Citizens' Advisory Commission on Federal Areas
FEDERAL OVERREACH SUMMIT
August 12 & 13, 2013 in Anchorage, Alaska

SUMMARY:
PRESENTERS' ISSUES AND SOLUTIONS

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Abstract: Presentations by invited speakers highlighted numerous examples of issues associated with implementation of federal land law in Alaska and identified wide-ranging, potential solutions. Identified issues include: 1) discretionary federal actions perceived to be inconsistent with federal law, 2) a lack of understanding among agencies and the public of federal statutes regarding management of federal lands in Alaska, and 3) a breakdown in relations among federal agencies, the State of Alaska, Native corporations, and other key stakeholders. Identified solutions include: 1) increased communication, education, and effective processes for consultation, 2) strategic evaluation of judicial remedies, and 3) heightened engagement with the Alaska Congressional delegation concerning oversight, education, and problem-solving. These preliminary issues and suggested solutions will inform future dialogue among the agencies and stakeholders.

Author's Note: Thank you, Mr. Co-Chairs and Commission members, for the opportunity to assist your efforts to identify issues and solutions to improve federal-state relations in Alaska. Before the Summit, you asked me to provide a verbal summary of all presentations immediately after the last presenter, followed by this written compilation. During my verbal presentation, I shared the following observation: The behavior of one young person in the audience illustrated the extent of work ahead of you. Whenever a speaker addressed hunting, trapping, or actions by state managers of wildlife, this person displayed obvious signs of disagreement. Many Alaskans new to the State or younger than the Alaska National Interest Lands Conservation Act (ANILCA) are unaware of the extensive compromises that, for example, set aside millions of acres with no harvests while Congress protected the Alaska way-of-life in the remaining acreage, including opportunities for hunting and trapping, and retained state wildlife management on all lands. No one was entirely happy with ANILCA, but only Congress should make changes that affect the balances in the final compromise legislation—not erosion occurring through implementation of personal or political views by federal agencies, as described by many speakers. While an audience member may personally support some and not other provisions, the overarching issues identified for the Commission include upholding "the deal" Congress made in ANILCA with the involvement of environmental and development communities, Alaskan residents, Native Corporations and other landowners, and the citizens of this Nation. Much work lies ahead to refresh public awareness and assure federal commitment to ANILCA.

The verbal summary began with two 1-minute video clips of Senator Stevens in 1999 describing the importance of fulfilling the ANILCA compromises and an example of the need for federal administrators to use common sense in implementing federal laws in Alaska.

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OVERVIEW

Summit Format:
The Citizens' Advisory Commission on Federal Areas selected presenters to provide contextual information and views on issues with federal agencies and possible solutions. For one and a half days, speakers identified a wide range of issues in implementation of several federal laws and possible solutions. The speakers: (1) provided background information on federal and state land and resource laws, (2) described past and current issues involved in implementation of federal laws, primarily focusing on the discretionary implementation of some federal agencies, and (3) offered wide-ranging suggestions for resolutions. Some provided examples of the State of Alaska inadequately fulfilling its role. Several recommended improved involvement of the public and Native corporations in identifying issues and seeking solutions. Many submitted written materials that provide detail beyond their verbal presentations. Following the presentations, the Co-chairs led a roundtable discussion among the commissioners and presenters that identified additional issues and solutions. This summary includes these additional materials, issues, and proposed solutions. The Co-chairs ended the Summit with an explanation of next steps that include meeting with federal agencies and Native corporations in October to further explore issues and solutions.

Scope:
Presentations, supplemental materials, and discussion primarily focused on issues involving the following federal agencies and/or implementation of the following federal laws, their amendments, and related court decisions:

Fish and Wildlife Service (FWS)	National Park Service (NPS)
Forest Service (FS)	Bureau of Land Management (BLM)
Environmental Protection Agency (EPA)	Federal Aviation Administration (FAA)
Federal Energy Regulatory Commission	US Department of Transportation (USDOT)
Endangered Species Act (ESA)	Quiet Title Act
Wilderness Act	National Wildlife Refuge Improvement Act
Tongass Timber Reform Act (TTRA)	Revised Statute (RS) 2477
Alaska Native Claims Settlement Act (ANCSA)	
Alaska National Interest Lands Conservation Act (ANILCA)	

Summary of Issues:
Identified problems involve transportation, utilities, resource development, traditional public uses, access to inholdings and adjacent lands, commercial services on federal lands, and state management of fish and wildlife. These issues were largely attributed to one or more of the following:

(1) Federal actions portrayed as **inconsistent with ANILCA and/or other laws** due to:
   a) evolving and/or political interpretation of federal laws,
   b) DC-based decisions without Alaska-specific context,
   c) federal agency resistance to using cooperative approaches to resolve conflicts, despite previous experience in such resolution
   d) application of discretionary agency authorities, and

e) diverging implementation decisions based on successive agency policies, executive orders, and management plans.

(2) Federal decision-making perceived as **increasingly autocratic**, i.e., lacks genuine consultation with the affected Alaskan public, adjacent landowners (Native Corporations, State of Alaska), and/or lacks common sense applicability in Alaska.

(3) Federal, state, and public l**ack of understanding of ANILCA** compounded by the sunset of the Alaska Land Use Council, where agencies were required by ANILCA to meet and resolve issues in a cooperative, public forum consistent with ANILCA compromises.

(4) Ineffective and/or inconsistent measures by the state to uphold public and state interests.

(5) Court decisions based on excessive deference to federal agencies instead of facts and Congressional intent.

Summary of Proposed Solutions:

A synthesized list of possible solutions proposed by presenters is at the end of this Summary. Original source materials and prepared presentations referenced in this summary are posted on the Commission's Summit website at: http://dnr.alaska.gov/commis/cacfa/FOS.html. The bullets below summarize the most significant or repeated suggestions:

(1) **Increase communication:** Many presenters illustrated a need to improve collaborative processes among all agencies and engage the Alaskan public and Native corporations, while alternatively a few advocated that state agencies cease trying to cooperate with federal agencies in favor of judicial and legislative remedies. Most frequent suggestions for reviving Alaska-based federal-state collaboration and improved involvement by the affected public included:

a) re-authorizing the expired Alaska Land Use Council (ALUC) established under ANILCA Title XII or a similar forum, and

b) Expanded ANILCA training for federal and state administrators and the public.

(2) **Increase state effectiveness**: Improve funding and staffing for the Commission, state's ANILCA Team, and Department of Law and/or establish a "state's rights" team among the agencies, legislature, and governor's office to develop/implement long-term strategies.

(3) **Seek judicial remedies:** Recommendations for court actions ranged widely from pursuing more frequent court action (with necessary strategy and funding to be successful) to none (primarily because federal courts give deference to federal agencies with too high of a bar to prove "arbitrary and capricious" conduct).

(4) **Involve an active Congressional delegation:** Proposals involving Congressional oversight or action included:

a) conduct Congressional committee oversight hearings (with follow-up),

b) assist delegation to ask questions and seek information ("shed light into dark places"), to challenge appropriateness of actions, and/or insist on consultation in decisions,

c) amend or clarify federal law(s) to fix "loopholes" and enforce the consensus agreements reflected in ANILCA, and

d) apply the "budget hammer" to reduce unilateral decisions and duplication/intrusion of state authorities

Several presenters explained how current issues have historic bases that were addressed at Statehood, in the settlement of Alaska Native land claims, and in special provisions of ANILCA.

An understanding of the historic context for these concerns and the success or failure of prior resolutions is fundamental to understanding some of today's issues and possible solutions.

HISTORICAL CONTEXT OF TODAY'S ISSUES

Pre-Statehood

Before Alaska achieved statehood on January 3, 1959, Alaskans were increasingly dissatisfied with their status as a Territory. Among the many reasons for supporting statehood, three issues dominated:

1. Control of fish and wildlife: Residents were frustrated by unresponsive regulation of salmon harvests by federal agents overseen by high level out-of-state federal officials influenced by powerful "outside" industry lobbyists. Residents believed that fish traps were highly effective terminal harvest methods with insufficient science and enforcement causing significant salmon declines, thus hurting the resource viability, communities' economies, and sustenance of Alaska's residents. Federal agents conducted extensive aerial poisoning of predators that resulted in indiscriminate killing of many species and affected trapping for sustenance and rural economies. Federal agencies also conducted fire suppression for decades that changed the natural mosaic of successional habitat across the state. The Territorial Game Commission had authority to provide harvests for subsistence use of fish and wildlife for residents and other uses but had little influence over actions by federal agencies, particularly unable to regulate the commercial fishing industry for conservation purposes.
2. Government without Representation: Residents were frustrated by lack of representation in land management and budget decisions at the federal level resulting in poorly developed infrastructure and few community services. Very little land was available for private ownership except through proving up homesteads, Trade and Manufacture sites, and Native allotments, all of which took years through the federal bureaucracy. Alaska Native Brotherhood was among the many to lobby for statehood and took proactive steps to provide extensive leadership training, particularly for young people, as part of their intensive support of the movement to achieve state and local government.
3. Economic viability: The ability of Alaska's residents to be economically viable and support state government was a cause for concern by the opponents of statehood. Supporters of statehood believed that commercial fishing, mining, and timber provided basic industries better managed for local conditions and sustainability under state than federal control, but all acknowledged the future state's need for a land base, transportation and other infrastructure, and revenues.

Statehood

The Statehood Act of 1958 brought a number of significant changes to the territory. Of paramount importance to the residents, statehood granted a significant land base and traditional sovereign authority to the state for management of its fish, wildlife, and water on all lands. (*See* Brad Palach's 8-13-2013 Presentation.) The State Constitution requires sustainable management for common use of all fish and wildlife by Alaska Department of Fish and Game. The state established a Board of Fisheries and Game to allocate the resources, with input from about 80 locally elected fish and game advisory committees, in providing for subsistence, recreational, and commercial uses. The state received a land grant, totaling 104 million acres, to select from

unreserved federal lands. (*See* the powerpoint presentation by Dick Mylius that details the land history of Alaska from the Treaty of Cession through ANILCA.) The Statehood Act provided a land base and significant share of oil and gas revenues to support the state government and economic opportunities. The State of Alaska under Governor Egan made slow and conservative land selections until, after only seven years, the Secretary of the Interior froze the state's selections in order to resolve Alaska Native land claims.

Alaska Native Claims Settlement Act, December 1971
Settlement of Native claims through ANCSA authorized selection and transfer of 44 million acres (final totals about 46 million acres) into private ownership, established a regional and village corporations structure rather than the traditional reservation model, and provided cash. The Act extinguished aboriginal land claims but recognized subsistence needs would be addressed in future federal and state laws. Section 17(d)(2) of ANCSA required identification and study of up to an additional 80 million acres for potential designation in conservation system units, as described in the following excerpts in the Joint Federal-State Land Use Planning Commission final report. Many of the same issues that drove Alaskans to seek statehood remained unresolved after ANCSA, which led Congress to adopting special provisions in ANILCA for management of federal lands while established unprecedented acreage in conservation system units:

> The Native Claims Settlement Act and action by the Alaska Legislature created the Joint Federal-State Land Use Planning Commission as an advisory body to both governments, and set out as one of our duties the making of "recommendations concerning areas planned and best suited for permanent reservation in Federal ownership as parks, game refuges, and other public uses …."
> ….
> State and national interests in developing and conserving Alaska resources have often been cast as Federal-State conflicts when actually they are areas of mutual concern. The Federal lands in Alaska are a part of the State and the State lands are a part of the Nation, and the private lands are part of both. To look upon them as separate competing interests is to destroy any chance for the fulfillment of the interests of either the Nation, the State, or Alaska's Natives.
> ….
> Three major land use and management issues have also reoccurred throughout the Commission deliberations. The first issue centered on wildlife management, particularly with respect to meeting the subsistence needs of rural Alaskans, and the Federal-State relationship with respect to the management of fish and game species in the (d)(2) areas.
>
> The second issue arose from the fact that the (d)(2) lands extend across regions where there is virtually no ground transportation and future transportation needs are now uncertain. Certain natural transportation routes dictated by the physical characteristics of the land are encompassed within some of the (d)(2) units deserving of a high level of enduring protection in the national interest. This issue is an explicit example of the need to establish institutions for future decisions with respect to Alaska lands. The future is limited and no agency or group can predict or design today with absolute certainty.
>
> The third land use issue was that of locatable mineral exploration and development in the (d)(2) areas under the existing location-patent system established in the Mining Law of 1872. …
>
> How surrounding State, Native, or other Federal lands affect the (d)(2) lands is also of prime importance. . . . The legal and regulatory relationships of Federal and State governments also will

> be overlapping. The determination of the navigability of inland streams and lakes which will determine the subsurface title of inland waters in Alaska has yet to be made. The Federal government alone cannot assure the protection of natural values of national importance on Federal lands, nor can it assure that present or future national and international needs for energy resources, locatable minerals, wood fiber, or food are met totally from Federal lands.
>
> **If major Alaska land use decisions are to be made in a comprehensive context, the involvement of all major landholders and full ongoing involvement of the public will be critical.** We are convinced that the future development of the mutual national and State interest in Alaska can only be carried forward through a strong, formalized, cooperative planning and classification system . . .. (emphasis added)

Congress deliberated from 1971-1980 on how to divide the remaining federal lands into conservation areas, and the Federal-State Commission oversaw studies as directed in ANCSA 17(d)(2). Numerous environmental, economic, and local interests teamed up to lobby Congress to address various competing interests. In 1977, Congressman Udall introduced HR-39, which intensified the issues by proposing 145 million acres of designated wilderness. When Congress adjourned in 1978 without adopting a bill, the Secretary of the Interior withdrew 110 million acres from State of Alaska and Native selections, and President Carter invoked the Antiquities Act to create 17 national monuments in 56 million acres, which prohibited many subsistence and other traditional uses by Alaskans. The environmental interests were well organized nationally to lobby for very large conservation system units in a final bill.

Governor Hammond and the Alaska Legislature organized a wide range of Alaska-based environmental, development, Native Corporations, residents, and other interests who spoke with one voice in pressing Congress to accommodate Alaska's special circumstances. This constituency adopted the following consensus points, which they lobbied through an office in DC and pressed through the delegation:

> **Seven State of Alaska Consensus Points**
> (1) Revoke all 1978 monuments and executive withdrawals
> (2) Full Statehood and ANCSA land entitlements to the State and Native corporations
> (3) Access guaranteed across federal lands to state and private lands
> (4) Retain State management of fish and wildlife on all lands
> (5) Exclude economically important natural resources from conservation area boundaries
> (6) Guarantee traditional land uses continue on all lands
> (7) Preclude administrative expansion of conservation units ("no more")

Twenty years later, Senator Stevens explained Alaska's delegation could have killed the legislation, but the agreements reached in the final legislation seemed to resolve the issues reflected in the Alaska consensus points. These would provide for future transportation and utilities and protect the Alaskan traditional uses of federal lands to balance the addition of 104+ million acres in conservation system units (removed from further selection by the Native corporations and State of Alaska). In addition to addressing the above consensus points in special provisions of ANILCA, Congress established the Alaska Land Use Council to monitor those provisions and to insure Alaska-specific collaboration in federal decisions affecting

management of federal lands. Just as the Joint Federal-State Land Use Planning Commission's recommendation for a forum to cooperatively resolve land management issues in Alaska, the November 1979 final Senate Committee on Energy and Natural Resources Report (p. 250) describes the amendment that added the Alaska Land Use Council provision in ANILCA Title XII, as follows:

> Title XII—Federal-State Cooperation
>
> Cooperative Management has been one of the most heated issues in the debate on the Alaska National Interest Lands legislation. . . .
>
> "Cooperative management" is shorthand for methods of requiring or encouraging cooperation among Federal and State land management agencies.
>
> The Alaska Land Use Council will recommend land uses on Federal or State lands, identify special opportunities for cooperation, including cooperation with Native Regional and Village Corporations. The Council's recommendation would be implemented only if accepted by the land management agency. If recommendations were rejected, the agency would have to set out the reasons for rejection in a public document.
>
> **One of the most significant roles for the Council will probably be as a forum for negotiating future land exchanges among Federal, State and Native lands.**
>
> **The Council will provide a focus now for Federal-State coordination and any future more sophisticated organization could evolve if necessary from this base.** Certainly, as involvement of the citizen advisory groups of the various State and Federal agencies became integrated in this process, there would be insured a reasonably high level of public involvement in the coordinating process.
>
> The main function of the Presidential representative would be to eliminate those semi-institutionalized blockages to information flow that continually plague all governments and large governments in particular. **By providing a high level of horizontal integration at the regional level and that same horizontal integration at the Washington level, on a regional basis, the Committee believes that we can approach solutions to problems with clearer ideas of what the realities of the situation in Alaska are.** [emphasis added]

Alaska National Interest Lands Conservation Act, December 2, 1980

Upon the signing of ANILCA, President Jimmy Carter observed, "*That we've struck a balance between Alaska's economic interests and its natural beauty, its industry and its ecology . . .. "*

Representative Udall echoed "*I'm glad today for the people of Alaska. They can get on with building a great State. They're a great people. And this matter is settled and put to rest, and the development of Alaska can go forward with balance.*"

Senator Jackson observed, "*So, this is a great day. It's not what everyone wanted on either side of the issue, but I believe it will be indeed a lasting monument in striking a balance between development on one hand, and preservation and conservation on the other.*"

At the signing of the bill, Senator Stevens concluded: *"Over half of the Federal lands that will remain under control of the Department of Interior will be in Alaska after the passage of this bill. Over half of the hydrocarbon resources of the United States are in Alaska's lands. We know that the time will come when those resources will be demanded by other Americans. And we seek to protect our freedoms, to try to prevent us from becoming a 'permit society' where we*

have to have a permit to do everything; and at the same time, be able to contribute to the nation that we all love so well."

Thirty-three years later, the above optimism in adopting ANILCA contrasts to this Summit's presenters who detailed numerous examples of erosion of Congress' vision of collaborative, unique, and balanced legislation.

ANILCA contains 15 titles, the majority of which establish 104 million additional acres in Alaska in unprecedented size and number of conservation system units and provide direction for federal agencies to allow traditional public uses on those lands. Two of the titles amend the Alaska Statehood Act and ANCSA. One title provides a priority for consumptive use of fish and wildlife on federal lands for subsistence by rural residents, and another one confirms traditional state management of fish and wildlife. One title limits federal conservation system unit regulations to apply only to federal lands but also authorizes land exchanges and boundary adjustments of the conservation system units to address local, geographic situations with adjoining landowners. *See* Sally Gibert's presentation, "*ANILCA context, Key Provisions, and Implementation,*" addressing selected key ANILCA provisions to illustrate the complexity of implementation in light of the unprecedented provisions for "open until close" access and uses of the federal lands. These include providing for motorized access for "traditional activities", access to inholdings and valid occupancy, traditional methods of access for subsistence activities, and a process for transportation and utility systems across conservation units to address the state's future need for infrastructure. All of these provisions and their explanatory preambles contained in the Department of the Interior regulations implement Congressional access protections along with specific closure processes to protect resources. The environmental community litigated these regulations (43 CFR 36), which were upheld by the court. Congress also created numerous ANILCA exceptions to administration of wilderness in Alaska to allow cabins, chainsaws, temporary facilities, and motorized access, among others. In adopting final language, Congress' committees specifically urged the agencies to limit use of their discretionary authority to err on the side of allowing traditional uses and to avoid unnecessary requirements for permits .

Consultation and coordination was a fundamental principle throughout the final Act, reflected in every federal land management title and the Subsistence title. In addition to these specific requirements for cooperation and consultation, ANILCA established the Alaska Land Use Council (ALUC) under Title XII, composed of high level heads of federal and state agencies and the Alaska Native community. The ALUC sought consensus after extensive deliberations and successfully facilitated numerous broad understandings of ANILCA exceptions through approval of federal land management planning and regulations. Similarly, the State of Alaska established an ANILCA team to provide one voice from the state on behalf of its several agencies in participation, consultation, and cooperation with the federal agencies. The legislature established the Citizens' Advisory Commission on Federal Areas to assist the public in navigating the ANILCA-resultant changes in requirements to provide visitor services and participation in public uses under the new land designations, as well as to provide a voice for the public in ANILCA implementation. ANILCA established the Subsistence Resource Commissions to facilitate state and federal support to local residents in addressing hunting within the national park areas. To eliminate concerns that the new land classifications would bring 'lower-48' federal oversight to

management of fish and wildlife, the Alaska Department of Fish and Game negotiated a Master Memorandum of Understanding with each of the four federal land management agencies. In these agreements, the agencies recognize that ANILCA did not substantively change the state's primacy authority to manage fish and wildlife on federal lands and committed to coordination whenever actions would affect each other. Overall, the ALUC functioned effectively to put people eye-to-eye at the same table to resolve issues or leveraged the agencies to resolve issues so they would not come before the Council's public deliberations.

First Ten Years after ANILCA

A priority responsibility of the ALUC was to review and approve all land management plans and regulations. Each federal agency had a designated representative who advised Regional leadership and provided ANILCA expertise to guide its agency's decisions and land planning. The Native leadership on the Council provided key participation due to their economic and inholder interests as adjoining landowners impacted by access needs and federal land management decisions. The State of Alaska, which is exempt from the Federal Advisory Committee Act, established a team of agency representatives to review internal federal management plans and regulations during their development. This level of cooperative involvement resulted in resolving unnecessary management conflicts and correcting errors prior to public review, thus significantly reducing public discord. For example, when the National Park Service tried to adopt nine general management plans at one time that reviewers found did not meet ANILCA provisions, the Council voted to reject the plans. The Service agreed to redo the plans to be more consistent with ANILCA, and when completed, the Council voted to accept the revised final plans.

The following is a synopsis of select issues that were resolved as a result of collaborative efforts among the agencies and public and/or under review of the ALUC:

1. NPS legal boundaries adopted to fulfill ANILCA Title I were successfully negotiated to exclude the state's waters below mean high tide in offshore areas;
2. The first park and refuge management plans recognized that federal authority did not apply off federal land to inholdings and adjacent state waterways and other non-federal land;
3. Federal land management plans recognized that transportation and utilities can be developed on conservation system units whereas their initial position often was to prohibit such developments (contrary to explicit ANILCA provision);
4. Federal land plans also recognized that the state asserted numerous RS2477s;
5. Federal plans included language recognizing that ANILCA requires any changes to management direction in the plans to involve the same level of coordination with the public and state as required in the initial plans;
6. Studies required by ANILCA Title VI of possible wild and scenic river designations resulted in recommending only one designation. The others were not recommended because they did not qualify, were not supported by the public, or were not considered necessary (per eligibility requirements of the Wild & Scenic Rivers Act);
7. The state and NPS completed a joint study of traditional (pre-ANILCA) access in the Wrangell-St. Elias National Park and Preserve that documents protected access methods,

locations, and activities—no such comprehensive, cooperative studies have been completed since;

8. More recently, NPS closely collaborated with the state and inholders to develop an inholders access guide to protect ANILCA-guaranteed access rights without requiring permits or application fees; and
9. NPS recognized long-standing traditional ORV access for subsistence by Cantwell residents in a part of Denali National Park where it was previously prohibited and collaborated to adopt conditions of use that protect the park.

REPRESENTATIVE EXAMPLES OF CURRENT ISSUES

At the request of the Governor's Office, the State of Alaska's ANILCA team provided a report on August 13, 1992, of "Deteriorating Relationship Between the State and DOI" (see CACFA website). It concludes that the federal agencies were increasingly not coordinating with the state and ignoring state comments as decisions were increasingly being made "at higher levels within Alaska and in Washington, D.C." without the understanding of ANILCA provisions, its intended cooperation and consultation, and lacking the Alaska context:

> *Factors that appear to have contributed to this situation may include the federal take-over of subsistence management, the demise of the Alaska Land Use Council (ANILCA-established federal/State/Native cooperative forum), and a long-standing tendency of the State to allow the federal agencies to proceed with objectionable activities without mounting effective intervention measures.*

The Summit's presenters described ongoing divergence from the ANILCA compromises over the subsequent decades resulting in ever-increasing conflicts with federal agency decisions and diminished involvement by the public, Native corporations, and state in federal decisions affecting public uses and adjacent landowners. Presenters also observed the public's and agencies' poor understanding of ANILCA and its consultation requirements, while federal agencies increasingly take actions unilaterally. Overall many presenters noted that federal agencies are not engaged in genuine consultation with Alaskans and state agencies ("giving notice is not the same as consultation"). Presenters described how the federal regional leadership often change significant policy interpretations affecting management of federal lands without notice and increasingly defer such decisions to the political leadership in the agencies' national offices, which provides no opportunity for appropriate consultation envisioned in ANILCA.

"No More Clauses": An example of diverging political decisions and lack of sensitivity to the ANILCA compromise is the increasing number of recommendations by Department of the Interior agencies for additional wild and scenic rivers and defacto wilderness despite Congress resolution in ANILCA that there would be "No More" set asides for conservation units in Alaska. (*See* February 26, 2013 CACFA memo providing "No More Clauses" analysis to the Senate and House State Affairs Committees on CACFA website). For the first 12 years after passage of ANILCA, federal land management agencies applied a consistent interpretation with the State of Alaska and many others that Sections 101(d), 1326(a) and (b) of ANILCA simply mean what they say—that "No additional wilderness reviews, no additional wild and scenic river

suitability reviews, and no additional administrative withdrawals" would occur without congressional authorization. This understanding was key to final passage of ANILCA. (*See* "Promises Broken" by Steve Borell on CACFA website) In sharp contrast, the FWS used its national policies and a Director's memorandum in a circular reading of the law to justify the conduct of another round of wilderness reviews and potential wild and scenic river designations during planning for refuges in Alaska, resulting in numerous such recommendations in the recently adopted Arctic National Wildlife Refuge updated comprehensive conservation plan. Similarly, in sharp disregard for Congress intent in ANILCA, the Bureau of Land Management attempted to establish additional areas managed for "wilderness character" in the Wild Lands Policy, Order No. 3310 without the necessary exception for Alaska. FWS spent several years cooperating with representatives of the 50 states to adopt its wilderness management policy, published in the Federal Register, that exempted Alaska from new wilderness reviews, but two years ago abruptly changed the policy without notice, let alone consultation, which requires a new round of reviews despite the "No More" provisions of ANILCA

Presenters described major impacts on the state and local agencies and communities due to the national office of the US Forest Service shifting their policies away from the "working forest" concept toward preservation management on the Tongass and Chugach Forests, despite the provisions for harvest in ANILCA and the Tongass Timber Reform Act. As a result, only about seven percent of the Tongass' forested land base is available for commercial timber harvest. The State of Alaska served as a cooperating agency in all phases of the 2008 Tongass Forest Plan Amendment, which allocated land for harvest and conservation measures. The Forest Service national office has taken two significant actions that undo that plan despite protests from the State of Alaska: (1) reapplication of the 2001 Roadless Area Conservation Rule to the Tongass (which was exempt from Roadless Rule from 2004 to 2011) and (2) implementation of the Transition Strategy policy. The State of Alaska considers reapplication of the Roadless Rule a violation of ANILCA's "No More" provisions, which also disregards the roads already built in these areas, zoning adopted collaboratively in the Tongass Plan for development activities, and previous harvests in the areas. (S*ee* Kyle Moselle's presentation; the July 1, 2013 letter from State of Alaska to Forest Supervisor; and the August 2013 Task Force Recommendations and Status on CACFA website) The Roadless Rule also renders vast tracts of the Tongass and Chugach inaccessible for utility infrastructure, inconsistent with the intent of Congress in ANILCA Title XI. (*See* August 6, 2013 Alaska Power & Telephone Company "Comments of Southeast Utilities on Five Year Review of the 2008 Forest Plan".)

ANCSA 17(d)(1) withdrawals: In 1971, ANCSA section 17(d)(1) resulted in over 150 million acres in numerous withdrawals of federal lands in Alaska from disposal and appropriation under the Public Land Laws in order for federal agencies to complete inventories and studies for conservation system units required by section 17(d)(2). The withdrawal orders segregated the lands from entry under all public land laws including mining and mineral leasing laws. With passage of ANILCA in 1980, the withdrawals outside of conservation system units and other withdrawals were expected to be terminated. Nearly 25 years later, Section 207 of the Alaska Land Transfer Acceleration Act in 2004 required a review and report that identifies the lands still withdrawn so that they could be reopened to appropriation. On June 2, 2006, the Office of the Secretary transmitted the BLM report to Congress recommending that release of some of the withdrawals be accomplished through the BLM Resource Management Plans. BLM Alaska has

adopted four Resource Management Plans (East Alaska, Ring of Fire, Kobuk-Seward, and Bay) covering large geographic areas, which recommend many ANCSA (d)(1) withdrawals be revoked. According to the BLM report, 21.5 million acres could be open to entry under Public Land Laws, but the Secretary of the Interior has not followed through with any of the recommendations.

State Management of Fish and Wildlife: Both National Park Service and Fish and Wildlife Service increasingly trump the state's fish and wildlife management authority despite clear intent by Congress in enacting the Statehood Act, ANILCA, and other laws to place the management of Alaska's resources in the hands of its residents. (See Brad Palach *Federal Overreach Presentation* for details on CACFA website.) Numerous examples by several presenters demonstrate that the federal agencies increasingly demonstrate little or no respect for the state's authorities, particularly where officials personally dislike certain harvests. Certain federal actions are increasingly inconsistent with federal policy in 43 CFR Part 24:

> *This policy is intended to reaffirm the basic role of the States in fish and resident wildlife management, especially where States have primary authority and responsibility, and to foster improved conservation of fish and wildlife. . . . [f]ederal authority exists for specified purposes while State authority regarding fish and resident wildlife remains the comprehensive backdrop applicable in the absence of specific, overriding Federal law.*

In contrast to this Secretarial Policy, presenters described how NPS and FWS use land management decisions and national policies (adopted with inconsistencies with State of Alaska law) that favor "values" over the state's constitutional responsibilities and fail to respect the State of Alaska's primary authority for sustainable management of fish and wildlife. Federal agencies pursue closures of state-authorized harvest methods/means that federal managers dislike, often implementing these through permit conditions or non-regulatory discretionary processes (see NPS use of compendia below). FWS threatened state employees with personal arrest if conducting state activities the federal agency disapproves despite federal and state scientists mutually supporting the action (*See* FWS Unimak case example). In one case, a Forest Service district ranger decided to prohibit catch and release steelhead fishing in the Situk River because of her concern for mortality—despite the state's healthy management of that popular and healthy catch and release fishery for decades that contributes significantly to the economy of Yakutat. Federal agencies are requiring the state to get permits to conduct its sovereign fish and game management activities, despite ANILCA retaining that authority unchanged, and/or are requiring the public to get permits for state-authorized activities with stipulations that unnecessarily limit public participation in hunting, fishing, and trapping activities. The federal agencies are increasingly using a bias against consumptive uses of fish and wildlife in the issuance of permits for commercial services for guides and other service providers. (*See* Bill Horn's August 13, 2013 presentation on video 8a)

In Alaska, the state not only has responsibility for its traditional role as the principle manager of fish and game resources, those resources are important to Alaska's economy, quality of life, and critical sources of food and sustenance as the state manages for sustained yields and benefits to the residents. Federal philosophical conservation (or preservation) goals are interfering with the state's conduct of its responsibilities. The Board of Game under Alaska Legislative authority

and vetted through an extensive public process, implements intensive management programs in less than 10% of the state's land area that are proven successful at restoring healthy populations of predators and prey and providing sustainable hunting opportunities. Despite this sound management approach, federal agencies are trumping the state's program by stating it is not "compatible" with federal management objectives or values. In the case of the Southern Alaska Peninsula caribou herd, Fish and Wildlife Service refused to allow the program on refuge land; the state was able to successfully implement the program for three years on its limited adjacent land, and the caribou herd rapidly rebounded. The federal agencies then authorized "take" in excess of the state's recommended harvestable surplus, thereby preventing quick reestablishment of a healthy, sustainable population and eliminating harvest opportunities for many Alaska residents.

Dual Management of Subsistence: Federal agencies, through the Subsistence Board, are increasingly trumping the state's authority in Title VIII of ANILCA, e.g., by retaining closures of take by nonsubsistence users longer than necessary for conservation concerns and authorizing harvests in excess of state determinations of "conservation concerns", substituting the state's responsibility and experience in sustainable management with federal opinions. As another example, despite the ANILCA Section 815 provision that restrictions not unnecessarily impact nonsubsistence users, the Federal subsistence program retains closures for three years, is considering extending those closures to five years, and provides no process to cancel the closure when no longer needed except to go through the proposal and regulation review process. Since dual regulation of subsistence began in 1990, the State of Alaska repeatedly requested that efforts be made for the state and federal governments to work together better in managing subsistence use. The State reiterated that it is responsible for management of the fish and wildlife that the federal program is allocating and the state already administers a preference among consumptive uses for subsistence on most lands in the state so the duplication of administration and regulations is unnecessarily confusing, costly, and source of conflicts. (*See* "White Paper" and other related documents and presentations.) In 2006, the Governor specifically asked the Secretary for three things of the Federal Subsistence Board: follow their own regulations, follow existing secretarial direction to implement written policies and procedures with clear criteria, and make decisions based on data. Each time that the state has tried to litigate individual examples of these issues, the court has given deference to the federal agency without addressing the process issues. Federal legal counsel told the state liaison in response to concerns that the federal subsistence board was authorizing take in areas where there was no federal land, "You don't like it, sue us and win!", illustrating the combative and autocratic approach of the federal board in contrast to ANILCA Title VIII's many requirements for consultation with the State of Alaska. Numerous federal employees challenge that the state could "take back" management of subsistence under ANILCA if it would pass a constitutional amendment, despite that the federal appeals court twice stated it would not give deference to the state in implementing federal law, thus the federal program remains in place unless ANILCA is amended, as suggested by several presenters.

In 2009, the Secretary of the Interior undertook a review of the federal subsistence program in Alaska, asking for public comments. On January 5, 2010, the state provided extensive comments on problems, urged improved coordination and adherence to ANILCA's role for the state, and offered numerous constructive suggestions to improve the regulatory process for the benefit of

wildlife, the user, and responsible administration. The Secretary responded publicly in adopting changes requested by one user group, but, despite the Governor writing again March 1, 2010, concerning the status of the state's recommendations, the Secretary has never responded to the State of Alaska or taken action to address any of the procedural issues or unnecessary intrusions in the state's management authority. (*See* both letters on CACFA website)

Future Transportation and Utility Systems, Guaranteed Access, and other protected public activities: As another example, Senator Murkowski described her frustration with the Fish and Wildlife Service throwing every objection possible to the proposed road between King Cove and Cold Bay that would cross a few miles of Izembek National Wildlife Refuge Wilderness. During ANILCA's deliberations, Congress recognized Alaska's poorly developed infrastructure and need for future transportation and utility systems despite the presence of large conservation system units. Instead of setting aside specific corridors for future such needs, Congress developed an administrative process to allow for applicants, such as Native corporations, mining companies or the state, to apply to build necessary transportation and utility projects. The road across Izembek Refuge is desperately sought by King Cove residents to provide access to reliable year-round air service for public health and safety and would be built on uplands where many miles of roads were built during World War II and actively used by 20,000 troops. Not only is such a road permissible under ANILCA Title XI, but also Congress and the State of Alaska legislatively approved giving state and ANCSA land to the Service in a significantly unequal land exchange to more than compensate the FWS for any potential impacts.

This refusal to cooperate in authorizing the road parallels other actions Izembek managers have taken to reduce historic uses of the refuge, such as blocking roads and parking areas (despite the original management plan committing to keeping all existing roads open to public use). The refuge put up signs at the driving edge of roads denoting a wilderness boundary that is actually 150 feet from the centerline (thereby precluding traditional parking opportunities outside the refuge wilderness boundary), and posted signs for several years closing an area to hunting without such a closure in either federal or state regulations. The refuge established the expanded ANILCA area with a straight-line boundary that does not follow hydrographic features as required in ANILCA Title I, thereby incorporating an inholder along the boundary into the refuge and crossing the mouth of navigable Trout Creek. A Izembek refuge manager also told a False Pass trapper that he could not build a cabin on Unimak Island because it is a wilderness—even though the FWS regulations in 50 CFR Part 36 specifically allow construction of trapping cabins in refuge wilderness areas. A review of each refuge and park would probably reveal similar unilateral and other management actions that are inconsistent with ANILCA. The public that report such actions fear to publicly file complaints because they need permits for economic activities, commercial services, or "have to live with" the federal officials.

Senator Lisa Murkowski illustrated the endemic problem of federal "overreach" in telling a story of a daycare provider in Wrangell who was at a Southeast Alaska Forest Service campground picnic table with children, when an enforcement officer ticketed her for conducting a commercial service without a Forest Service commercial service permit. Senator Murkowski brought this to the attention of the Chief of the US Forest Service, who she said, to his credit, was horrified. She reiterated that it should not require a US Senator talking to the head of a federal agency to "inject some rational thinking into this process". This example epitomizes a growing number of

situations where federal agencies act without adequate common sense, communication, and collaboration with the residents and others.

The Alaska Power Administration representative described many regulatory challenges faced by Alaska's electric industry as a result of "*well-intended regulations that backfire.*" For example, the regulation to require ultra low sulfur diesel intended to reduce emissions actually required significant capital cost at the refinery and for transportation and storage, resulted in reduced heat (BTU) content of the fuel, and increased costs of the fuel itself. More fuel was needed due to the lower heat content with a net result of higher costs and higher emissions. As the regulations change and grow increasingly complex, small utilities do not have the expertise so must hire consultants, further driving up costs. The numerous agencies regulating air and water quality, restricting activities to protect the environment and "values", often implement contradictory conditions on the utilities that lack common sense (e.g., one agency required a development to "blend into the landscape" and another required "enhanced visibility" to avoid bird strikes.) (*See* Meera Kohler's powerpoint presentation and Alaska Power Authority written presentation.)

Presenters described adoption of national policies that do not take ANILCA or Alaska's unique circumstances into consideration and provide no meaningful public input. For example, without any public deliberation, BLM adopted a policy to not process public rights-of-way established under federal statute RS 2477. BLM also issued a secretarial order to create de facto wilderness under the Wild Lands Policy without consultation with states and in direct conflict with ANILCA's "No More" provisions. These unilateral actions forced the state to litigate. In other cases, national leadership dictated a pre-determined outcome despite federal processes that had public involvement, such as the final NPR-A decision to put thousands of acres off limits despite years of work as cooperating agencies by the state agencies and the North Slope Borough to find a best solution that allowed development while protecting the resources.

National Park Service water regulations: In 1989 the NPS Regional Director wrote a letter to the State of Alaska, advising that "*We find no general law that will allow NPS management of non-federal lands outside the boundaries of national park areas. NPS can manage non-federal lands within authorized park boundaries pursuant to a memorandum of understanding.*" No such memorandum of agreement with the state was adopted. Despite this lack of authority, in 1996 NPS revised its national regulations to extend its authority to regulate activities in state waters. The states have traditional sovereign responsibility to regulate public use and manage resources in waters overlying navigable waterways. ANILCA 103(c) specifically prohibits application of federal regulations, which are adopted for management of conservation system units, to nonfederal lands in Alaska. The State of Alaska requested the NPS exempt Alaska in the final regulations to no avail. During repeated attempts to resolve this dispute, the Secretary of Interior promised to evaluate a solution and the Governor optimistically elected not to litigate. After several years, NPS began enforcing its self-granted authority by restricting eligibility and methods of users fishing under state regulations in state waterways that flowed through park units, prohibiting use of certain types of watercraft authorized by the state in navigable waterways, and applying other NPS regulations. John Sturgeon, a private citizen, who was prevented from using his traditional motorized access on a navigable waterway to hunt in an area beyond the park, is litigating this preemption in state waterways that violates ANILCA 103(c). (*See* John Sturgeon presentation)

Endangered Species Act: Presenters described examples of perceived abuses through precautionary listings of species irrespective of their current health or abundance based solely on untested models predicting possible extinction in the distant future. This began with the polar bear listing based on speculation they would be threatened by 2050 but remain at all-time record numbers (three times their population 40 years ago) and, for the Chukchi subpopulation which experienced some of the greatest sea ice loss over the past several decades, whose vital rates remain as healthy as they were 30 years ago. Recently, National Marine Fisheries Service proposed to list ringed seals based on climate impacts speculated 100 years into the future, despite there being over 3 million seals in existence and their own data suggests there will be no measurable impacts for 50 years. Once a species is listed, all hunting, fishing, and other "take" comes under federal oversight. These listings of currently healthy species are an unprecedented federalization of state trust species and their management, i.e., an unnecessary federal intrusion into state fish and wildlife management authority.

The ESA is also being used as a landscape control mechanism through expansive designations of critical habitat that encompass any area potentially occupied by the species, rather than those areas truly critical to species survival. An area of Alaska larger than California was designated as critical habitat despite the rulemaking acknowledgement that designation would not benefit the species. Such designations allow federal agencies to exert their management goals and authorities on state, Native corporation, and other nonfederal lands. National Marine Fisheries Service decided that commercial fishing was causing nutritional stress to Western Stellar Sea Lions, which they listed despite a population over 70,000 that is growing 1.5% annually, and they closed the commercial cod fishery with significant impacts on local economies. Seven subsequent independent science reviews, three contracted by the Service, all that demonstrated the federal science used to make these listing decisions was incorrect. Through the agency's discretion, federal scientists are driving species and land management decisions based solely on perspectives rather than sound science.

Navigable Waters and the Submerged Lands Act: Under the Equal Footing Doctrine and the Submerged Lands Act, the state received title to almost 60 million acres of lands under inland navigable waters, tidelands, and submerged lands out to the three-mile territorial boundary. To definitively resolve a dispute over whether a waterway is navigable, the state must file a Quiet Title action in federal court. The federal court will not take a case unless the federal government asserts on interest in the title, necessitating the state to force the federal government to take a position. Such cases that do go to court take many years and millions of dollars. The result is the state does not have its entitlement despite Congress giving it to the state. (*See* 02/11/04 "Conflicts Concerning Title to Submerged Lands in Alaska" by Ron Somerville and Ted Popely) In recent years, the Bureau of Land Management, as the federal agency that handles realty for the federal government, began issuing Recordable Disclaimers of Interest (RDI) to quiet title of waterways where there was no dispute. A few dozen have been issued to the state after expending significant research effort and money. However, when the adjacent federal agency objects to the BLM issuing an RDI—not based on navigability facts, such as the Stikine River application—the RDI goes into a black hole and the state still has no "dispute" to resolve the title issue in court. Attempts to find cooperative solutions resulted in the state legislature adopting legislation to form a joint federal-state commission but Congress did not adopt parallel

legislation. This issue has major implications for Native regional and village corporations that received title to their ANCSA selections with acreage under navigable waterways counted against their entitlement. If their entitlement is completed without resolution of title, the ANCSA corporation may be unable to replace the acreage of state submerged land that was erroneously conveyed to them.

Recent DC-based initiatives impinge on state authorities and curtail public dialog:

Landscape Conservation Cooperatives (LCC)—Department of the Interior initiated a program to coordinate science at a landscape scale to study effects of climate change. Fish and Wildlife Service expanded the concept to establish conservation goals and objectives for all lands, including state and private lands. The numerically dominant federal partners vote to establish goals and objectives on state and private lands involving state trust resources over the State of Alaska's objections, ignoring its science, intruding in its sovereign authorities, and potentially unnecessarily impacting state sustainably-managed hunting, fishing, and trapping .

Surrogate Species Monitoring Initiatives—Fish and Wildlife Service proposes to replace its long-standing inventory and monitoring programs with this initiative, whose goals are to monitor ecosystem health by selecting surrogate species. Other federal agencies previously tried this approach without success. The selection of state trust resources as surrogates, establishment of federal population goals and objectives for those species, and application on the LCC scale expands federal authority outside refuge boundaries, with significant potential to impact State of Alaska authorities and responsibilities for fish and wildlife and their management.

National Ocean Policy—Under a Presidential administrative order, a National Ocean Council is implementing a National Ocean Policy and regional planning boards. The geographic extent of these boards covers the state's territorial seas, as well as adjacent uplands and waterways. Dominant federal voting decisions could stipulate closures on state and other lands and waters where fishing, hunting, and other consumptive uses would be prohibited and could overrule other state sovereign authorities in management of its lands and waters out to the three mile limit.

Wilderness Act and FWS Biological Diversity Policy—The FWS prevented any state-sanctioned predator control program from being conducted despite their objective of ensuring the severely declining native caribou population would not be extirpated from Unimak Island. The FWS determined that provisions of the Wilderness Act and their Biological Diversity Policy trump the refuge's purposes in ANILCA, including providing for conservation of caribou and subsistence uses by rural residents. Review by a group of recognized wildlife scientists resulted in conclusion that extirpation of the heard is likely without intervention, but the Service continues to refuse to allow the State of Alaska to conduct its management responsibility, stating that allowing the herd "to blink out" is consistent with their Biological Diversity Policy.

National Park Service Compendia—The NPS can restrict public uses under a unique authority designed to assist management of park lands, but this discretionary authority in 36 CFR Part 1.5-1.7 must, instead, be pursued through formal rulemaking if it is controversial. Recently, the NPS has expanded its use of compendia to enact reoccurring annual closures of public uses without going through the required rulemaking process (ANILCA-based regulations at 43 CFR Part 36 and 36 CFR Part 13 only allow temporary closures without rulemaking). The NPS has also preempted state subsistence harvest regulations in two park units despite no conservation concern or impact on park visitors. NPS closed a state trapping season in another park on the

pretense of protecting subsistence harvest when there was no conservation concern for sustainability of the population. Expansion of compendia authority trumps protections in ANILCA of public uses through rulemaking and protections of state fish and wildlife management authority.

Fish and Wildlife Service Friends of Refuges Policy—FWS proposed a policy in 2010 to allow these groups (formed in 2005) to use federal funds and infrastructure to assist the FWS as volunteers, but also to advocate for or against proposed projects that the Service was conducting. These groups' members include FWS employees and funding contributed by FWS employees, but these groups also inappropriately advocate and lobby positions where the same FWS employees have an objective decision-making responsibility. The Congressional delegation notified the FWS that enveloping such a group would be a violation of the Hatch Act and, along with the State of Alaska, objected to the FWS adopting the policy, urging the FWS to distance itself (e.g., remove links from the FWS website) from an advocacy group.

Surveys and land exchanges of conservation system units: Congress recognized in Title I that there would be a need to adjust the boundaries of the units so that they are more easily locatable in the field, follow hydrographic divides to ease management of public uses, and enact land exchanges with adjoining land managers to resolve issues. One of the priority responsibilities of the Alaska Land Use Council was to facilitate and review such exchanges and surveys of the boundaries to resolve issues. Surveys of the units are being completed without consultation with the state to identify where such adjustments are needed to resolve short or long-term issues, despite extensive efforts toward such exchanges and boundary adjustments in past decades.

RECOMMENDATIONS FOR RESOLUTION

The above examples of problems in state-federal relations, particularly demonstrated in presenters' discussion of inconsistent implementation of ANILCA and other federal laws, are symbolic of a deep fissure on many more issues. Each presenter provided ideas on solutions summarized in this overview and available on the CACFA website. The following is a synopsis and/or consolidation of recommendations raised by more than one presenter. To achieve maximum success, all affected parties will need to shoulder responsibility for pursuing solutions to the conflicts in implementation of "the deal" in ANILCA and other federal laws appropriate to the Alaskan context. Without such an across-the-board commitment, only court suits or further congressional actions will address the conflicts, fostering arbitrary winners and losers rather than long-term, stable resolution consistent with both Alaskan and national interest.

- Pursue improved communication and collaborative processes with federal agencies that engage the Alaskan public, Native corporations, State of Alaska agencies, and others in federal decision-making that is Alaska-based; e.g., draft legislation to reauthorize the Alaska Land Use Council or a similar forum.
- Increase public, Native corporation, state and federal agencies, and legislative/congressional staff understanding of ANILCA through training; seek federal and state funding to digitize expanded and updated training so it is broadly accessible, including in schools.
- State of Alaska adopt case-by-case strategies for judicial and legislated remedies with a knowledgeable and adequately funded CACFA and state ANILCA team, including sufficient

legal counsel to assist prior to litigation in current issues if resolution is not achieved through diplomacy.

- Involve the Congressional delegation in conduct of committee oversight hearings and seeking federal justification for actions believed inconsistent with ANILCA, that lack common sense in the Alaska context, and/or lack genuine dialogue
- Draft and pursue adoption of an ANILCA amendment that (1) clarifies "no more" wilderness and wild & scenic river reviews, (2) that lands in Alaska are not to be managed for "wilderness character" until designated, and (3) sunsets recommendations for such designations if Congress doesn't act within a specified time.
- Increase State of Alaska and Native Corporation pressure on BLM to release the ANCSA 17(d)(1) withdrawals consistent with approved BLM resource management plans so the public lands are available under Public Land laws, including mineral entry.
- Pursue litigation and/or draft legislation to exempt Alaska from the Forest Service Roadless Rule.
- Elevate pressure by the State of Alaska, delegation, and NGOs to seek an exemption for Alaska every time national policies fail to respect and reflect the Alaska context. Recent problematic examples include the FS Transition Strategy, FWS Wilderness Reviews Policy, BLM Wild Lands Policy, and NPS Management Policies.
- Draft legislation or propose other Congressional action in concert with other states to specifically recognize the primacy of state management of fish and wildlife on all lands within the individual states, so that it is not subject to discretionary authority of individual managers in implementation of agency policies, values, and plans.
- Draft an amendment to Title XI of ANILCA to improve the process to authorize transportation and utilities across conservation units and to maintain traditional access, recognize RS2477s, and assure the other access protections are not subject to subjective "values" of the land manager.
- Draft an amendment to the Quiet Title Act to establish process for state ownership of navigable waters based on specific criteria so BLM must take a timely position.
- Amend ANILCA Title I to reiterate that federal regulations for management of conservation system units in Alaska do not apply to state lands, navigable waters, private lands, and validly selected state and Native corporation lands; e.g., clarify non-applicability of NPS "water regulations" at 36 CFR Part 1.2.
- Amend the Endangered Species Act to refine the listings qualifications, minimize critical habitat designations, establish triggers for delisting, and give primacy to the state's in management of trust species.
- Seek Congressional "budget hammer" to prevent agencies from funding initiatives that duplicate or diminish state authorities for fish and wildlife.
- Litigate NPS use of compendia in instances that diminish ANILCA protections and intrude in state management of fish and wildlife.
- Pursue reinstatement of the Alaska Mineral Resource Assessment Program (AMRAP) and annual report.
- Encourage federal agencies ("budget hammer") to adopt simplified management plans that update existing ones, not write completely new ones that lose the original plans' context. The public simply cannot keep up, the state agencies are struggling to review the increasing volume of plans and read between the lines, and the federal agencies are changing underlying policies without explicit rational or recognition.

- Pursue federal agencies to keep planning within their boundaries. Avoid spending scarce federal funds on special (non-designated) areas such as Beringia International Park.
- State take steps to improve its coordination on federal issues with Native corporations and rural communities to educate and seek consensus in advocating funding for land surveys and patents, land exchanges to resolve issues within boundaries that are hard to detect and manage in the field.
- Continue to pursue additional Congressional direction regarding improper implementation of ANILCA 1308 local hire provisions by the federal Office of Personnel Management
- Draft Alaska-specific amendment to NPS concession regulations to lengthen the 2-year commercial use authorizations for Alaska businesses, which are highly capitalized (remote facilities, airplanes, etc)
- Request each federal agency collaborate in conduct of boundary surveys with the State and Native corporations to pursue land exchanges and boundary adjustments to resolve management issues, as envisioned by Congress.
- Conduct a review of each section/Title of ANILCA to analyze the status of its implementation consistent with Congressional direction and develop a strategy to resolve inconsistent implementation.