

# INTRODUCTION TO STATE & FEDERAL FISHERIES MANAGEMENT IN ALASKA: IMPACTS ON ALASKA NATIVES



Carrie Stevens, Associate Professor  
[cmstevens@alaska.edu](mailto:cmstevens@alaska.edu)  
[www.uaf.edu/tribal](http://www.uaf.edu/tribal)



# Salmon: THE Wellbeing of The People

Health of the Fish = Health of the People

Spiritual Poverty

Cost of Spiritual Poverty





# Salmon=Life



# Binds Us





# Defines Us



# Salmon: THE Economy of THE People

92-100% of surveyed households in rural Alaska use wild fish and 75-98% harvest fish. Given Alaska's rural population of 116,653 (21% of the total population, 48% of which is Native), subsistence is by far the state's largest employer. Moreover, annual fish, wildlife, and plant harvests among rural Alaskans average 375 pounds per person, or about a pound a day, versus 22 pounds per person per year in urban areas. Subsistence is a critical sector of Alaska rural economies.

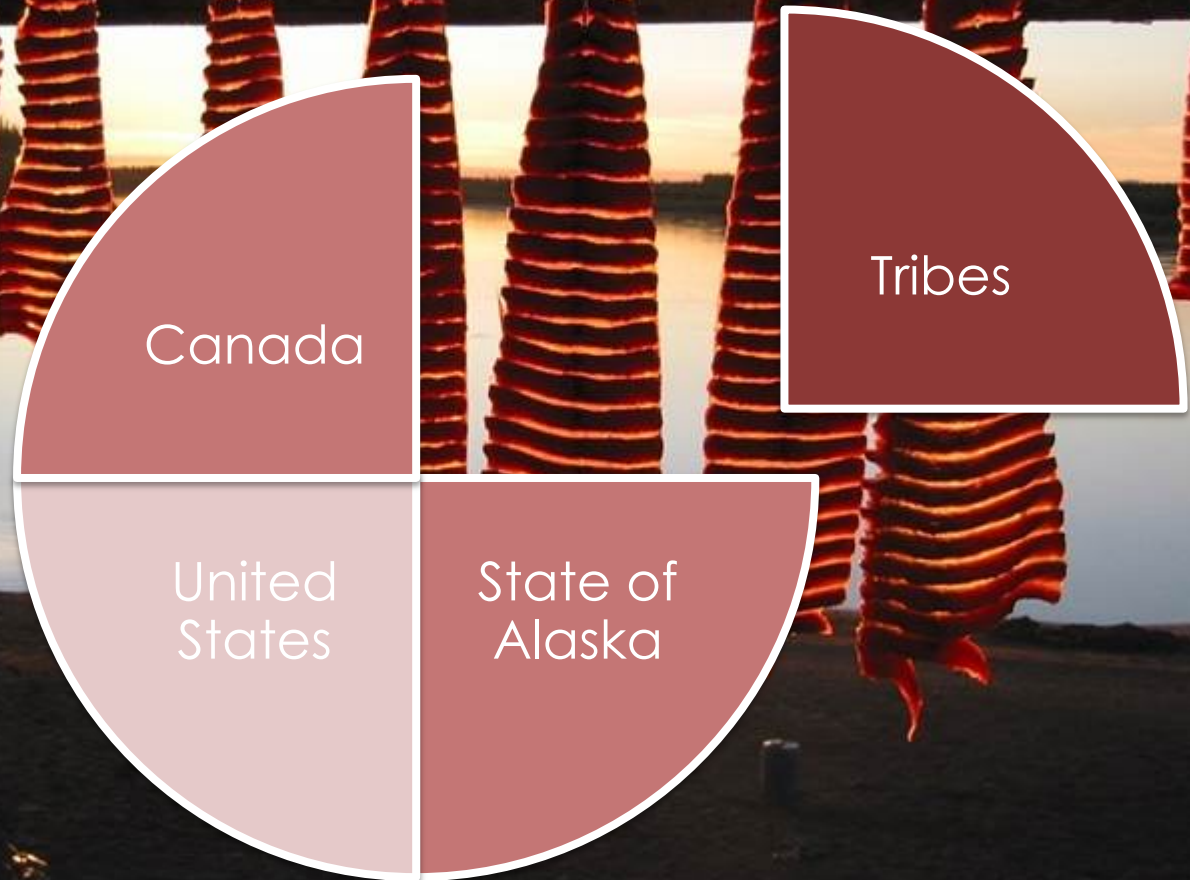
Thomas F. Thorton

**Alaska Native Subsistence: A Matter of Cultural Survival**

<https://www.culturalsurvival.org/ourpublications/csq/article/alaska-native-subsistence-a-matter-cultural-survival>



# SALMON MANAGEMENT



# BREAKING TRAIL

Alaska Native  
Self-Governance

Co-Management, return  
to Alaska Native Self-  
Governance

Colonization,  
Fragmentation,  
Disenfranchisement

Abbreviated State/Federal  
Fisheries Mgmt Framework

'Subsistence  
Management'





# ALASKA NATIVE SELF-GOVERNANCE OF TRADITIONAL TERRITORIES

# TRADITIONAL WAYS OF LIFE

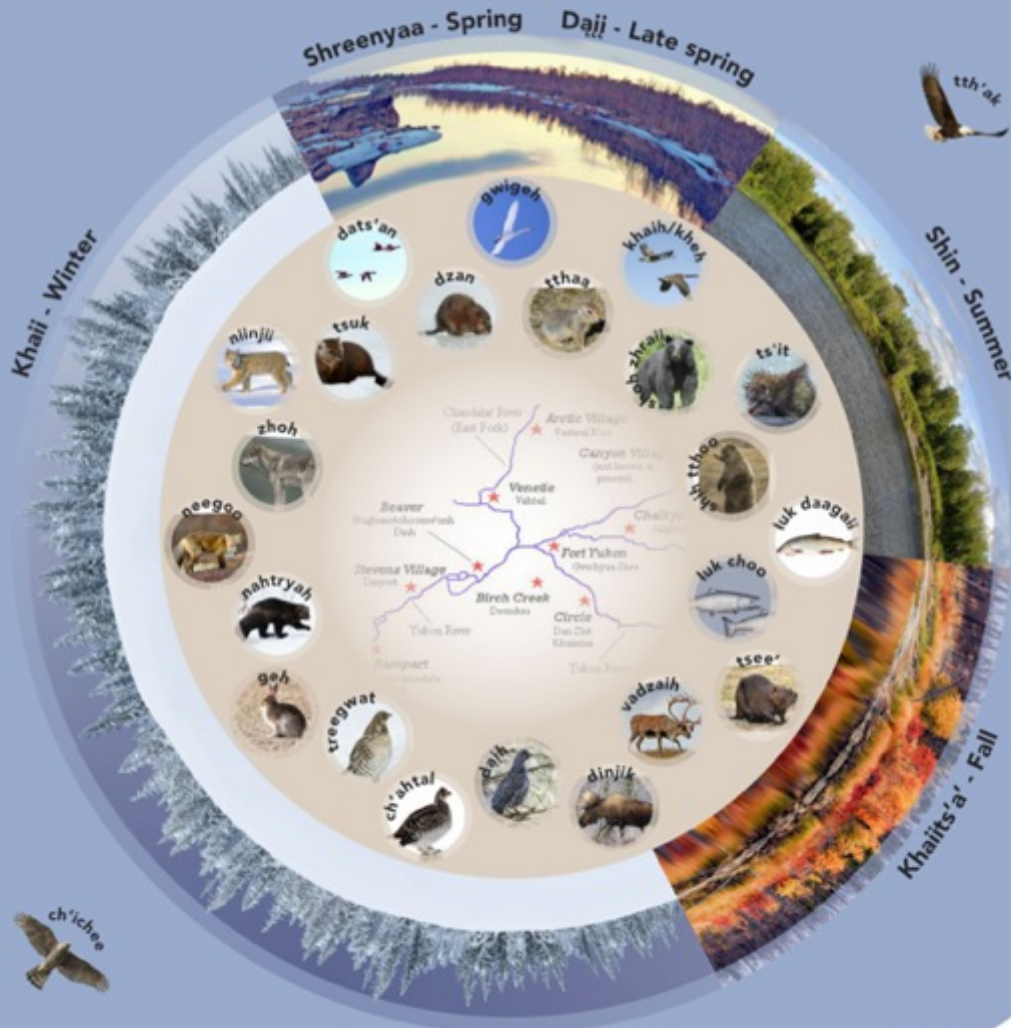


Alaska Native hunting and fishing practices, including the harvesting and sharing of fish, game, and other resources and the ceremonies which accompany these practices are essential to the social, cultural, spiritual, physical, and economic wellbeing and survival of the Alaska Native people.



# Dinjii Zhuh K'yaa Gwiindaii

Live Your Native Culture



## NATIVE

## STEWARDSHIP

BRIDGING YESTERDAY WITH TOMORROW:  
UNDERSTANDING TRADITIONAL  
ECOSYSTEM MANAGEMENT PRACTICES  
AND THEIR APPLICATION TO  
CONTEMPORARY SUSTAINABLE BOREAL  
ECOSYSTEM MANAGEMENT

OVER 10,000 YEARS OF  
KNOWLEDGE AND  
RELATIONSHIP



# COLONIZATION: NATION & STATE GOVERNANCE



Reservations

Statehood

Alaska Native Claims

Settlement

Alaska National Interest

Lands Conservation Act

Magnuson Stevens Act

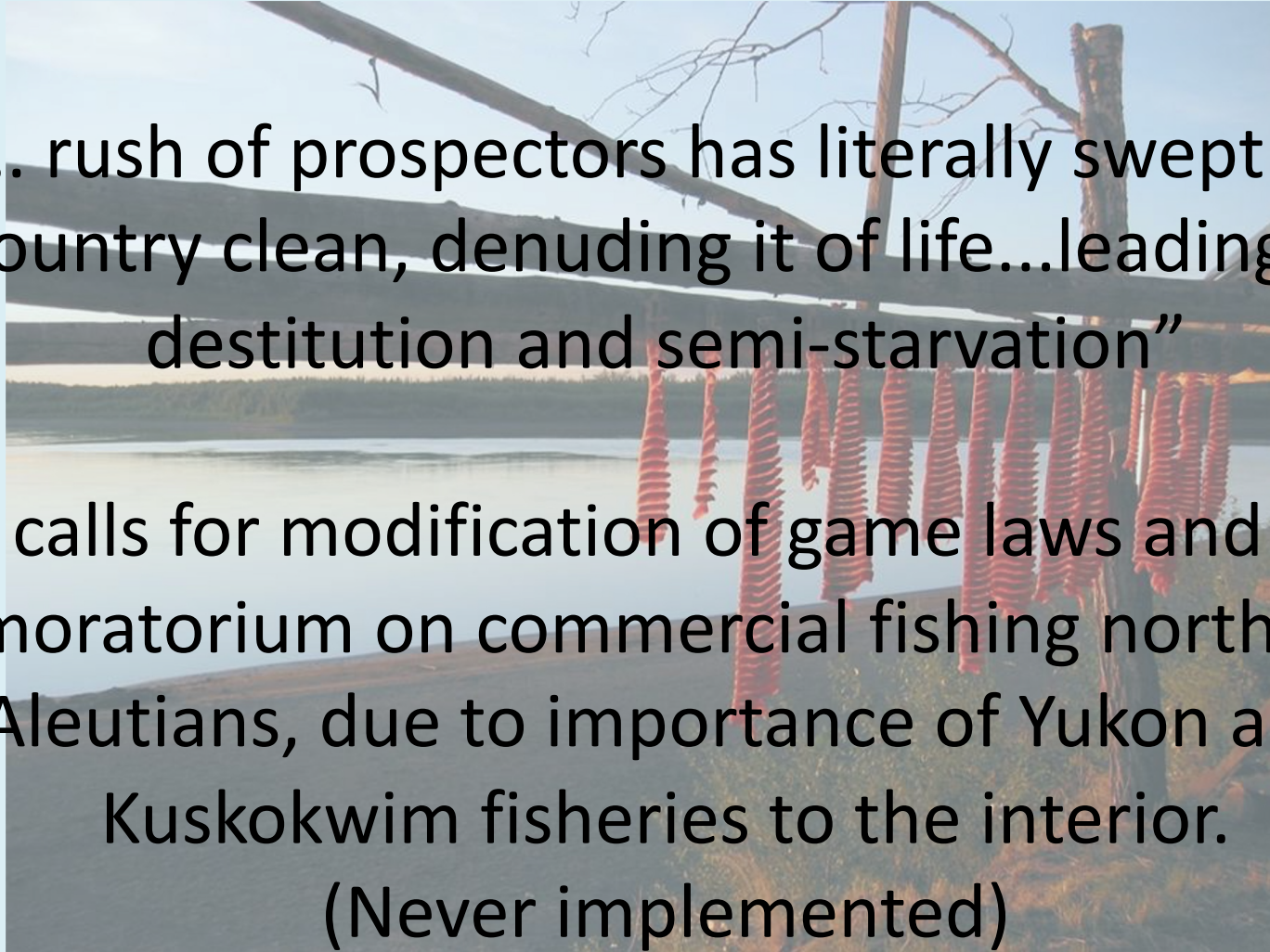
rooted in capitalism and the commodification of fisheries



# 1905 Report to Congress on Conditions and Needs of Alaska Natives

“... rush of prospectors has literally swept the country clean, denuding it of life...leading to destitution and semi-starvation”

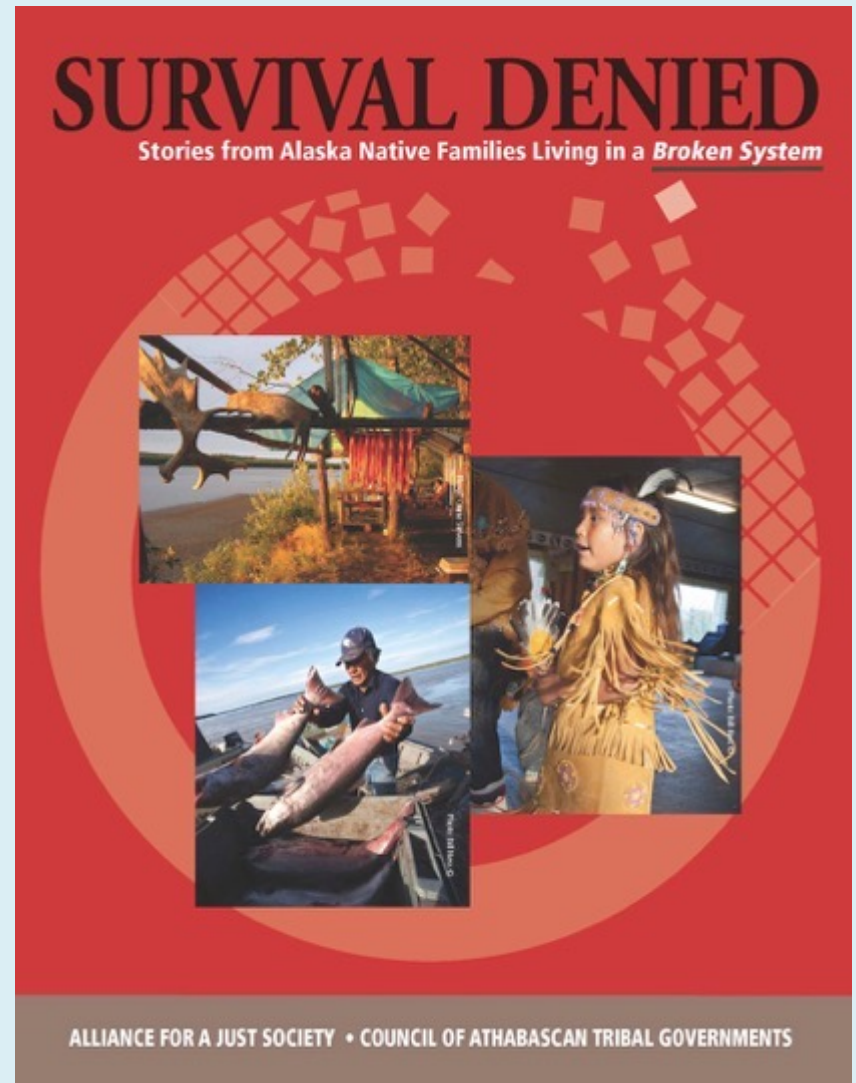
calls for modification of game laws and a moratorium on commercial fishing north of Aleutians, due to importance of Yukon and Kuskokwim fisheries to the interior.  
(Never implemented)



# Criminalization of Subsistence

Alaska Natives are left disenfranchised; with little voice in the decisions affecting their daily lives.

Many have become CRIMINALS in their own lands, CRIMINALS for hunting, fishing, & sharing. Alaska Native providers have been ticketed & fined when harvesting for their families & communities.





# ALASKA STATEHOOD 1959

## State Constitution

### Article 8 Natural Resources

**“common use, sustained yield, equal access clauses”**

- **§ 2. General Authority** — The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the state, including land and waters, for the maximum benefit of the people.
  - **§ 3. Common Use**
  - **§ 4. Sustained Yield**
  - **§ 15. No Exclusive Right of Fishery**

# Who Owns/Manages Alaska?



Russian traders arrived in Alaska in the mid-1700's and established small, scattered trading posts and settlements. Alaska Natives (the Eskimo, Indian, and Aleut peoples) continued as the primary landowners during this period of Russian occupation. On October 18, 1867, Russia sold Alaska to the United States government. As a result, the federal government owned the Alaska Territory, approximately 373 million acres—about one-fifth the size of the rest of the U.S.



**State of Alaska - 89.8 million acres**

Under the terms of the Alaska Statehood Act of 1958, the federal government granted the new state 20% ownership of its total area. Approximately 103,300,000 acres were to be divided under three types of grants:

- 1) Community - 400,000 acres
- 2) National Forest Community - 400,000 acres
- 3) General - 102,900,000 acres

Additional territorial grants, for schools, university and mental health trust lands, totaling 1.2 million acres were confirmed with statehood.

All grants combined gave the State of Alaska approximately 103 million acres. To date, 89.8 million acres has been granted, with the balance expected to be granted by 2008.

**ANCSA Native Corporation (Private) - 39.3 million acres**

On December 18, 1971, P. L. 92-203, the Alaska Native Claims Settlement Act was signed into law. The purpose of ANCSA was to legislate the terms by which Alaska Natives could acquire title to their lands. This claim had been unresolved for more than 100 years since the United States purchased Alaska from Russia in 1867.

Native lands are private lands. ANCSA mandated the creation of regional and village Native corporations to manage 44 million acres and payment of one billion dollars. Thirteen regional corporations were created for the distribution of ANCSA land and money. Twelve of those shared in selection of 10 million acres; the Barter Corporation, based in Seattle, received a cash settlement only. 234 village corporations, of 25 or more residents, shared 25 million acres. The remaining acres, which include historical sites and existing native-owned lands, went into a land pool to provide land to small villages of less than 25 people. To date, 39.3 million acres have been transferred to ANCSA corporations.

**Non-ANCSA Private & Local Government - 5.9 million acres**

Land in private ownership (other than Native land) comprises less than one percent of the total land in Alaska. Much of the best land for development around Alaska's communities is, or will be, privately owned. Private land development meets people's needs by providing places to live, work, shop and recreate. It also provides a tax base for cities and communities to help support public services.

Because local governments in Alaska have individual methods of transferring land into private ownership, land currently owned by them is grouped into this category.

Alaska is one-fifth the size of the conterminous 48 states.



**Bureau of Land Management - 82.5 million acres**

In Alaska, BLM's focus is conveying land, wildland fire management, overseeing the Joint Pipeline Office (a partnership with the state and other federal agencies with oversight responsibility of the Trans-Alaska Pipeline), and responding to the public demand for use of the land they manage.

**U.S. Fish & Wildlife Service - 78.8 million acres**

The USFWS manages 15 wildlife refuges in Alaska. The two largest are the Yukon Delta National Wildlife Refuge and much smaller Arctic National Wildlife Refuge (ANWR), both of which are approximately 10 million acres.

**National Park Service - 52.4 million acres**

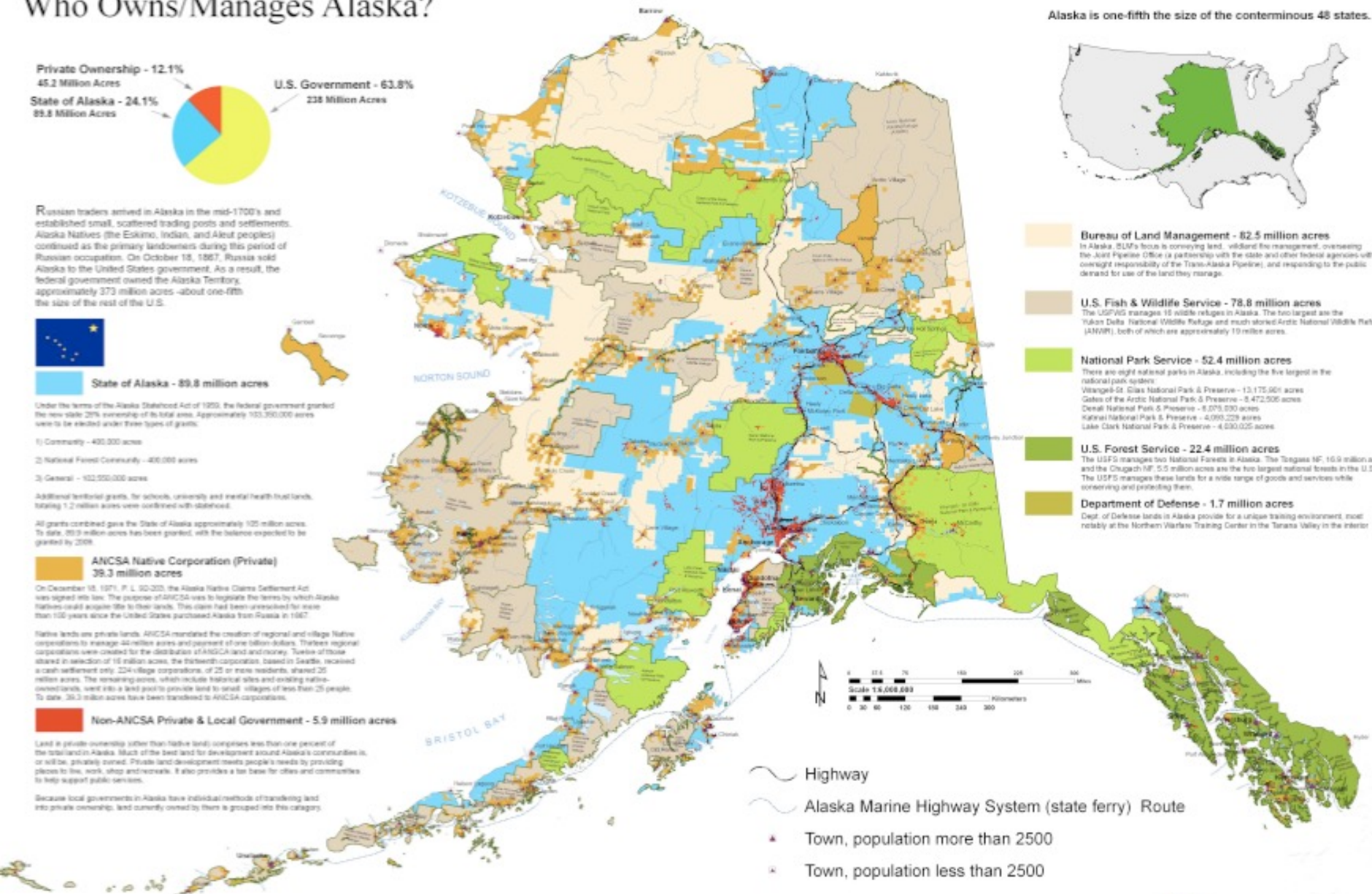
There are eight national parks in Alaska, including the five largest in the national park system: Wrangell-St. Elias National Park & Preserve - 13,175,961 acres; Gates of the Arctic National Park & Preserve - 8,472,505 acres; Denali National Park & Preserve - 6,075,000 acres; Katmai National Park & Preserve - 4,095,229 acres; Lake Clark National Park & Preserve - 4,590,025 acres.

**U.S. Forest Service - 22.4 million acres**

The USFS manages two National Forests in Alaska. The Tongass NF, 16.9 million acres, and the Chugach NF, 5.5 million acres are the two largest national forests in the U.S. The USFS manages these lands for a wide range of goods and services while conserving and protecting them.

**Department of Defense - 1.7 million acres**

Dept. of Defense lands in Alaska provide for a unique training environment, most notably at the Northern Warfare Training Center in the Tanana Valley in the interior.



Maps produced by the  
**Alaska Dept. of Natural Resources  
Division of Forestry**





## State of Alaska Game Management Units

Founded on Guiding and Commodification of Resources

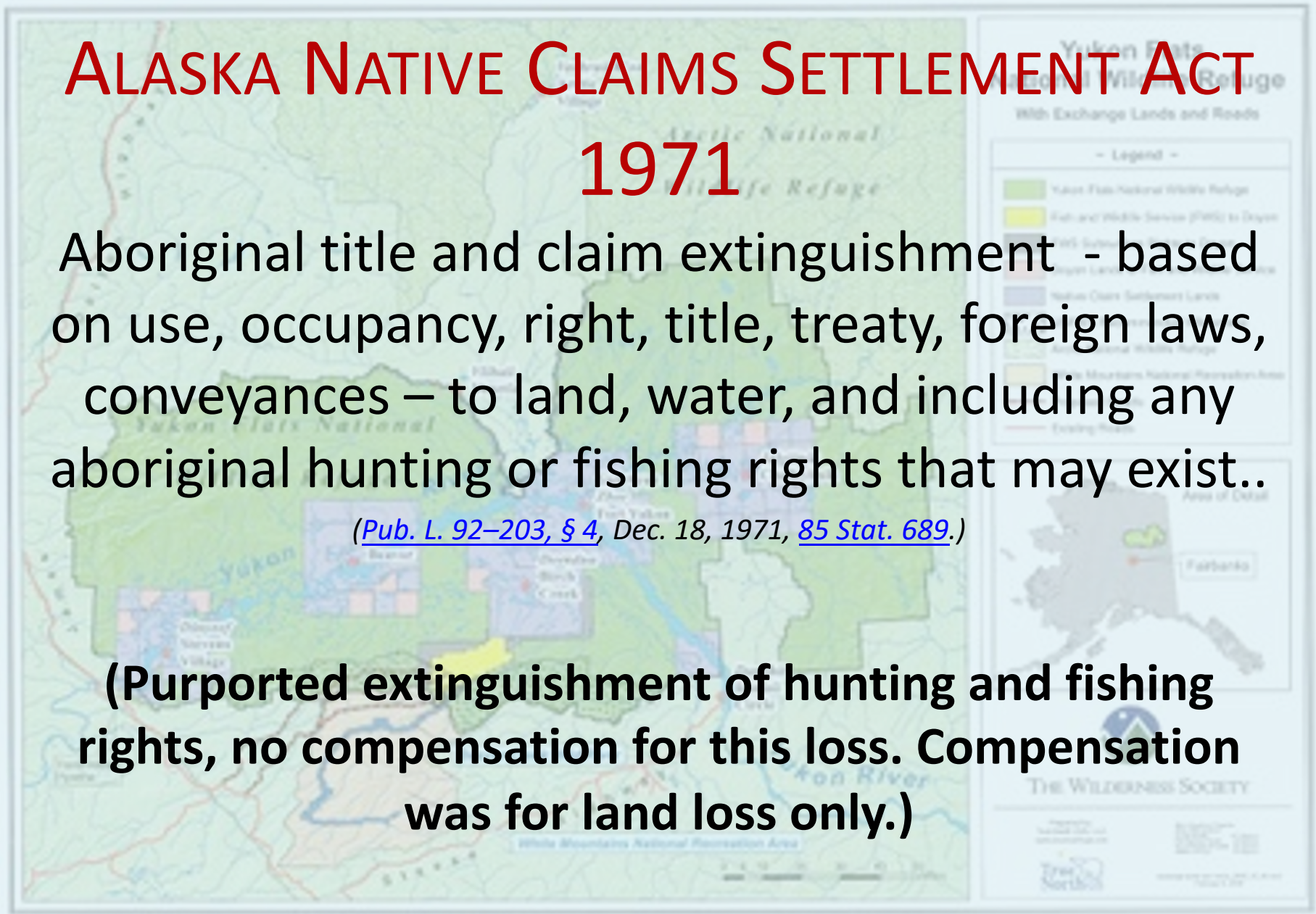
How has this impacted traditional hunting and fishing practices/

# ALASKA NATIVE CLAIMS SETTLEMENT ACT 1971

Aboriginal title and claim extinguishment - based on use, occupancy, right, title, treaty, foreign laws, conveyances – to land, water, and including any aboriginal hunting or fishing rights that may exist..

([Pub. L. 92-203, § 4](#), Dec. 18, 1971, [85 Stat. 689.](#))

**(Purported extinguishment of hunting and fishing rights, no compensation for this loss. Compensation was for land loss only.)**





# CONGRESSIONAL PROMISE

H.R. CONF. REP. 92-746, H.R. Conf. Rep. No. 746, 92ST Cong., 1ST Sess.  
1971, 1971 U.S.C.C.A.N. 2247, 1971 WL 11413 (Leg.Hist.)

The Senate amendment to the House bill provided for the protection of the Native peoples's interest in and use of subsistence resources on the public lands. The conference committee, after careful consideration, believes that all Native interests in subsistence resource lands can and will be protected by the Secretary through the exercise of his existing withdrawal authority. The Secretary could, for example, withdraw appropriate lands and classify them in a manner which would protect Native subsistence needs and requirements by closing appropriate lands to entry by non-residents when the subsistence resources of these lands are in short supply or otherwise threatened. **The Conference Committee expects both the Secretary and the State to take any action necessary to protect the subsistence needs of the Natives.**

# ANILCA TITLE 8

1980

Congressional promise  
to provide for  
Alaska Native way of life.

(Originally a native preference law.  
State cooperation with Federal  
Government if rural preference.)



# ALASKA NATIONAL INTEREST LAND CONSERVATION ACT 1980 TITLE 8

**FINDINGS** §801. The Congress finds and declares that--

- (1) the continuation of the **opportunity for subsistence** uses by **rural residents** of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on Native lands is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence;
- (3) continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened...;
- (4) ...Congress to invoke its constitutional authority over Native affairs and.....property clause and ... commerce clause to protect ...continued subsistence uses on the public lands by Native and non-Native rural residents;
- (5) ...require ...an administrative structure be established for the purpose of enabling rural residents who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.

# ANILCA TITLE 8

## **PREFERENCE FOR SUBSISTENCE USE**

§804. Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes. Whenever it is necessary to restrict the taking of populations of fish and wildlife on such lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such priority shall be implemented through appropriate limitations based on the application of the following criteria:

- (1) customary and direct dependence upon the populations as the mainstay of livelihood;
- (2) local residency; and
- (3) the availability of alternative resources.



# McDOWELL VS. STATE OF ALASKA 1988

The Alaska Supreme Court found the rural residency criteria of the state subsistence law to be unconstitutional, as it violated common use clause clauses.

# STATE AND FEDERAL CONFLICT

State inability to follow federal legislation.

1993 Federal government assumed management on all federal lands and waters.





# KATIE JOHN

Multiple cases spanning over  
3 decades to establish Alaska  
Native fishing rights.

ANILCA Title 8 applies to  
federal and navigable waters.

Remains in effect following  
Sturgeon



# GOVERNANCE: DUAL MANAGEMENT

## Federal Govt

US Fish & Wildlife Service

US Forest Service

National Park Service Lands

Bureau of Land Management Lands

Bureau of Indian Affairs

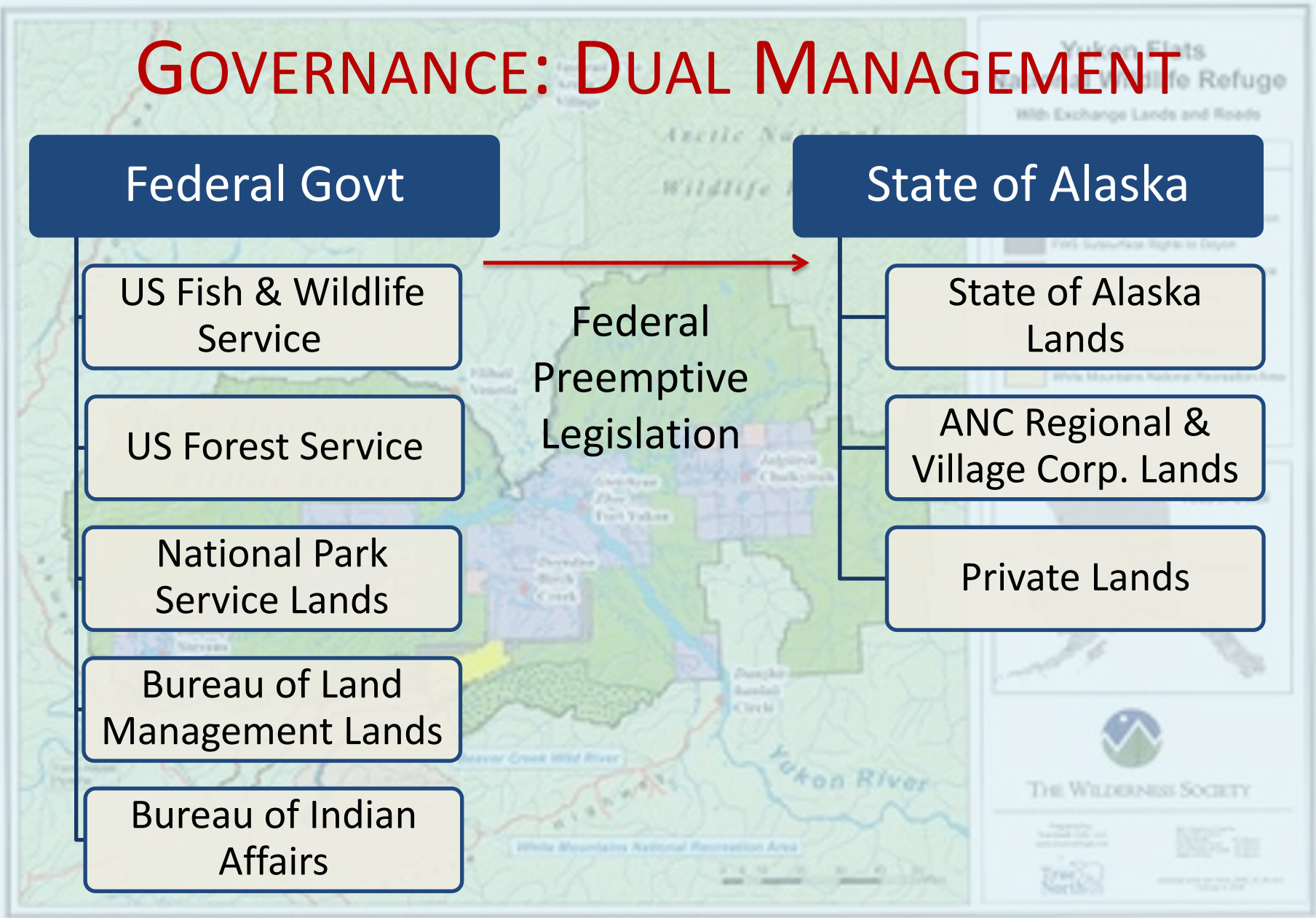
Federal  
Preemptive  
Legislation

## State of Alaska

State of Alaska  
Lands

ANC Regional &  
Village Corp. Lands

Private Lands





# FEDERAL SUBSISTENCE BOARD (FSB)

Appointed by the Secretary of Interior and the Secretary of Agriculture

Chair – Anthony Christianson, Hydaburg

Public Member (Subsistence User) – Charles Brower, Barrow

Public Member (Subsistence User) – Rhonda Pitka, Beaver

BIA (Regional Director)

US Fish & Wildlife Service (Regional Director)

National Park Service (Regional Director)

US Forest Service (Regional Director)

BLM (Regional Director)

**ONGOING LITIGATION**

<https://www.doi.gov/subsistence/board/>

# Board of Fish

Governor Appointed, Legislature Approved

**John Jensen— Petersburg** Term expires 6/30/2023

**Israel Payton— Wasilla** Term expires 6/30/2022

**Märit Carlson-Van Dort— Anchorage** Term expires 6/30/2021

**John Wood— Willow** Term expires 6/30/2021

**Gerad Godfrey— Eagle River** Term expires 6/30/2022

**McKenzie Mitchell— Fairbanks** Term expires 6/30/2023

**Abe Williams— Anchorage** Term expires 6/30/23

## ONGOING LITIGATION

<http://www.adfg.alaska.gov/index.cfm?adfg=process.main>

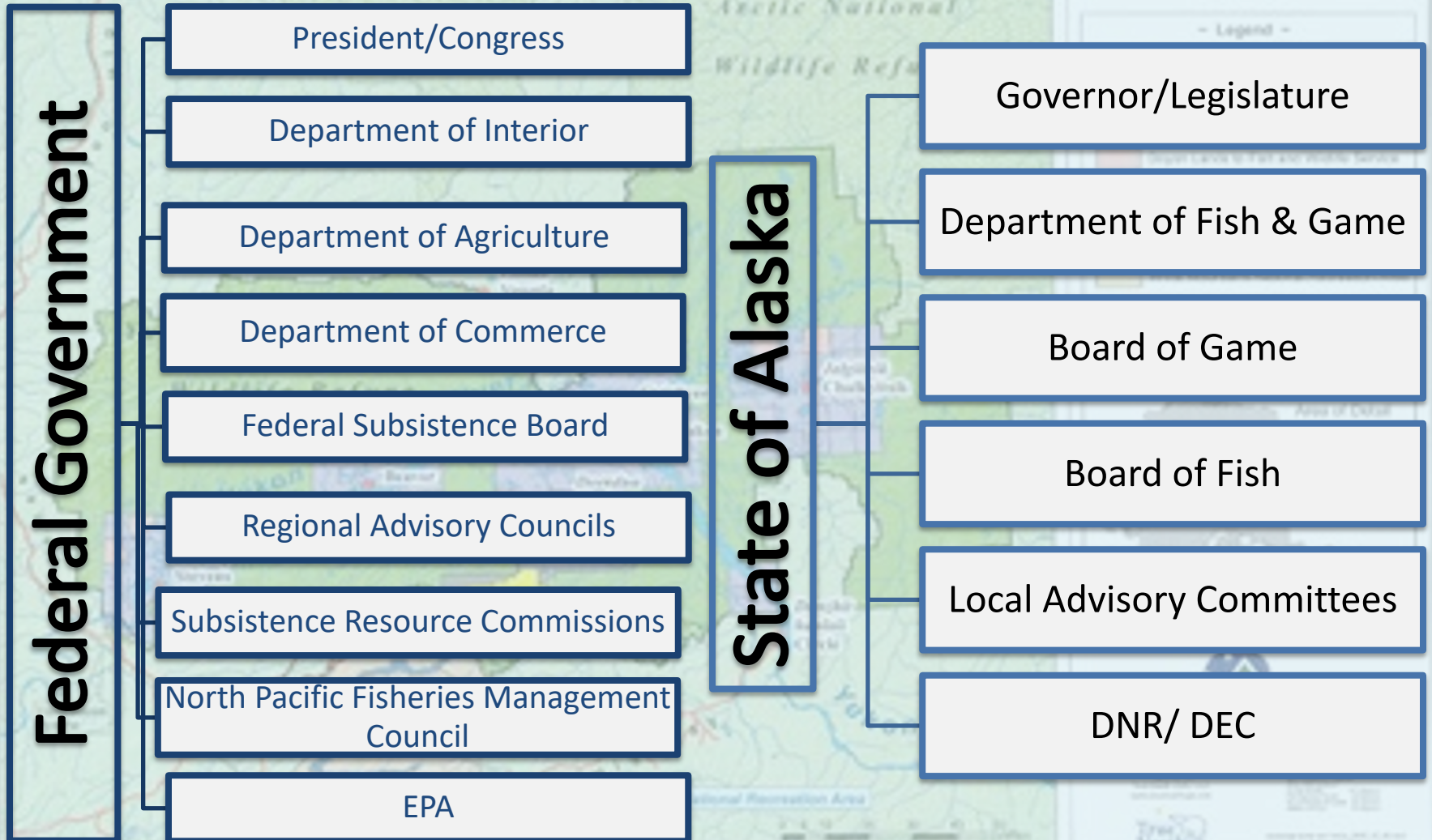


# FEDERAL PREEMPTIVE LEGISLATION

*(select examples)*

- Clean Water Act
  - Clean Air Act
- Migratory Bird Treaty Act *(provides for co-management)*
- Marine Mammal Protection Act *(provides for co-management)*
  - Endangered Species Act
  - Fur Seal Treaty
- International Whaling Convention
  - Polar Bear Convention
  - Reindeer Act
- Huna Tlingit Traditional Gull Egg Use Act

# GOVERNANCE: TO INCLUDE OCEANS





# Magnuson Stevens Act

Primary law that governs marine fisheries management in U.S. federal waters. First passed in 1976, the MSA fosters the long-term biological and economic sustainability of marine fisheries. Its objectives include:

- Preventing overfishing.
- Rebuilding overfished stocks.
- Increasing long-term economic and social benefits.
- Ensuring a safe and sustainable supply of seafood.

Under the MSA, U.S. fisheries management is a transparent and public process of science, management, innovation, and collaboration with the fishing industry.

<https://www.fisheries.noaa.gov/topic/laws-policies#magnuson-stevens-act>

The Magnuson Act was set up principally to address heavy foreign fishing, promote the development of a domestic fleet, and allow American vessels and companies to take over harvesting and processing from the fleets of other nations.

[http://www.adfg.alaska.gov/index.cfm?adfg=wildlifeneews.view\\_article&articles\\_id=228](http://www.adfg.alaska.gov/index.cfm?adfg=wildlifeneews.view_article&articles_id=228)

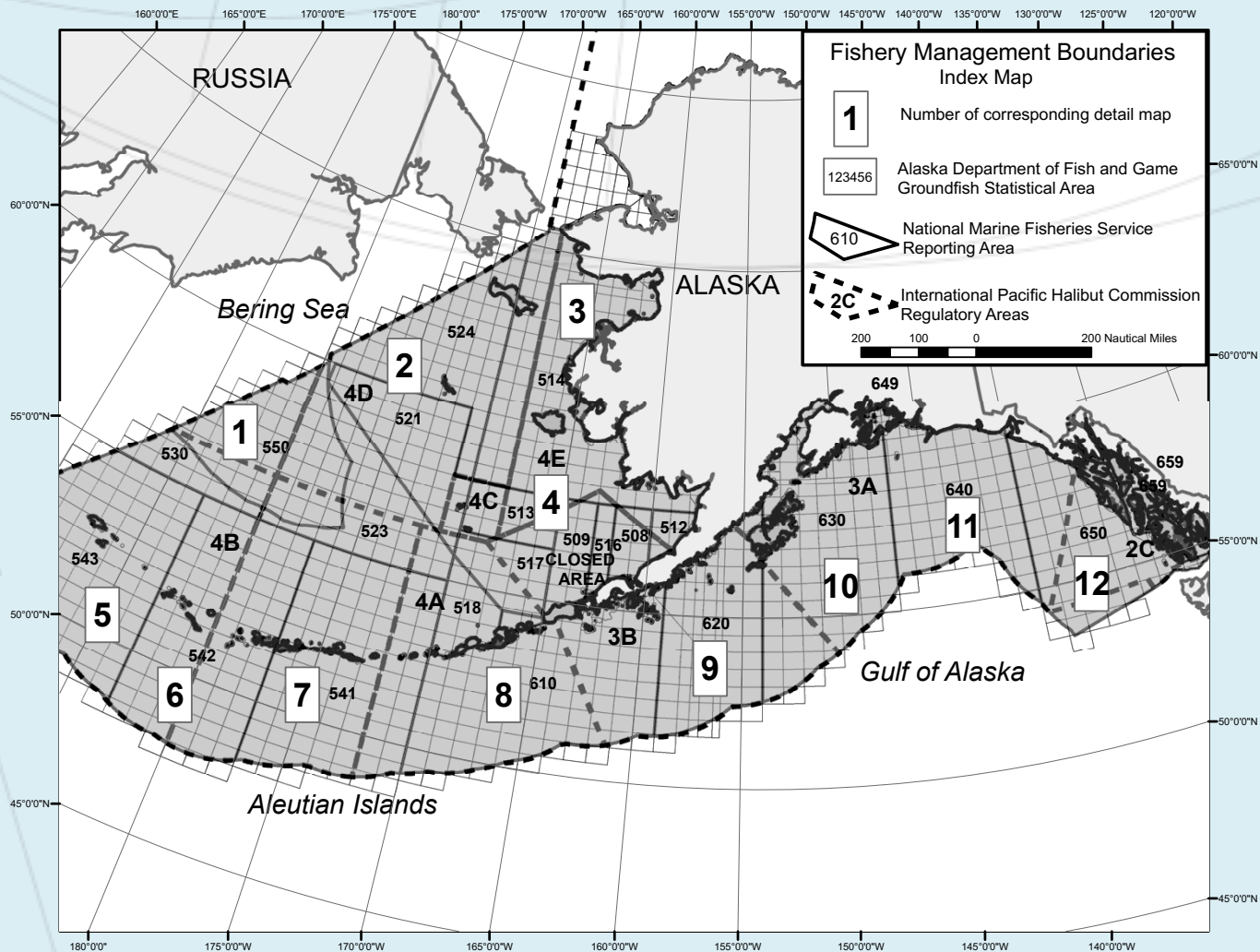
# North Pacific Fisheries Management Council



Provides conservation and management of all fisheries within federal waters. Federal waters are defined as those between 3 and 200 nautical miles offshore, called an Exclusive Economic Zone (EEZ). The Council has exclusive jurisdiction over Alaska's 900,000 square mile EEZ. The Council manages fisheries in the Bering Sea and the Gulf of Alaska.

<https://www.npfmc.org>

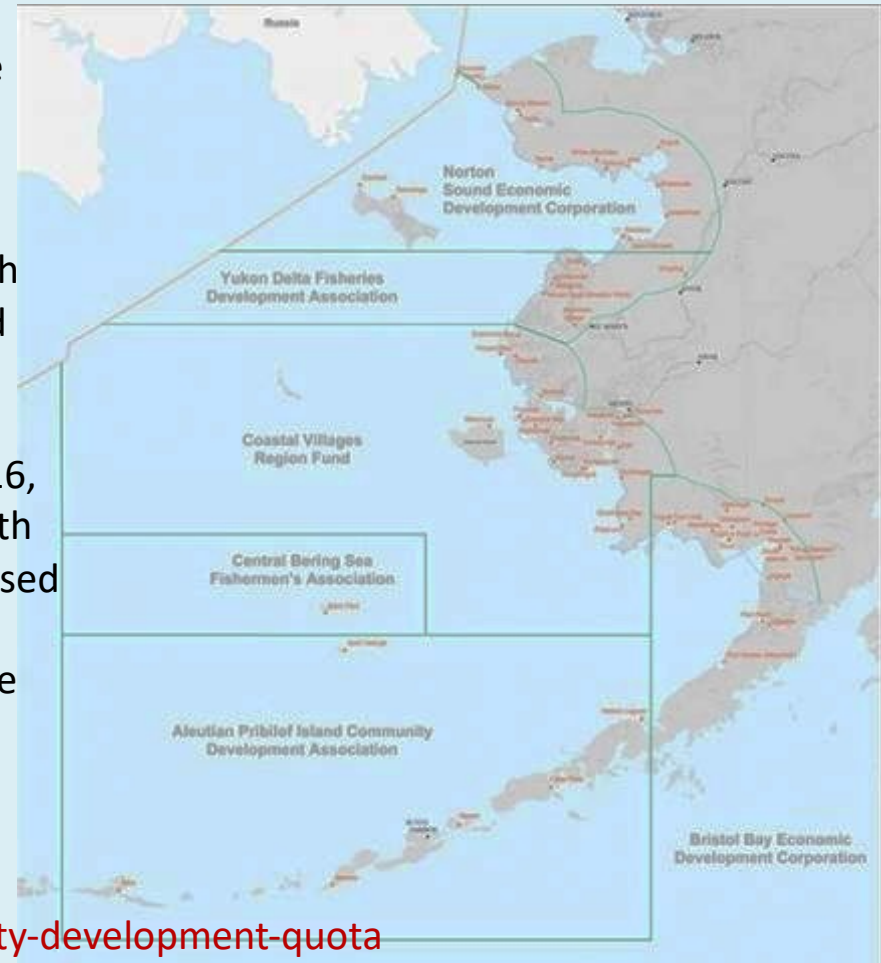




For fishery for management and enforcement purposes, the boundary between State of Alaska waters and federal waters is the 3 nm line on the pre-2006 NOAA charts, except in specific areas where the U.S Baseline Committee has made recent recommendations. These areas are shown in the following 2012 chartlets.

**The Community Development Quota (CDQ) Program** was established to (i) to provide eligible western Alaska villages with the opportunity to participate and invest in fisheries in the Bering Sea and Aleutian Islands Management Area; (ii) to support economic development in western Alaska; (iii) to alleviate poverty and provide economic and social benefits for residents of western Alaska; and (iv) to achieve sustainable and diversified local economies in western Alaska.

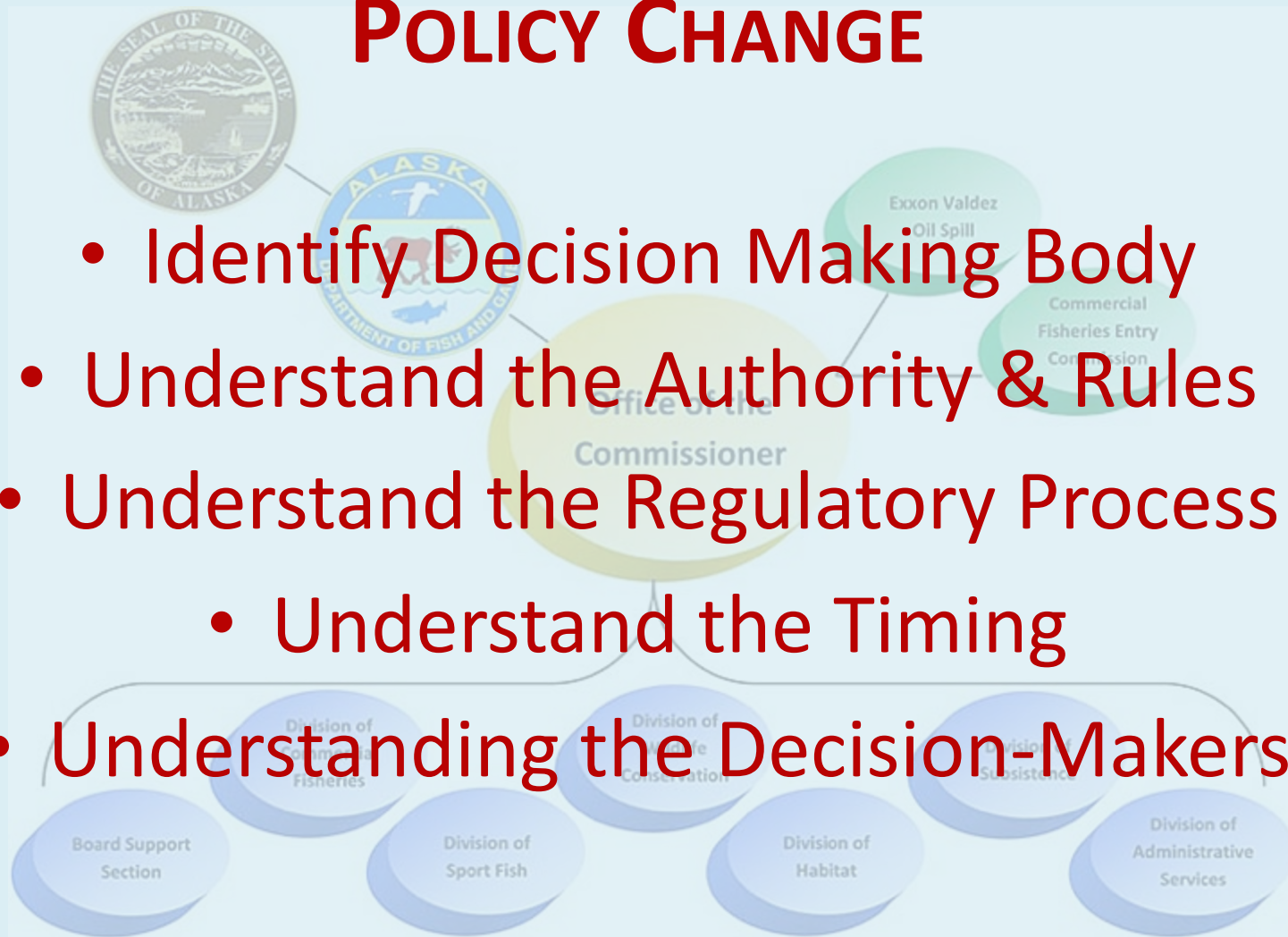
Six non-profit corporations represent 65 communities with the purpose of economic development in western Alaska and goals to alleviate poverty, provide economic and social benefits to residents, and achieve sustainable local economies. Legislative action under Section 305(i)(1)(C) of the Magnuson-Stevens Fishery Conservation and Management Act enabled allocation to CDQ groups of groundfish, halibut, crab, and bycatch species and a decennial review allows for program and allocation adjustments. The allocations were implemented in 1992 for pollock, 1995 for halibut and sablefish, and 1998 for multispecies groundfish. In 2016, the CDQ groups harvested 249,538 mt of seafood worth \$120 million. In the same year, the CDQ groups processed 196,037 mt in seafood volume worth \$213.9 million. This report reviews the regulatory landscape, allocative process, and changes in CDQ investments.



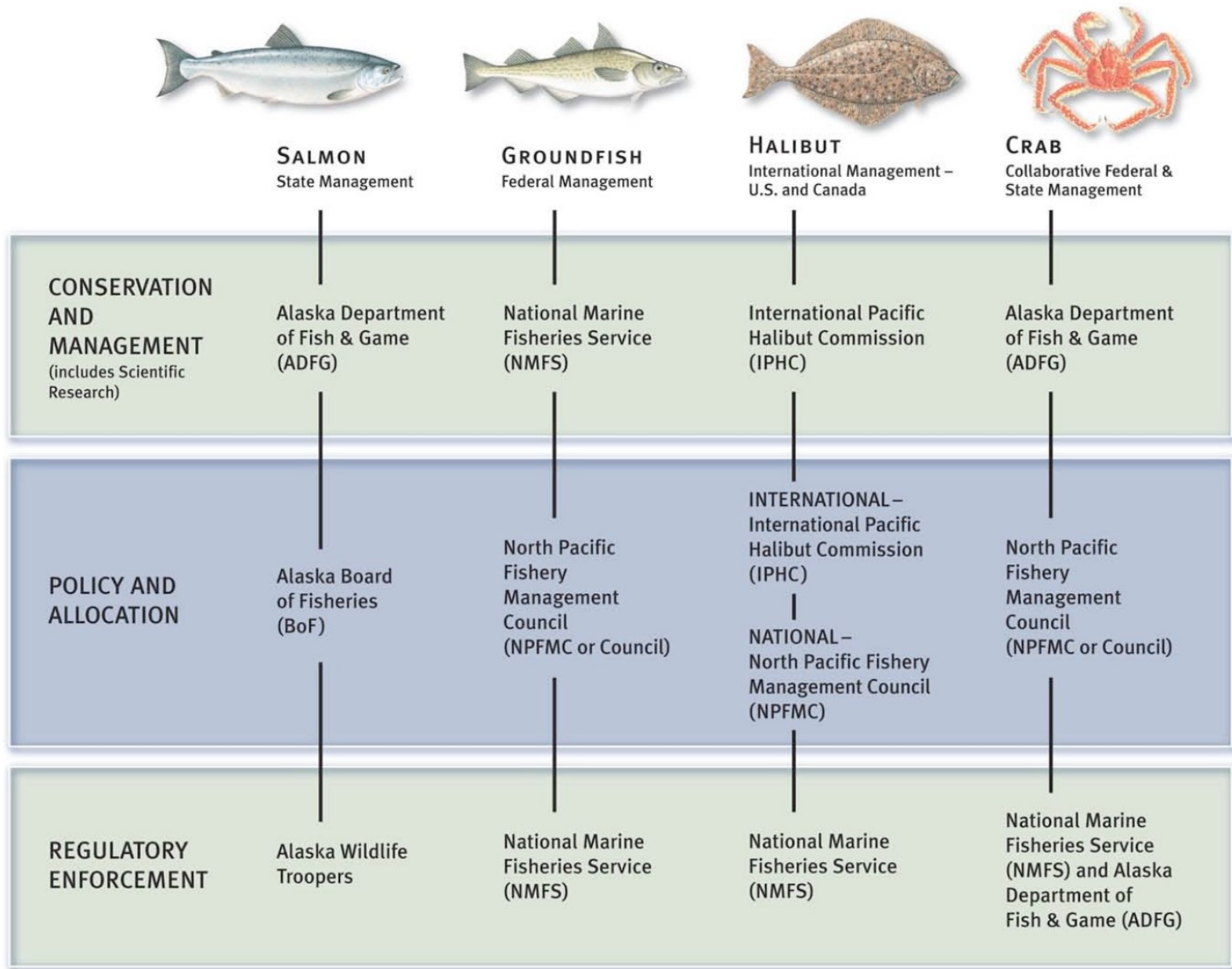


# FISH AND WILDLIFE REGULATORY & POLICY CHANGE

- Identify Decision Making Body
- Understand the Authority & Rules
- Understand the Regulatory Process
  - Understand the Timing
- Understanding the Decision-Makers



# STATE, FEDERAL AND INTERNATIONAL MANAGEMENT OF ALASKA'S FISHERIES





# Criminalization of Subsistence

## SURVIVAL DENIED

Stories from Alaska Native Families Living in a Broken System



ALLIANCE FOR A JUST SOCIETY • COUNCIL OF ATHABASCAN TRIBAL GOVERNMENTS

These stories were gathered from remote rural villages across the Yukon Flats. The stories are a testament to the daily struggle for survival and respect, and are echoed by Alaska Natives from all corners of the nation's largest state.

### Facing a Changing Culture

I'm 82 years old. When I was a little kid, we moved the fish camp at a certain time of summer, moved the muskrat camp at a certain time of spring, and wintertime we moved the winter camp. When the moose were having their babies, we never bothered them. We just hunted moose in the fall, and we only went after bulls. Once in a while we got grouse or rabbit, so we always had something to eat. We'd get our fish and moose so it would last all year round, all nine months of cold winter.

Nowadays we have to pull up our salmon fishing net and instead try to catch little fish on the side slough. They tell us, "You're supposed to pull the net out! Put it back in! Pull it out!" It's pretty hard for me and my little grandsons. We get whitefish, and pike, and that's what we live on. We don't get very many salmon, maybe four, five a day. But we really take care of it so it lasts us for the winter.



Elder Elsie Pitka

Enforcement really started getting bad just a couple of years ago. They come and harass us poor people who live on the river. The state enforcement tried to take my net without me knowing it. If they were human beings, they could come by and talk with me. I'm just an 82-year-old lady trying to get enough fish for the winter. If we can't fish, I don't know what we can live on. Half of our diet is fish. We have no jobs and no income to buy food. We have to go out in the woods and get our own.

I'm glad I'm 82 years old so I won't be living too much longer, so I don't have to see this kind of bologna going on. But I feel sorry for my grandchildren. What do they care about our grandchildren? What do they care about what we eat?

They're taking away our life. I just feel like they should line us up on the bank and just shoot us off, so they can just have the whole land.

# Alaska Native Statewide Priority

The 2012 Alaska Federation of Natives *Proclamation To Achieve Subsistence Rights and Protection of Native Cultures* states:

*“Let it be known throughout the land that we, the First Peoples of Alaska---the Inupiat, Yup’ik, Unangan, Alutiiq, Athabascan, Tlingit, Haida and Tsimshian, gathered at the Alaska Federation of Natives 2012 Convention, demand the revocation of federal laws that undermine our subsistence rights. We further proclaim that we commit ourselves to a unified, statewide effort at the international, national and local levels using every political and legal means at our disposal to achieve the following two overarching goals: 1. Full and lasting federal protections for our hunting, fishing and gathering way of life, and 2. A co-equal role in managing the fish, wildlife and other renewable resources that we rely upon for our economic and cultural existence.”*

# THE INDIGENOUS VOICE



**Unity & Strategy**



# SHIFT IN GOVERNANCE: CO-MANAGEMENT

A fair sharing of the responsibility and authority for managing fish, wildlife, or lands as mutually negotiated, defined and agreed by indigenous peoples and managing agencies.

Co-Management Symposium, November 18<sup>th</sup> & 19<sup>th</sup>, 2015  
Tribal Management Program, Illingworth and Stevens



# GOVERNANCE: CO-MANAGEMENT



Yukon & Kuskokwim  
Inter Tribal Fish  
Commissions

- Founded on Tribal Sovereignty and by Constitutions



# YUKON RIVER INTERTRIBAL FISH COMMISSION

AN INTERTRIBAL ORGANIZATION BY FOUNDING CONSTITUTION



We, the Tribes/First Nations of the Yukon River and its tributaries, proclaim that our fisheries are essential to our cultural, nutritional, economic and spiritual well-being and way of life. We recognize our responsibility and authority to exercise our tribal rights as stewards to our traditional territories and resources. Since time immemorial, we have properly cared for the fisheries of the Yukon River and its tributaries, but for the past 100 years, U.S., Canada, and the State of Alaska have usurped management with no deference to tribal governments. We commit to conserve, restore, and provide for tribal use of fisheries based on indigenous knowledge systems, and scientific principles. Founded on tribal unity, we form the Yukon River Inter-Tribal Fish Commission for the health and well-being of our tribal members, our future generations, and all Alaskans and Canadians who rely upon the health of the fisheries.





# FOUNDED ON AND INTERTRIBAL CONSTITUTION

Upon Tribal ratification by Resolution the Constitution becomes effective and the Commission will have membership.

Each member Tribal Government shall appoint one person to serve as that member's Commissioner to the Commission by authorizing resolution. The Commissioner will have the authority to vote on behalf of the member.

33 Tribal Resolutions ratifying Constitution



# OUR SHARED INDIGENOUS VALUES DRIVE OUR DECISION-MAKING



**UNITY IN RESPECT**  
**UNITY IN RESPONSIBILITY AND CARE**  
**UNITY IN SELF-GOVERNANCE**

# YUKON RIVER INTERTRIBAL FISH COMMISSION

## CURRENT PRIORITIES

- **Tribal Education and Outreach campaign**
- **Salmon Science and Management**
  - In-river Data Collection – Midriver Sonar
  - Bycatch & Ocean Management
    - Area M Genetics
    - NPFMC Subsistence Statewide Coalition (Ben Stevens former AP member, lowering bycatch limits from 100k to 60k)
  - Hatchery Fish Impacts Studies – Pink Salmon
- **Ally Relationships**
  - YRDFA & YRITWC
  - KRITFC
  - AVCP
- **Ecosystem wide accountability – strategy and summit planning**
  - State and Federal Agencies from the Bering Sea to the Canadian Headwaters
  - NOAA, NPFMC, ADFG, USFWS, DFO, YRP, YRSSC, AYKSSI
  - Tribes and Allies



Tanana  
Chiefs  
Conference



# PRACTICING TRIBAL SELF-GOVERNANCE

INDIGENOUS RESPONSIBILITY & AUTHORITY

## INDIGENOUS SELF-GOVERNANCE

Indigenous people hold all responsibility & authority in fish, wildlife, & land stewardship.  
*Laws, regulations, management functions, & decisions made by indigenous people & judicial systems.*  
*Based on indigenous values, principles, knowledge, ways of knowing/being.*

## INDIGENOUS MANAGEMENT

Management by indigenous peoples within an external governmental legal framework.

## CO-MANAGEMENT

A fair sharing of the responsibility & authority for managing fish, wildlife or lands as mutually negotiated, defined, & agreed by indigenous peoples & external government.

## MANAGEMENT BOARDS

Indigenous peoples/knowledge/views/values have a voice in planning & decision-making.

## ADVISORY COMMITTEES

Indigenous peoples/knowledge/views/values begin to impact agenda, issues, & decision-making.

## CONSULTATION

Indigenous peoples/knowledge/views/values heard on selected issues prior to decision-making.

## EXTERNAL GOVERNMENT CONTROL

Non-indigenous government holds all responsibility & authority in fish, wildlife, & land management.  
*Laws, regulations, management functions, & decisions made by non-indigenous governments & judicial systems.*  
*Based on non-indigenous values, principles, knowledge, ways of knowing/being.*



TRIBAL MANAGEMENT PROGRAM

University of Alaska Fairbanks

Illingworth and Stevens

“The ownership of the land has been broken into many small pieces but the land itself is not broken into pieces. And the villagers use of the land cannot be broken into pieces if his way of life is to continue.”

A report on SUBSISTENCE and the CONSERVATION OF THE YUPIK LIFE-STYLE.

Yupiktak Bista,

<http://ankn.uaf.edu/Curriculum/Books/DoesOneWay/LAND%20USE%20PLANNING.html>

