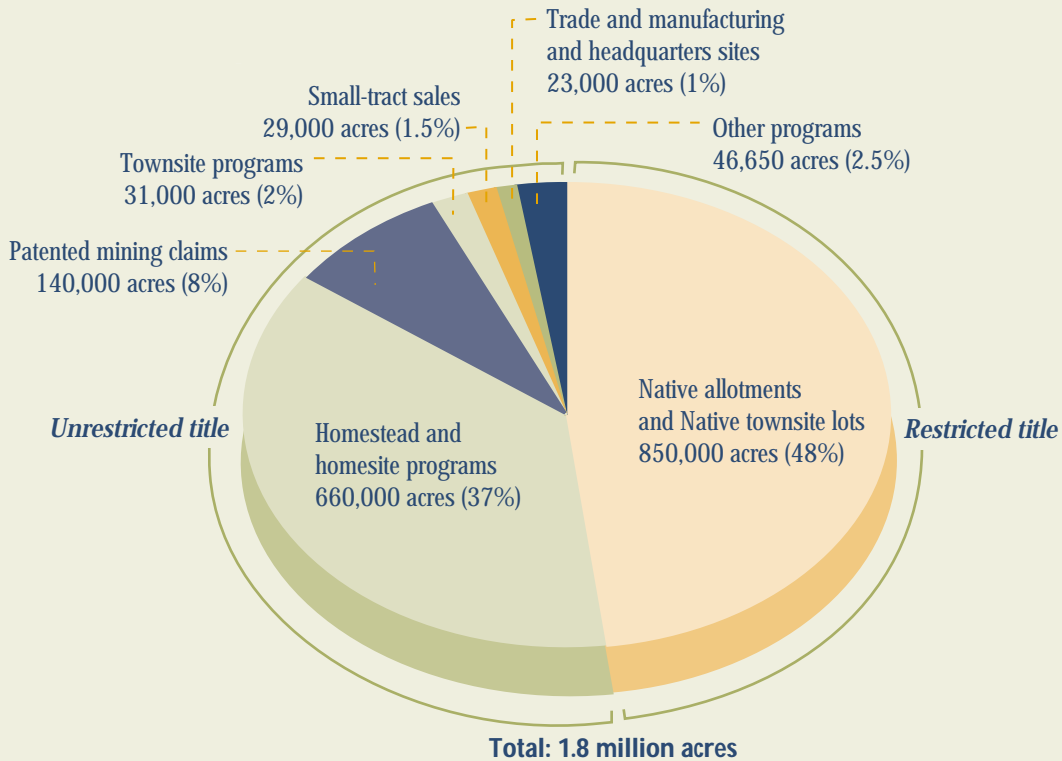
Trade and manufacturing site and headquarters site programs: Individuals could apply for up to 160 acres for sites where they operated businesses, or for 5 acres for headquarters sites, which were for businesses (like guiding services) whose operations covered a wider area.

Other programs: Various other federal land disposal programs allowed individuals or organizations to apply for land—for instance, there were programs that allowed religious organizations and military veterans to acquire land.

Federal Mining Law

Federal mining law still allows individuals to file mining claims on certain federal lands—and to receive patent to those lands if they show mineral discoveries, make improvements, and pay fees. Most but not all federal land in Alaska is now closed to new mining claims. People holding unpatented claims that existed before areas were closed to entry may still be able to patent them.

Figure 4. Federal Conveyances To Private Owners, 1867-2000
(Under Federal Land Disposal Programs and Mining Law)



Owners with **unrestricted** title can sell or otherwise dispose of lands as they choose. Owners with **restricted** title must go through the Bureau of Indian Affairs (or through Native organizations that contract with the BIA) before selling or leasing land. These lands are not taxable, can't be seized to pay debts, and are protected from foreclosure.

Source: Bureau of Land Management

STATE LAND PROGRAMS

Since 1959, state land programs have put about 750,000 acres in private hands—mostly through sales, but also through programs that allow applicants to acquire land by occupying it. The state makes land available after it goes through a land planning and classification process.

State programs have changed over time, and a program may exist but not be open. For instance, state homestead and homesite programs existed in 2000, but no land was available under those programs. Most programs are limited to Alaska residents.

The amount of land offered and sold has waxed and waned—depending on the state budget (and specifically, amounts budgeted to make land available), on legislative requirements, and other demands on state land. Unlike federal law, state law doesn't allow individuals to receive patent to mineral land.

Parcel sizes vary widely by program. Below we describe the range of state programs since 1959. Estimates of how much land was patented under specific programs over the years are not available. Also, land left over from sales is at times sold over the counter.

Agricultural land sales: The state began selling land for agriculture in 1976, but buyers got just the agricultural interest until 1997, when the program was changed to give buyers title to the land, subject to an agricultural covenant.

Auctions: During the early years of statehood, most state land sales were through auctions, and auctions continue today.

Lotteries: The state began selling land by lottery in 1978 and continues to do so.

Homesites and homesteads: Since 1977, variations on these programs have at times offered Alaskans the chance to get title to land by building houses or cabins and living on the land for some period.

Open to entry: Beginning in 1966, this and similar programs allowed individuals to stake parcels on a first-come, first-served basis within designated areas. Currently, the remote recreational cabin sites program allows individuals to buy or lease parcels they stake on certain state lands.

MUNICIPAL LAND SALES

Some municipalities also sell land, including the Matanuska-Susitna, the Kenai Peninsula, and the Fairbanks North Star boroughs. Sale programs vary.

LAND TRANSFER AND MANAGEMENT ISSUES

Today the state and the Native corporations have each received roughly 85 percent of their federal land grants. Such massive land transfers haven't come without complications and disputes. And even as those land transfers were going on, the federal government shifted more than 100 million acres from the public domain into conservation units—a move that meant big changes in use and management of those lands.

To discuss all the issues these ownership and management changes have generated would require a book. Here we just touch on some of the major issues that have come up, as most of the federal public domain in Alaska either went into state or Native corporation ownership or into national parks and other conservation units.

Ongoing Surveys

The Bureau of Land Management has had the daunting job of surveying all the lands being conveyed to the state and the Native corporations—together, about 40 percent of Alaska lands. As recently as 1960, only an estimated one percent of Alaska had been surveyed. The BLM surveys the boundaries of large parcels and also documents the boundaries of thousands of inholdings—valid existing rights to lands within the bigger tracts. These include Native allotments, patented mining claims, and lands patented under federal homestead and other programs.

Lands can't be patented until they're fully surveyed, but to allow transfers to continue, federal law established the "tentatively approved" category for state lands and "interim conveyance" for Native lands. Those are lands conveyed when they are unsurveyed or partially surveyed. Figure 5 shows the status of surveys as of 2000.

Figure 5. Surveys of State and Native Corporation Land, 2000

(In millions of acres)



Fully surveyed 59

Partly surveyed or unsurveyed 69*

Estimated completion: ± 15 years

* Includes lands transferred to the state under tentative approval and to the Native corporations under interim conveyance; much of that land is partially surveyed.

Source: Bureau of Land Management

Navigable or Non-Navigable?

Submerged lands—lands under rivers and lakes—have raised knotty problems from the start. The Alaska Statehood Act gave the state government, with some exceptions, ownership of lands under rivers and lakes that were navigable at the time of statehood. But at that time, the navigability of very few waterways had been documented.

Navigability is an especially complex issue in Alaska, where rivers and lakes cover more than 10 million acres and where commercial use of a waterway at the time of statehood—a measure of navigability—is often difficult to show.

The navigability of rivers and lakes became a more urgent issue when the pace of land transfers speeded up and when the federal government added 100 million acres to conservation systems. It's in the state's interest to have waterways judged navigable, because ownership of the submerged land gives the state more control of use of rivers and lakes. Also, land under navigable waters is not charged against the state's land grant.

The federal government has made navigability determinations for a number of major river systems, but the navigability of many waterways remains undetermined. The state also makes navigability determinations. The two sometimes disagree; the state has appealed many federal decisions and gone to court a number of times. The state has prevailed in some cases and the federal government in others.

There are many complications in determining navigability. The important point is that the navigability of a number of waterways in Alaska is still in dispute—and is likely to remain in dispute for some time.

Land Management Issues

Twenty years after Congress passed the Alaska National Interest Lands Conservation Act, some of the fires it sparked are still blazing. Both sides in the decade-long fight over how much of Alaska's remaining public domain to keep open to development and how much to put into national conservation systems certainly anticipated big management changes. But those for and against ANILCA took very different views of those coming management changes.

Development and Recreation

Over the years there have been a number of disputes over commercial and recreational activities on or near conservation units—for instance, disputes over existing mining claims in new parks; over proposed roads across conservation lands; and over closing areas to motorized vehicles.



Some disputes have involved inholdings—valid existing rights to land that pre-date the creation of new conservation units and conveyance of land to Alaska Native corporations. Private owners of small parcels within larger tracts have access and use rights. For instance, owners of patented mining claims in national parks have access rights. Private owners can establish lodges or other businesses on their land within conservation units. But managers of the conservation units can also regulate access to and use of private inholdings. Inholders and land managers have often disagreed about what constitutes reasonable use that doesn't interfere with the purposes of, for example, a wildlife refuge or a park. In some cases, the federal government buys (or attempts to buy) the inholdings.

A debate that has gone on periodically since 1980 is whether to allow oil development in the coastal plain of the Arctic National Wildlife Refuge. Analysts believe the area may hold billions of barrels of oil—but it is also a calving ground for the Porcupine caribou herd. ANILCA specifically left a decision about allowing oil development to future Congresses—which have considered the issue several times without resolving it. As of 2000, it is still uncertain when Congress will decide this issue.

Another current conflict is over the National Park Service's decision to phase out commercial fishing in Glacier Bay National Monument. The state government in mid-2000 asked the U.S. Supreme Court to determine whether the waters in question, and other offshore lands in southeast Alaska, fall within the state's jurisdiction.

The Alaska Statehood Act broadly granted the state ownership of submerged lands up to three miles offshore. But the federal and state governments have disagreed about how to measure offshore boundaries and about other issues related to submerged lands. The Supreme Court recently appointed a special master to begin hearings on the Glacier Bay case, which could take years to decide.

Another uncertainty in late 2000 is how Alaska's national forests will be affected by changes the federal government is considering for roads in national forests throughout the U.S.

Subsistence Management

Despite these ongoing disputes, the most divisive issue to come out of ANILCA so far resulted not from a restriction on development but from a single word in the definition of subsistence: the word "rural." ANILCA gives priority to subsistence hunting and fishing on federal lands—and defines subsistence as "customary and traditional uses" of fish and game by "rural Alaska residents."

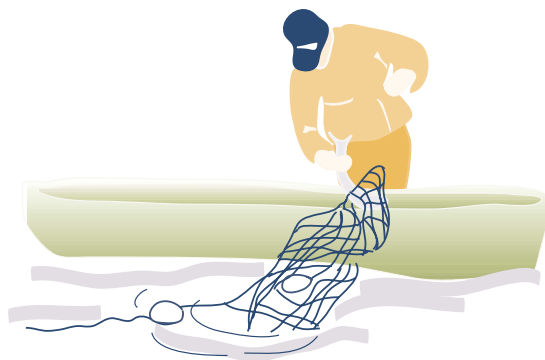
To comply with federal law, the Alaska Legislature in the 1980s passed a law defining subsistence users as those "domiciled in a rural area of the state." In 1989, the Alaska Supreme Court ruled that law unconstitutional, because Alaska's constitution doesn't allow the state to allocate fish and game on the basis of residence.

Since that decision more than a decade ago, many things have happened (as detailed in the chronology on page 5). The federal government almost immediately took over regulation of subsistence hunting on federal lands.

But in 1999, the federal government also took over regulation of subsistence fishing on navigable waters on or near federal conservation units. That change in policy came out of a 1995 federal court ruling (*Katie John v. United States*). Alaska's Congressional delegation was able to delay implementation of that ruling for several years.

In 2000, the full U.S. Ninth Circuit Court of Appeals agreed to hear a state appeal of the 1995 decision. But even if that case is decided in the state's favor, it would apply to only some waterways, and the federal government would still regulate subsistence hunting on federal lands.

There have been task forces, special legislative sessions, and other attempts to resolve the clash between federal and state law. Many analysts argue that only an amendment to Alaska's constitution, allowing the state to limit subsistence users to rural residents, will prompt the federal government to return management to the state. Others argue that the solution is to amend ANILCA so subsistence users are no longer defined as rural residents.



The Alaska Legislature has several times tried but failed to get the two-thirds majority it needs to put a constitutional amendment before Alaska voters—who would have to ratify any amendment to the state constitution. It's uncertain what will happen next in this dispute that has already gone on for more than a decade. But it seems unlikely the state will regain sole control of subsistence management any time soon.

The authors thank many people who helped us put this publication together. We especially thank several people at the federal Bureau of Land Management (BLM) and the Alaska Department of Natural Resources (DNR).

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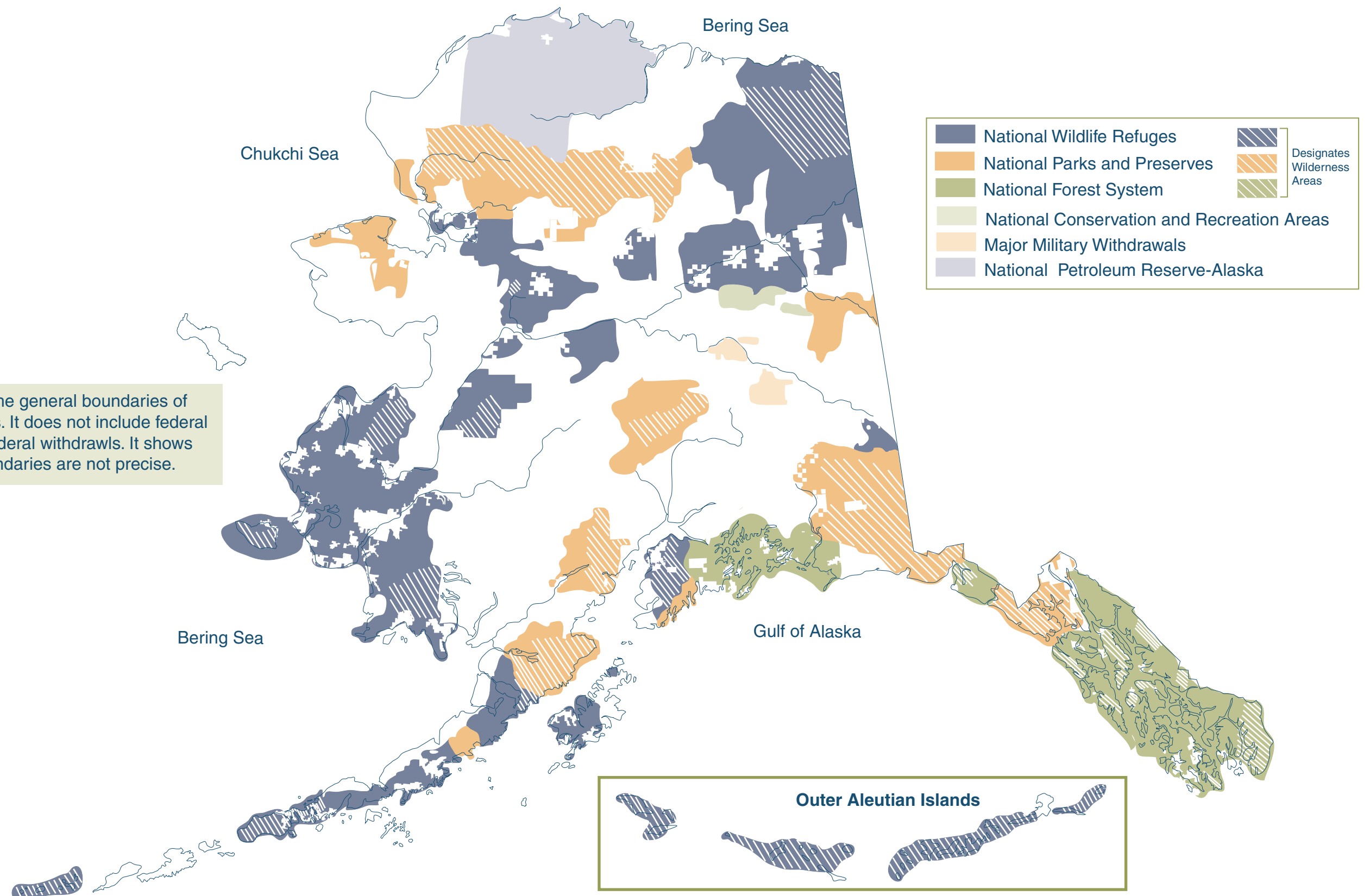
We also thank Vic Fischer, Paul Ongtooguk, and Gunnar Knapp of ISER for their comments on drafts of this paper.

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Major Federal Withdrawals in Alaska, 2000

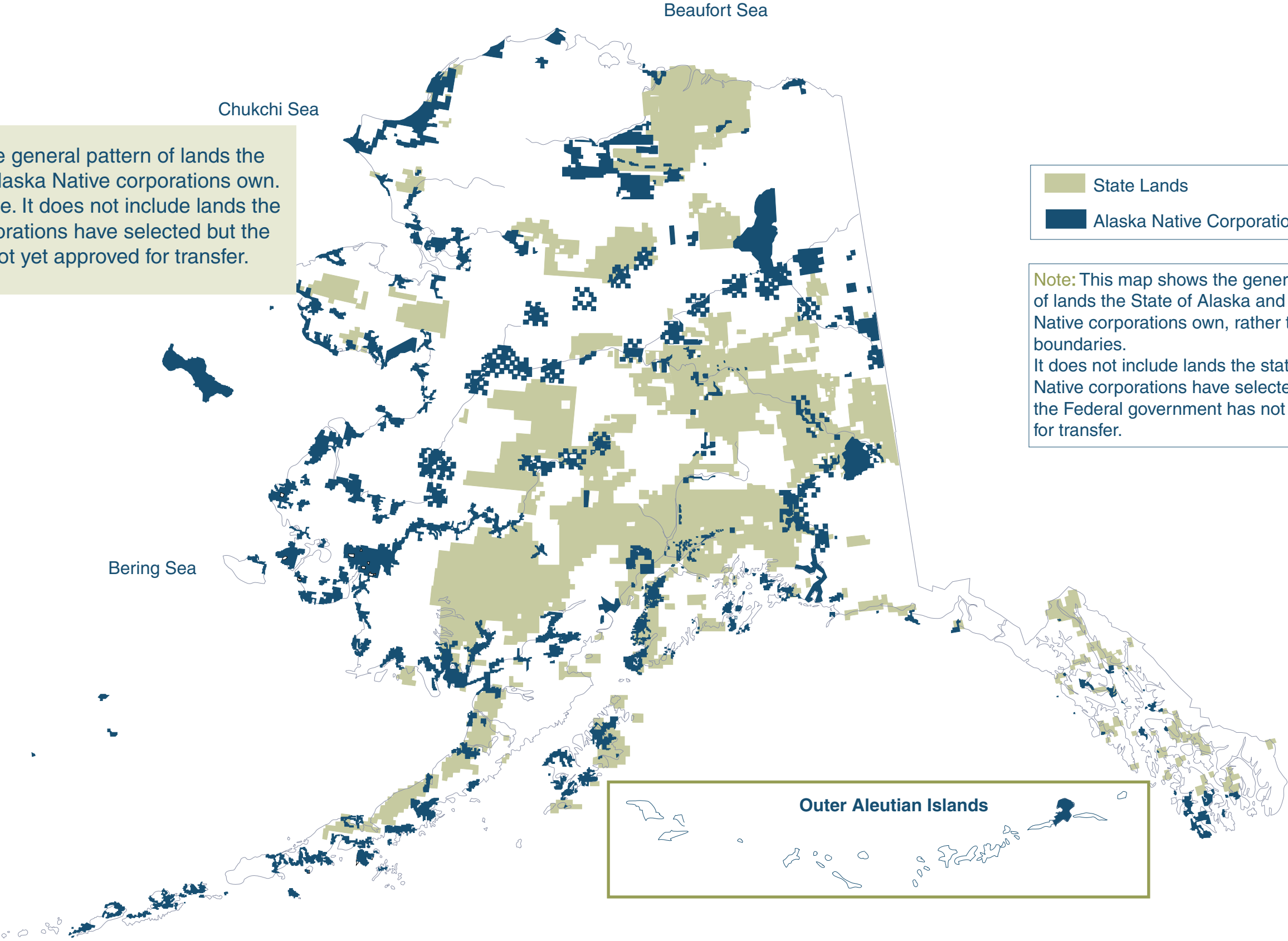


Note: This map depicts the general boundaries of major federal withdrawals. It does not include federal public domain or small federal withdrawals. It shows large inholdings, but boundaries are not precise.

Source: Based on maps prepared by Alaska Department of Natural Resources

State Government and Alaska Native Corporation Lands, 2000

Note: This map shows the general pattern of lands the State of Alaska and the Alaska Native corporations own. Boundaries are not precise. It does not include lands the state and the Native corporations have selected but the federal government has not yet approved for transfer.



State Lands

Alaska Native Corporation Lands

Note: This map shows the general pattern of lands the State of Alaska and Alaska Native corporations own, rather than precise boundaries. It does not include lands the state and the Native corporations have selected but which the Federal government has not yet approved for transfer.