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ALASKA NATIVE CORPORATIONS:

A PRELIMINARY REPORT

G. F. Parsons
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Office of the Northern Research
and Science Advisor,
Department of Indian and
Northern Affairs

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ALASKA NATIVE CORPORATIONS: A PRELIMINARY REPORT

A. INTRODUCTION

The purpose of this paper is to provide a general descriptive account of the origins, nature, and activities of Alaska Native regional corporations established under the Alaska Native Claims Settlement Act (ANCSA); to offer a few observations on their apparent successes, failures, and future prospects; and to give preliminary consideration to some of the difficulties they have faced due either to economic and social circumstances, or to problems inherent in the nature of the settlement itself.

For various reasons, the analysis can be only tentative and introductory. First, a great deal more information would have to be compiled in order to understand the full significance of the Native corporations today. It is impossible to obtain anything like a clear, comprehensive and up-to-date picture of twelve regional business organizations, with interests covering the entire state, on the basis of documents, reports, and other sources available here and now. Press reports and similar materials have limited reliability or do not deal with matters in depth. Relevant studies by social scientists often are limited in scope and dated, their conclusions being soon overtaken by events, for the corporations are dynamic, changing institutions. Even the statements of "experts" interviewed in Alaska as recently as April 1984, are in many cases no better than informed opinion, and certainly

cannot be relied upon as the last word on so complex a topic.

However, two major studies are now under way, which should add greatly to our knowledge of the corporations and their more recent circumstances. The first of these studies is by the Alaska Native Review Commission, established in 1983 by the Inuit Circumpolar Conference, and chaired by the Hon. Thomas R. Berger. The Commission's terms of reference include examining the social and economic status of the Alaska Natives; analyzing the social, cultural, economic, political and environmental consequences of ANCSA; and reviewing the performance of the Native corporations established by ANCSA. The Commission began hearings late in February and these are scheduled to continue through the remainder of 1984. A final Commission report is expected in 1985.

A second study of ANCSA's consequences is being sponsored by the United States Secretary of the Interior, as required by the year 1985 under Section 23 of the Act. A contract for this study was awarded to a firm of management consultants in Virginia and recent information indicates that the work is now at a fairly advanced stage.

The Circumpolar Affairs Group will undertake to follow the progress of the Alaska Native Review Commission hearings,

and also to gather materials relevant to the Native corporations from other sources, including the Interior Secretary's report when it becomes available. Meanwhile, the present paper may serve as an introduction to further study of the Alaska Native corporations and as background to facilitate understanding and analysis of information and events likely to emerge in the near future.

Part B of this paper outlines some of the major events leading to passage of the Alaska Native Claims Settlement Act. It describes some of the main provisions of the Act and discusses certain problems of implementation. Part C presents some general features of the corporations, as well as those which distinguish them from ordinary business organizations, and identifies certain of their special responsibilities under ANCSA. Part D provides a series of brief descriptions of each of the 12 regional corporations, including the general nature of their economic ventures. This is followed by a review of some evaluations of the corporations and their problems, as provided by Alaskan social scientists and others, and by a tentative summary comment on implications of the Alaskan experience for Canadian planners.

B. BACKGROUND

1. Events Leading To ANCSA

The Alaska Organic Act of 1884, first in a series of laws passed by the U.S. Congress to establish civil government in Alaska, provided the legal foundation for the Native Claims issue by recognizing rights of aboriginal use and occupancy of land. By the early 1950's, claims to more than 120 million acres had been filed by various Native groups, but Congress had taken no action on the claims.

A major landmark in Alaska's political and social development was the achievement of statehood in 1959. This may be said to have marked the end of a struggle by White Alaskans for political self-determination even while it marked a new and decisive beginning, in a like direction, by Native Alaskans. The Statehood Act of 1958 authorized the new state to select 103 million acres of land from a public domain of 375 million acres. However, the Act also reaffirmed Native land rights by providing that the State could not acquire any lands "the right and title to which may be held by Indians, Eskimos, or Aleuts". This strengthened the legal basis for aboriginal rights earlier established by the Organic Act, and also set the stage for conflict between the State government and the Native people.

State land selections ignited Native protests and

stimulated Native counterclaims. This conflict politicized the Native people, generating new awareness and sense of unity, and stimulating the growth of new organizations dedicated to political and social goals. Native protest was further aggravated by other consequences of statehood. These included the creation of new state agencies such as the Department of Fish and Game, which were not always perceived as beneficial to Native goals, and the establishment of a system of borough government which was perceived as beneficial to areas inhabited by Whites but not to areas inhabited by Natives.

Between 1965 and 1968, strong, energetic regional Native associations organized more or less along ethnic and cultural lines and began to develop new political skills and gain control over new political resources. One of the most dynamic of these was the Arctic Slope Native Association with headquarters in Barrow, but representing all Inuit villages on the North Slope. Others were the Cook Inlet Native Association headquartered in Anchorage, and the Northwest Alaska Native Association based at Kotzebue. These regional associations and others like them banded together in 1967 to form a statewide organization, the Alaska Federation of Natives (AFN), having the specific objective of pressing land claims. It was at this point that unity of effort became a reality, and the Alaska land claims movement was fully launched.

The AFN established a Land Claims Task Force which drafted settlement proposals that were put before Congress in 1968 and again in 1969, but failed to gain the support necessary for passage into law. By 1970 the AFN had become a well organized, highly skilled agency for exercising political influence, and was so effective during this election year that the Settlement Act which passed in 1971 contained most of the provisions put forward by the Native leadership.

One of the major factors contributing to the AFN's ultimate success was that the timing of their campaign coincided with the need to build the Trans-Alaska Pipeline. Their claims were blocking a start on the pipeline, and consequently the oil companies as well as the state and federal governments were anxious to see a settlement.

2. Main Provisions Of The Settlement Act

The Alaska Native Claims Settlement Act is an exceedingly complex piece of legislation, wide-ranging in its concerns and frequently ambiguous in its language. This section offers only a brief account of those provisions which seem most important for introducing a discussion of the corporations. Other provisions will be cited later, where appropriate.

Under the Act, Alaska Natives were empowered to select

over 40 million acres of land to which they would receive title in fee simple. Claims of aboriginal title to all additional lands in the state were extinguished, and existing Indian reserves, with one exception, were revoked. People living on revoked reserves were given the choice of either accepting the general terms of the settlement, or of accepting full title to their former reserve lands and foregoing all other settlement benefits. Five reserves elected the latter course, thereby bringing the total Native land entitlement under the Act to nearly 44 million acres.

Cash compensation for claims extinguished was set at \$962.5 million, of which \$462.5 million would be paid from the Federal Treasury in instalments over a period of eleven years from the date of enactment. The remaining \$500 million would be paid over an indefinite period from revenues of the State and Federal Governments derived from mineral resources.

The Act provided for the State to be divided into twelve geographic regions, and correspondingly for the establishment of twelve Native regional business corporations to receive and administer benefits. Within the regions there were established more than 200 village corporations, likewise entitled to receive benefits. However, money payments were made only to the regional corporations, each one's share being determined on a

per capita basis. The regional corporations were in turn required to disburse about half of these funds to the village corporations and to Native individuals. A thirteenth corporation was also formed for non-resident Natives, who participated in the money settlement but received no land.

Both the village and regional corporations were entitled to select lands. The village corporations were to receive a total of 22 million acres, with the entitlement of each village dependent upon the number of its eligible shareholders. The regional corporations were entitled to 16 million acres, shared on the basis of a complicated "land loss" formula according to which those regions that had claimed the most land would in turn receive the most. Furthermore, the regional corporations would have subsurface rights to their lands and likewise to those of the village corporations. An additional two million acres were reserved for selection for designated special purposes, including historic sites, cemetery sites, and for corporations situated in what once were Native villages, but are now urban areas.

3. Some Problems of Implementation

There have been a number of major problems associated with the implementation of ANCSA. Some of them will be discussed briefly here by way of introduction, and more will be said about implementation problems in later sections.

From the beginning, complexities and ambiguities in the language of the Act have led to administrative problems, encouraged litigation, and generally delayed implementation. Some of the greatest difficulties relate to the conveyance of land to the corporations. Many land selections were contested by third parties claiming prior rights, and there was legal conflict over the identification of easements across Native lands.

A further complication involved determination of what constituted a navigable waterway. Under pre-existing law, the state owns the beds of navigable rivers. At the same time, ANCSA requires corporations to include the beds of non-navigable waters in their land entitlements. The state takes a broad definition of navigability while the federal government holds to a conflicting narrower definition. This has led to adjudication and delay in conveyances, but many transfers have proceeded on the basis of federal criteria and some of these lands may yet be adjudged to belong to the state.

In consequence of the delays associated with legal and administrative problems, only about one-half of the total land entitlement had been conveyed by 1982. However, about that time the pace of the conveyance process became accelerated under a new management regime, and by the Spring of 1984 about 33 million acres had been given interim conveyance. This means that the

lands have yet to be surveyed, a pre-condition for final conveyance, or patenting. Surveying is a costly undertaking, the latest estimate being \$300 million, and is expected to take at least ten years from the present time. Even interim conveyancing may continue to be a problem throughout the 1980's since, as one official pointed out to me, the most difficult and complicated cases tend to be left to the last.

By December 1981, the entire cash settlement, including the resource revenue sharing portion, had been paid. This was largely a result of the massive revenue - producing capabilities of the Prudhoe Bay oil fields. However, the cash settlement has been eroded by inflation, corporate organizational expenses, land selection costs, inexperienced management, and extensive litigation to clarify provisions in the Act.

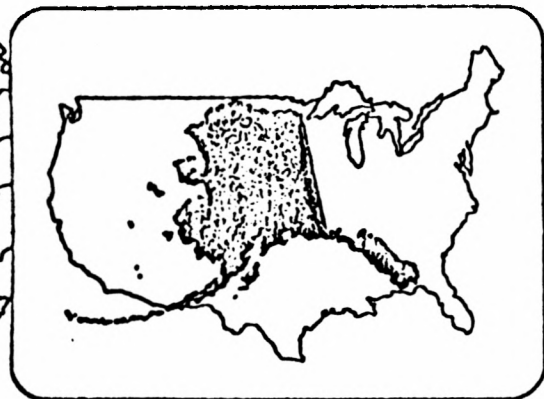
C. SOME FEATURES OF THE CORPORATIONS

1. Regional Boundaries

When the Settlement Act was passed in 1971 there were 12 Native associations representing different cultural and ethnic groups in as many parts of the state. The Act provided that the geographic boundaries for the corporations should correspond approximately to these regional and cultural interests. This correspondence becomes apparent when a map of cultural and linguistic areas is compared with one showing the boundaries of the regional corporations (see Maps 1 and 2). Thus the Inupiat Eskimo culture area embraces the Arctic Slope, Bering Straits, and NANA Corporations; the Yupik Eskimo culture area includes the Bristol Bay and Calista Corporations; the Interior Athabaskan culture area complex contains the Doyon Corporation, and so on.

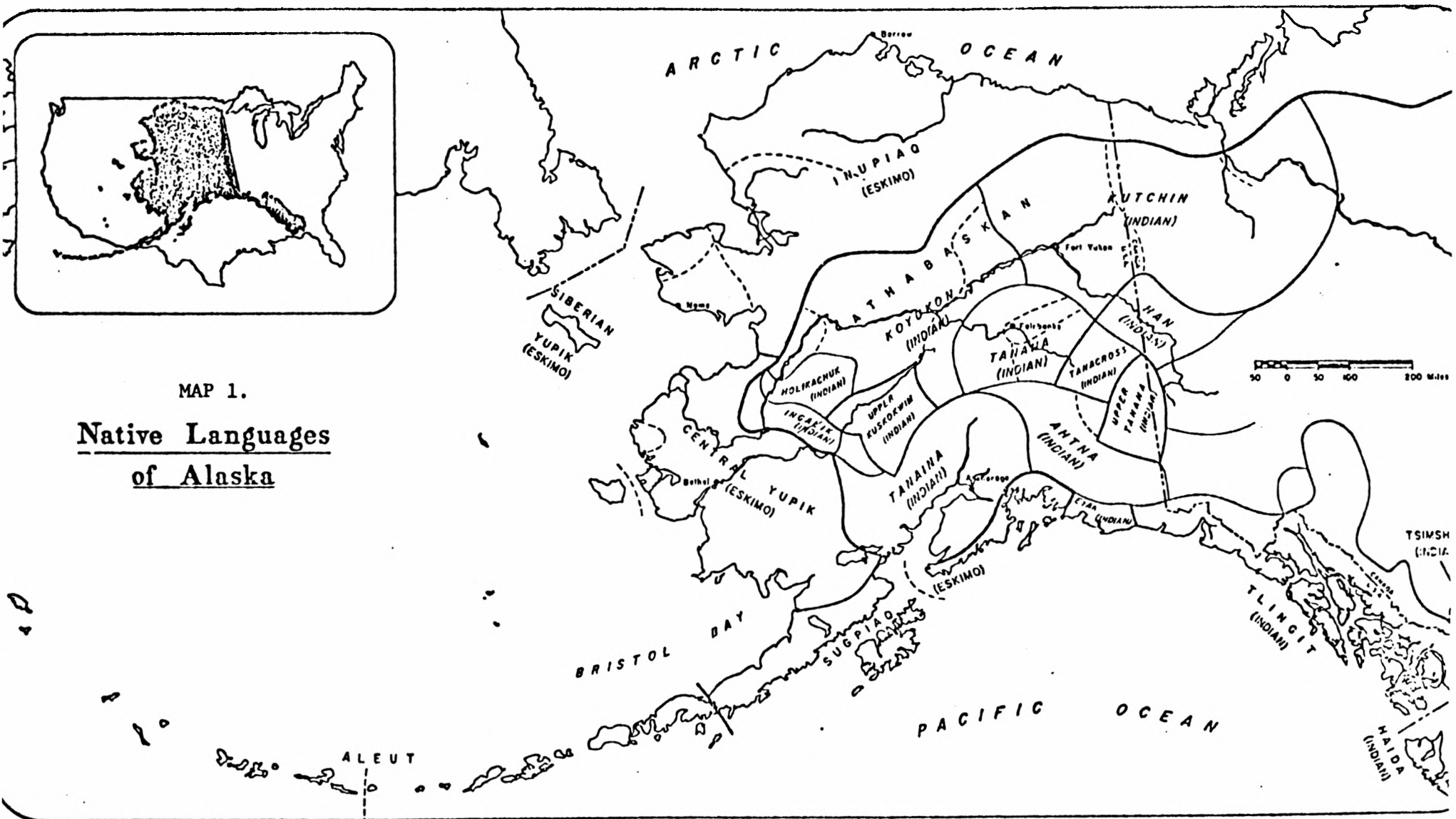
2. General Management Provisions

Each regional corporation is incorporated under the laws of the State of Alaska to conduct business for profit. The management of the corporation is vested in a board of directors, all of whom must be stockholders over the age of 18. The number of directors, their terms of service, and their method of election varies and, in each case, is fixed in the articles of incorporation or in subsequent corporate bylaws. The original articles of incorporation had to be approved by the United States Secretary of the Interior, under the terms of ANCSA.



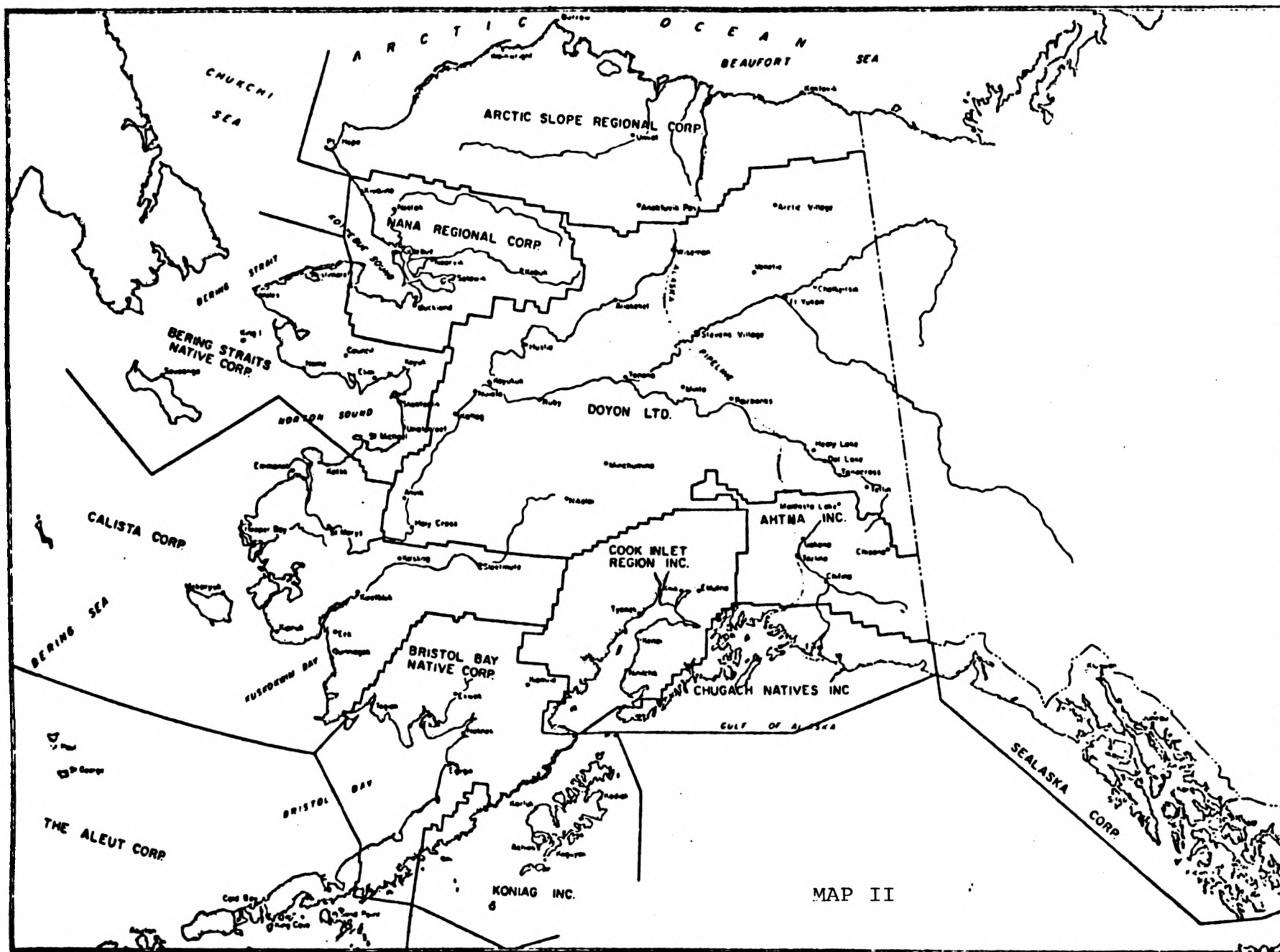
MAP 1.

Native Languages of Alaska



SOURCE: Alaska Native Language Center, University of Alaska, Fairbanks, "Native Peoples and Languages of Alaska," compiled by Michael E. Krauss. Reduction prepared by AEIDC, Anchorage.

MAP I



The Twelve Alaska Regional Corporations

3. Stockholders and Their Rights

Each Native individual enrolled in a region holds 100 shares of common stock in his regional corporation. Stockholders have rights normally associated with ownership of shares in private business corporations, including the right to vote in elections of the boards of directors, and to receive dividends if there are profits to be shared. There is, however, one notable limitation which markedly differentiates ANCSA corporation stockholders: they cannot sell their stock or transfer any rights in it for a period of 20 years from the time of enactment of ANCSA in December 1971. During this time, stock can be passed on by inheritance, but if the inheritor is a non-Native he has no voting rights.

After 1991, any stockholder may sell his stock to anyone, Native or non-Native. This provision has created what today is one of the most contentious issues relating to ANCSA, for there is much concern among Natives that after 1991, they may lose control of the corporations.

4. Special Responsibilities of Regional Corporations

The Settlement Act required the regional corporations to assume certain special responsibilities that are not normally associated with the role of a business corporation. As already mentioned, they were required to be the receivers of the cash settlement on behalf of all Alaska Natives, and

thereafter the distributors of one-half of the money to village corporations and individuals. The regional corporations also were obliged to supervise and assist in the incorporation of villages, the initial articles of incorporation of each village being subject to review and approval by its regional corporation. Similarly, the regional bodies were empowered to review and approve the village corporations' spending plans before disbursing claims monies to the village level. The regions also were required to assist the villages in their land selections, and to review and advise upon any proposed village land transactions.

In the first few years, the regional corporations had to bear much of the costly task of implementing the settlement out of the claims money they received. They had to organize themselves, select their own lands, and learn to interpret the intricacies of the Act. Almost at the same time, because of the deadlines imposed by the Act, the regional bodies had to teach, supervise, and assist the villages.

In varying degrees, depending on inclination and circumstance, the regional corporations have continued to play a parental and even quasi-governmental role vis-a-vis the villages. The villages have suffered from a continuing lack of necessary management skills, have experienced business losses and failures, and been beset

with problems associated with land acquisition. In a number of cases village corporations have been obliged to form mergers, either with other villages within their region or with the regional corporation itself.

A further unusual requirement of the regional corporations is that each must share with all the others, on a per-capita basis, seventy percent of all revenues received through timber harvesting or subsurface mineral development. This has been the cause of dissension between the "haves" and the "have nots", and of costly litigation to establish judicial interpretations as to the precise meaning of relevant provisions in the Act.

D. EACH REGIONAL CORPORATION DESCRIBED

Following, in alphabetical order, is a series of brief descriptive accounts of each of the 12 regional corporations, including information about their land entitlements, the nature of their business ventures, and some indications of their recent business performance. The information is drawn from a number of sources, and includes data provided by the United States Department of the Interior and the Alaska Federation of Natives, together with material drawn from various published and unpublished reports.

It should be stressed that figures showing land areas transferred to the corporations refer to interim conveyances, as previously defined. Only about 3.5 million acres of all lands thus far transferred to the corporations have received final conveyance. The surface land entitlements shown do not include village corporation entitlements; the latter are, however, included in the subsurface estate figures, since the regionals have subsurface rights on both regional and village lands.

1. Ahtna Corporation

Ahtna is situated in south-central Alaska, mainly in the Copper River Basin and extending east to the border of Yukon Territory. It is in the Athabaskan Indian culture area. Ahtna has the

smallest number of shareholders of all the regional corporations, having reported 1074 shareholders in 1982.

Under the formula specified by the Settlement Act, Ahtna has a surface land entitlement of one million acres, of which more than 900,000 acres had been conveyed in 1983. The Corporation's subsurface land entitlement is 1.8 million acres, of which it has received 1.4 million acres.

Ahtna's major activities include operation of a tourist lodge at Glenallen, and of a subsidiary construction firm which has had contracts for Trans-Alaska Pipeline maintenance. Together with seven other regional corporations, Ahtna holds an interest in the United Bank of Alaska, which was in fact founded by the corporations. Ahtna has formed a subsidiary company for mineral exploration, and future plans are for involvement in mining and oil and gas development.

The Corporation reported total assets in 1982 of \$19.9 million, up from \$14.9 million in 1981. In the same period, reported net income rose from \$330,000 to \$922,000, an increase of nearly 180 percent. Among the corporations, Ahtna shows one of the better performances and has been credited with good business management.

2. Aleut Corporation

As the name indicates, this corporation's region is the Aleutian Islands and a part of the adjacent Alaska Peninsula. It has over 3,200 shareholders and a surface land entitlement of 53,000 acres, none of which had been conveyed in September of 1983. The sub-surface land entitlement is 1.4 million acres, of which 1.1 million acres has been conveyed.

Business ventures include fishing, coastal shipping, boat servicing, and lending in the money market. The corporation has indicated that future ventures may include mining of sand and gravel, and of gold.

The corporation is reported to have suffered from internal conflict in recent years, including litigation brought against it by some shareholders. In 1979 it had not attained profitability. However, by 1982, it was reporting assets of \$19.4 million as compared with \$18.8 million the previous year, together with a 9.7 percent increase in net income (to \$496,000) over 1981.

3. Arctic Slope Regional Corporation

The geographical boundaries of this corporation are somewhat the same as those of the North Slope Borough but the correspondence is not exact. The shareholders, numbering over 3,700, are Inupiat Eskimo. The Arctic Slope Corporation's surface land entitlement is 4.1

million acres, of which 3.8 million had been conveyed by the fall of 1983. The subsurface entitlement is 5.2 million acres, of which 4.2 million are conveyed.

The Corporation is involved in heavy construction operations, petroleum and other mineral exploration, oil lease sales, and the provision of oil field services at Prudhoe Bay. A substantial portion of its revenues has been from oil lease sales on its lands. Announced future plans include coal, oil, and gas exploration. The Corporation is proceeding with, or has completed, negotiations with the federal government for an exchange of lands that would give Arctic Slope ownership of lands near the Beaufort Sea coast near Kaktovik, which were formerly part of the Arctic National Wildlife Refuge. These lands are thought to have a high potential for petroleum extraction and the "swap" has been loudly opposed by environmentalists.

The Arctic Slope Corporation reported total assets in 1982 of \$56 million, down from \$64 million in 1981. It also reported net income down by a similar amount over the same period, and a corresponding 25 percent reduction in shareholder equity. Apparently, the losses are attributable to implementation, for the first time, of the revenue sharing provisions in ANCSA

which require corporations to share 70 percent of their profits from subsurface development with other regional corporations. This had been the subject of litigation, but later, in June of 1982, there was an agreement among the corporations whereby Arctic Slope was required to pay the others over \$10 million.

4. Bering Straits Corporation

Bering Straits Corporation is headquartered in Nome. Its regional boundaries surround Norton Sound and encompass a major portion of the Seward Peninsula. Its shareholders, numbering about 8,000, are Inupiat Eskimo. The surface land entitlement is 109,000 acres, of which none had been conveyed in 1983. Subsurface entitlement is 2.3 million with 1.5 million conveyed.

The corporation has had severe financial difficulties almost from the outset, which analysts attribute to a rapid and imprudently implemented series of investments executed over a period of years. However, there apparently are some signs that the corporation is beginning to reverse the trend toward insolvency. In 1981, Bering Straits reported losses of \$2 million, and further losses of \$3.4 million over an 18-month period in 1982-83. The corporation has been involved in real estate purchases and coastal shipping operations,

and is a part owner of the United Bank of Alaska. It has expressed an interest in future ventures in hard rock mining and in oil lease sales.

5. Bristol Bay Corporation

This corporation's regional boundaries encompass most of the upper Alaska Peninsula and lands adjacent to the north side of Bristol Bay, in the Yupik Eskimo culture area. There are 5,300 shareholders. The surface land entitlement is 87,000 acres, of which 72,000 have passed into corporate ownership. The subsurface land entitlement is 3.1 million acres, and 2.8 million acres have been conveyed.

Initially, the corporation was mainly involved in fish processing. Today it has investments, or is involved in joint ventures, in a variety of fields including oil drilling, mining exploration and food processing. It owns the Anchorage Westward Hilton Hotel in Anchorage, and is one of the regionals holding an interest in the United Bank of Alaska. Evidently it plans in future to focus on oil and mineral exploration. Last October, it announced plans for a \$20 million addition to its Anchorage hotel.

Bristol Bay Corporation had total assets in 1982 of \$53.2 million, up from \$51.3 million in 1981. Net income in the same period increased from \$64,000 to over \$700,000, partly due to resolution of the

resource revenue sharing issue previously mentioned. In 1983, Bristol Bay announced its "best year ever", having shown an after-tax profit of \$3.4 million.

6. Calista Corporation

The Calista region borders on the Bering Sea, north of Bristol Bay, and is likewise centred on the Yupik Eskimo culture area. It is the second largest of the regional corporations, with 13,400 shareholders. The surface land entitlement is 212,000 acres. The sub-surface entitlement is 6.5 million acres, of which 4.6 million have been conveyed.

Major current activities are reported to include a subsidiary construction company, fisheries, and venture capital investment. The corporation owns the 410-room Sheraton Anchorage hotel.

Calista reported assets of over \$82 million in 1982, and for the same year announced a profit of over \$1.5 million, this being the first profit ever shown. The corporation again declared a profit in 1983, this time of \$2.2 million. Corporate announcements credit the viability of several ventures by way of explanation for this turnaround, including the profitability of its hotel and construction company operations. However, it seems likely that, as in the case of Bristol Bay, some of this new financial solvency may be attributable

to revenue sharing, and perhaps especially the revenues of the Arctic Slope Corporation.

Calista is one of the regionals which places some emphasis on the provision of services to shareholders and the village corporations. For example, the corporation has a program to assist shareholders to attend university, and another designed to train villagers for land use planning.

7. Chugach Natives, Inc.

This Corporation's region is adjacent to the Gulf of Alaska, extending from east of Prince William Sound through the Kenai Peninsula to lower Cook Inlet. The boundaries encompass significant portions of both Eskimo (Sugpiaq) and Indian (Eyak) culture areas. There are about 2,200 shareholders.

This is the only regional corporation which, before 1983, had not received any of its land entitlement owing to a long dispute with the federal government as to which lands should be conveyed. Much of the region is occupied by the Chugach National Forest, and until 1982 the government refused to give the Corporation title to any of it. Most of the remaining land in the area is mountainous and covered with glaciers, and the Natives rejected it as having little or no value to them. The agreement that was finally reached provided for a large portion of Chugach lands

to be transferred from the National Forest, and to include land reported rich in timber and coal, and some with presumed oil and gas potential. The settlement includes cash payments in 1982 and 1983 totalling \$12 million.

The Chugach surface land entitlement is 378,000 acres, of which 13,000 acres had been conveyed in 1983. Subsurface entitlement is 962,000 acres, of which 319,300 have been conveyed.

For most of its years of operation, Chugach Corporation activities were limited to fisheries, and to pipeline maintenance through a contracting firm jointly owned with neighbouring Ahtna Corporation. Chugach also has an interest in the United Bank of Alaska. With its newly acquired land base, the corporation has announced plans to expand into coal mining and timber harvesting. Although Chugach Natives Inc. showed losses in 1982 of \$883,000, its total reported assets rose to \$16.7 million from \$12.3 million in 1981, as a result of the settlement with the government already mentioned.

8. Cook Inlet Region, Inc.

The Cook Inlet Corporation's regional boundaries include the northern portion of the Kenia Peninsula as well as lands bordering the northern and western coasts of Cook Inlet. It roughly encompasses the

Tanaina Indian culture area. There were 6,400 shareholders registered in 1982.

The surface land entitlement is 1.5 million acres, of which 675,752 had been conveyed in 1983. Sub-surface entitlement is 2.7 million acres, and one million acres have been conveyed.

The Cook Inlet Corporation has been active in oil and gas exploration activities on the North Slope, in joint venture undertakings with the Arctic Slope Regional Corporation and with several non-Native firms. It also owns producing gas wells in Cook Inlet, and has major real estate investments in Anchorage, including an hotel. The Corporation is also involved in engineering and construction joint-venture activities, and is one of the eight Native corporations with shares in the United Bank of Alaska. Future plans appear to be focussed on continued activity in the area of oil and gas exploration and development. The corporation also owns coal-bearing lands.

In addition to the good fortune which attends its location and land holdings, the Corporation evidently has been guided by good management and has been one of the consistently more profitable of the regionals. It reported total assets in 1982 of \$116.3 million, up from \$94.3 million in 1981. In the same period, reported

net income was up from \$12.7 million to \$15.6 million. It is the second largest of the Native corporations in terms of total assets.

9. Doyon, Limited

Headquartered in Fairbanks, this corporation's region is larger than that of any other, encompassing most of the Alaskan Interior and most of the Athabaskan Indian culture areas of the state. Doyon Limited has over 9,000 shareholders. The surface land entitlement is 8.6 million acres, and 4.6 million acres have been transferred. Of its 12.3 million-acre subsurface land entitlement, Doyon has received 6.7 million acres. It is the largest landholder of any regional corporation.

Doyon has several subsidiary companies including a construction company and an oil-drilling firm, and is active in petroleum and mineral exploration in its own region and on the North Slope. It holds a 48 percent interest in a civil engineering firm, and an interest in the United Bank of Alaska. There are known asbestos deposits on corporation lands, and Doyon's future plans include their exploration, as well as continued oil and gas exploration.

For some years the Corporation has had the reputation of being well managed, and in 1981 it reported net earnings of \$1.5 million on assets totalling \$63.2

million. Assets had climbed to \$82.5 million in 1982, but earnings fell to \$667,000. In March of 1984, Doyon was reported to be in serious financial difficulty, having lost \$21 million in 1983. Apparently, most of this loss resulted from investing, together with a non-Native firm, in a failed proposal to build an oil refinery at Fairbanks. Doyon's president resigned over the affair, and irate shareholders elected several new members to the board of directors.

10. Koniag, Inc.

The Koniag region includes Kodiak Island in the Gulf of Alaska, together with adjacent islands and a part of the upper Alaska Peninsula. It covers a portion of the Sugpiaq Eskimo culture area, the most southerly of Alaskan Eskimo groups. There were 3,300 shareholders in 1982. The surface land entitlement is 53,000 acres, and 843 acres have been conveyed. Of the subsurface estate of 1.6 million acres, 592,000 acres have been conveyed.

Koniag's major business has been fish processing, but it also has an interest, together with other regional corporations, in Beaufort Sea oil leases. In 1982, the Corporation reported assets of \$26 million, but evidently it has never shown a profit.

For about three years Koniag has been wracked by internal

dissension and in conflict with several of its villages over a corporate merger in 1980, whereby village corporation assets were turned over to the regional body. Villagers sued Koniag on the grounds that it misled shareholders into voting for the merger by not telling them the true value of timber lands that the merger would transfer out of village corporation hands and into Koniag's control. Last January there was a court judgment in favour of the shareholders, and a court decision as to the amount of damages to be paid was expected in March. The possibility that Koniag Inc. might file for bankruptcy was announced a year ago; what the recent legal action may do to the Corporation's prospects is yet to be learned.

11. NANA Regional Corporation

The NANA region is in northwestern Alaska, in Inupiat Eskimo territory bordered by Kotzebue Sound and the Chukchi Sea. The name is an acronym for Northwest Alaska Native Association, the regional body which pre-dated the Settlement Act. NANA's surface estate under ANCSA is 861,000 acres, of which it has received 209,000. Subsurface land entitlement is 2.3 million acres, and over 850,000 acres have been conveyed.

Through a number of subsidiary companies and joint venture operations, the Corporation is involved in

building and operating drilling rigs, surveying, providing oil field services, operating hotels, and catering. It has been described as the most diversified of the regional corporations. NANA is notably active in the Prudhoe Bay oil fields where it provides electrical power, group tours, lodging, equipment rentals, fuel products, and security services. Within its own region, NANA operates an hotel, manages a reindeer herd, and mines jade. It is involved with Cominco Corporation in a joint venture to develop the Red Dog lead-zinc mine, also within its region.

For several years NANA operated a construction company, but closed it down in 1982 after suffering losses totalling \$3.3 million. Nevertheless, in 1982 the Corporation reported net earnings in excess of \$1.3 million on assets totalling \$67.6 million. For 1983, net earnings were \$3.9 million on assets of \$68.7 million.

NANA is often cited as the regional corporation which, in addition to its economic goals, is more committed than any other to social development goals, and to protecting Native culture and traditional ways of life. The Corporation's directors have likewise made it their policy to provide educational and employment opportunities to shareholders, and to establish programs to encourage shareholder involvement in decision making.

This policy of social responsibility is reflected in the terms of NANA's agreement with Cominco should the Red Dog mining development proceed: these include the right to close down mining operations should there be "substantial interference" with subsistence; a prohibition on permanent mine-site housing for outside workers; and strong provisions for hiring local people.

12. Sealaska Corporation

The Sealaska region occupies the Alaska Panhandle in the southeast. The Corporation has 15,800 shareholders, most of them of Tlingit or Haida cultural origin. Its surface estate is 330,000 acres, of which 201,000 have been conveyed, and its subsurface entitlement is 620,000 acres of which 445,000 have been conveyed.

Except in terms of land entitlement, Sealaska is the largest of the regional corporations, having the most shareholders and the most assets (\$482.8 million in 1982). Unlike some of the others, Sealaska has tended to concentrate most of its investments within its own region, the object being to maximize economic impact in areas where shareholders live, and to provide jobs for them. Consequently, investments have been primarily in fish and seafood processing, and in timber production.

The Corporation operates a coastal barge shipping company and a building materials subsidiary. It also has investments in North Slope oil explorations, and in the United Bank of Alaska.

In 1980, Sealaska showed a profit of \$5.9 million and was included in Fortune Magazine's list of the 1000 largest corporations in the United States. In 1981, the company reported a \$3.8 million loss, followed by a massive \$28 million loss in 1982. These setbacks were attributed to a depressed timber market and especially to disastrous losses in the salmon canning industry when the entire 1982 salmon pack was recalled due to suspected contamination. Salmon canning had accounted for more than half of the Corporation's revenues. In 1983, Sealaska was showing signs of recovery and reported profits of more than \$6 million for the first nine months of the year.

13. Thirteenth Regional Corporation

The Thirteenth Regional Corporation, with headquarters in Seattle, Washington, was formed to accommodate the claims settlement interests of Alaska Natives who are not permanent residents of the state. The Corporation has participated only in the money settlement, not being entitled to lands or to sharing in profits from the resources of other corporations' lands.

Fishing and fish processing have been the principal economic activities, and the Corporation has also invested in a company providing dockside facilities in support of offshore drilling. However, the Corporation has suffered from a number of bad investments. It reported losses of \$10.5 million over a 20-month period in 1979-80, and \$1.5 million in losses in 1981.

In 1982 it reported a profit of \$3.2 million, but for an extraordinary reason: Lloyd's of London made a \$14 million insurance payment to the Corporation for the loss of its major asset, a 340-foot fish processing vessel that burned and sank off the coast of Washington. The Corporation has announced its intention to use part of the insurance payment to invest in the oil industry. Assets of \$7.2 million were reported at the end of 1982.

THE REGIONAL NON-PROFIT CORPORATIONS

In addition to the "for-profit" corporations described above, all of the regions have one or more non-profit corporations organized to provide social programs and services on a regional basis. Some of these, such as the Tanana Chiefs' Conference in the Doyon region, have generalized social service functions; others, such as the Bristol Bay Health Corporation, or the Copper River Basin Housing Authority (Ahtna region) perform the more focussed or specialized functions their names imply.

In the majority of cases these regional non-profit corporations evolved from, or grew out of, the earlier regional Native associations that were established to work for a claims settlement. The Settlement Act made no provisions for these associations, which even before ANCSA had carried on a variety of social programs with grants or contracts from government agencies or foundations. The need for such programs still existed after the settlement, and could not be met by business corporations whose main responsibility was to earn a profit. While the regional business corporations did have certain assigned responsibilities for assisting the villagers, the range of these responsibilities as outlined in Part C was limited and fairly specific, and had to do principally with the implementation of the Act itself.

The activities of the non-profit corporations vary according to the particular needs of Natives in each region, but generally speaking they fall within such program categories

as education, health, housing, and employment assistance. Most of their funding is from federal and state governments, the flow of federal government funds having been greatly stimulated by passage of the Indian Self-Determination and Educational Assistance Act of 1976.

Relationships between the profit and non-profit corporations likewise vary, for each region has had to work out its own set of accommodations. In some regions such as Doyon, the non-profits appear to operate virtually independently of the business corporations, while in others the business corporations appear to play a supervisory role. For example, a recent press item reported that the Cook Inlet non-profit organization had lost the confidence and support of Cook Inlet Region, Inc., and that shareholders had voted to create a new non-profit group.

In at least one case, the relationship between profit and non-profit corporations seems very close. NANA Corporation and Mauneluk, Inc., the regional non-profit body, evidently have worked in close co-operation to create and implement a rural development strategy for the NANA region which emphasizes social as well as economic values.

F. IMPACTS, PROBLEMS, AND PROSPECTS

Observers have raised many questions about the Native corporations: questions about their appropriateness as vehicles for the settlement of claims; their viability as business entities; their economic impact on the regions; their future prospects; and whether their activities serve the cultural, social, and economic interests of ordinary Native Alaskans. These and other related issues are complex. As mentioned at the outset, this paper can only touch upon some of them in an introductory way, for even now they are being examined in detail by two major studies in Alaska from which substantial new information seems likely to emerge.

The following discussion draws upon the observations and evaluations of Alaskan social scientists, federal and state officials, and representatives of Native organizations, as furnished in published and unpublished reports, and in personal communications.

1. The Corporation as a Settlement Vehicle

Congress evidently considered that the business corporation was the best institutional mechanism for holding title to the land, investing the money, providing for Native control, and maximizing long-term benefits. The Native leaders who negotiated the settlement apparently shared this point of view, for they were active from the outset in drafting the legislation.

The question of economic viability will be discussed in the next section. As for ensuring Native control, some analysts claim there has been an opposite result and that many corporations, lacking Native management talent on the scale required, have continued to rely in varying degrees on employing non-Native managers. The problem has been most acute in the village corporations, since the regionals are in the best position to recruit most of the Native managers who are available.

As previously mentioned, the regional corporations continue to perform various administrative and service functions on behalf of the villages and of individual shareholders, functions distinct from their strictly commercial responsibilities. Some of these functions were specifically required by ANCSA, while others were assumed due to perceived needs, given the impoverished state of Native Alaskans when ANCSA was passed, and since then. One writer calls the regional corporations "neither fish nor fowl", being ill-suited for profit-oriented activities due to the demands and preoccupations imposed by their service functions. He suggests, furthermore, that corporate structures are too complex and unwieldy for the kind of small-scale activity that might best serve rural development needs, that the corporations are not tools "sized" for the people, and therefore not useful in helping them to become more self-reliant.

2. Economic Viability

In 1982, five of the twelve "instate" regional corporations lost money, including two that earlier had been relatively successful. With some exceptions, the corporations have shown little capability or even much potential for earning enough profits to improve the living standards of their shareholders. Over the period from 1978 to 1982, average earnings per share for seven of the twelve corporations were negative. According to this measure, the two best performers were Cook Inlet Region Inc., with average earnings of \$12.58 per share, and Ahtna Inc., with average earnings of \$2.53 per share.

One observer has noted that the general economic circumstances in which any regional corporation operates must be very accommodating indeed for it to maintain profitability while meeting its revenue-sharing obligations toward other corporations; acquiring, defending, and eventually developing its land endowment; and at the same time keeping shareholders informed, involved, and provided with employment. Another writer comments that Native people "have demonstrated a remarkable determination to make the best of these alien institutions; however, the probability of failures is very real".

3. Benefits to Ordinary Native Alaskans

This subject has been touched upon, but needs elaboration. The Settlement Act required that during the first five

years of implementation, ten percent of all settlement funds received by the regional corporations would be distributed among their stockholders, and another 45 percent would be distributed to the village corporations, and to those persons known as "at large" stockholders who were not enrolled in village corporations. Villagers, on the other hand, are stockholders in village corporations as well as regional corporations, and their village corporations were the recipients of their per capita shares in the "other 45 percent".

It has been estimated that as a consequence of this formula, during the period from 1971 to 1976 the average annual per capita distribution of claims settlement funds to village Natives was less than \$79.00. On the other hand, Natives not enrolled in village corporations received larger disbursements, their average annual payments being about \$434.00. Furthermore, the Act provided for the "at large" stockholders to receive additional payments until 1981, something to which individual villagers were not entitled. Their own small benefits, and the perceived inequities in a system that effectively established two classes of stockholders, were sources of frustration to village Natives for the first decade of ANCSA's implementation. The fact that most stockholders have seen little if anything in the way of dividend

payments on corporate earnings has done little to allay their frustration.

The benefits in terms of job creation for ordinary Native people have been uneven and sporadic. Some corporations, including Sealaska, NANA, and Arctic Slope, have been successful in this regard. Others, due to depressed financial circumstances or to a conscious profit-motivated choice to invest more heavily in urban areas than in their own regions, have had much less impact in terms of generating employment opportunities.

One analyst has observed that the most significant distribution of benefits and services to ordinary Native individuals has come not through the business corporations formed under ANCSA, but through the non-profit corporations for which ANCSA made no provision whatever. Through government grants and contracts to the non-profit corporations, the regions receive millions of dollars annually which work not only to provide needed services, but to support jobs within the corporations themselves, and to have a pump-priming effect on local economies.

4. Consequences for Intergroup Relations

Establishment of the corporations has had some noteworthy social consequences, perhaps especially in terms of intergroup relations. While social

stratification existed before the Settlement Act, since then the Corporations have generated a new elite class of managers, whose high economic status and urban lifestyle distinguishes them from most Native people and, it is said, renders them less understanding of the needs and concerns of ordinary rural Alaskans. This in turn seems likely to generate alienation and resentment among the villagers.

Intergroup conflict and competition has developed in several ways. Disputes between Native corporations have centred on land selections, prospective land use, and revenue sharing. Boundary disputes between regional corporations have led to lawsuits. Other litigation has determined that sand and gravel on village corporation lands are part of the subsurface estate, and thus according to the Act, belong to the regional corporations and not to the villages. The revenue sharing provisions that apply to profits made by regional corporations from their subsurface estate likewise has generated litigation over such questions as whether "revenues" include payments in kind, whether they include lease payments from outsiders in exchange for mineral exploration rights, and whether sharing is to be calculated on the basis of gross or net revenues. While the regional corporations recently reached a negotiated settlement of this issue, there

seems little doubt that the potential for further conflict remains.

There is also continuing potential for conflict between villagers whose needs and interests are in the direction of subsistence land use, and the regional corporations which tend toward resource extraction and development. This kind of dispute has arisen between Doyon Corporation and villagers in the region over plans to exploit an asbestos deposit. While NANA Corporation would appear to have reached an accommodation with villagers over the Red Dog mine development, it remains to be seen what may happen if development proceeds.

5. Implications for Self-Determination

A major positive consequence of establishing the corporations evidently has been the development of Native political, business, and organizational skills, and an attendant sense of pride and self-confidence among Native leaders. Natives have acquired new political and economic knowledge and resources, and have become a most effective lobbying group at the federal and state levels.

In varying degrees, regional corporations perform quasi-governmental functions which may in time make them the forerunners of legally established regional governments. This development has gone farthest in

the NANA region, where profit and non-profit corporations are working together to perform most of the administrative and social service functions normally carried out by such governments. However, there are countervailing forces at work which may affect the evolution of Native government in other ways, as noted in a following section.

6. Impact on Governments

The Native corporations are having a significant impact on both the state and federal governments. State agencies have had to organize themselves to respond to Native corporation needs. For example, the state Department of Commerce and Economic Development has developed or expanded programs to assist both regional and village corporations, providing them with technical assistance and business advice, and helping them to develop domestic and foreign markets for their products. Again, the state was required to establish a special office to administer in trust municipal lands which village corporations are required to reconvey, even where organized municipalities do not exist.

On the federal side, the Bureau of Land Management substantially reorganized its Alaska State Office in

order to meet its obligations to the corporations. The language of the Settlement Act, with its emphasis on Native self-determination, caused uncertainty about the role of the Bureau of Indian Affairs vis-a-vis the corporations, since BIA's function had always been the administration of federal trusteeship responsibilities toward Natives. Thirteen years later this uncertainty persists, and a senior BIA official has said they are looking to the conclusions of the current "ANCSA-85" study in the hope that it may serve to clarify the agency's future direction.

7. Future Prospects

Some of the most vexing questions about the Native corporations focus on their prospects for the future, especially in view of the fact that after 1991, Natives can sell their stock freely and may lose control of the corporations, and likewise their lands, to non-Natives. Added to this is the fact that Natives born after 1971 are not stockholders in any corporation, unless they have inherited stock. It has been estimated that by 1991, about 50 percent of the Native population will have been born after 1971.

Until 1991, children of deceased stockholders who inherit stock have voting rights only if they qualify

as Natives under the Act. Many children of mixed marriages may be disqualified if they do not meet ANCSA's blood quantum requirements. However, after 1991 these same people would have voting rights, along with any other stockholders, Native or non-Native, unless the corporation has itself imposed appropriate restrictions on non-Native shareholders as provided in a 1980 ANCSA amendment.

Yet another threat to the Native estate is perceived in a provision of ANCSA which, in its initial form, allowed for taxation of undeveloped land after 1991, but in its amended form allows for taxation of such lands after a period of 20 years from the time of interim conveyance. Many Natives see the amendment as merely delaying the fateful day when, with the land subject to state and local property taxation, there will be no money to pay the taxes.*

Fear about losing their estate has generated strenuous and sometimes bitter debate among Natives as to what should be done. One consequence has been a movement toward the formation of new tribal governments under the terms of the Indian Re-organization Act of the 1930's.

It is considered that so-called "IRA tribal governments", organized under federally approved constitutions,

*Developed lands, and revenues from such development, are taxable now.

would have more powers vis-a-vis the State, and generally, than do municipal governments organized under State law. Proponents of this measure would have the corporations turn over their lands to the tribal governments. They argue that under existing IRA provisions, lands thus transferred could not then be alienated without tribal approval. However, there is another legal opinion: namely, that any judicial precedents which might seem to support the foregoing argument have applied only to the rights and powers of tribal governments located on Indian reservations in the lower 48 states. Alaska Natives are not reservation Indians, and the areas of jurisdiction of non-reservation tribal governments have not yet been ruled on by the courts.

In any event, the proponents of tribal governments as a solution to the problem of land alienation have a number of adversaries. First, the regional corporations are disinclined to turn over control of their lands. Second, the State Government prefers that all future local governments be established under State law, and has indicated that IRA tribal governments might not qualify for state funding.

Some observers argue that Native fears for their lands are unrealistic; that there are already provisions in

the Settlement Act and in other legislation which protects them. They cite, for example, recent federal legislation that allows for land-banking, and for exemption from taxation of all lands banked. Whatever the facts of the case, the Native community is greatly disturbed by the spectre of 1991.

Meanwhile, the corporations must do the best they can. Since the entire cash settlement was paid several years ago, they are dependent on profits to meet expenses, and clearly many have not been profitable. Given the generally poor conditions for economic development in rural Alaska, they may be required to spend considerable sums to manage a land estate which is largely unproductive in real economic terms.

The long delays in the land conveyance process pose yet another problem. Officials of the Bureau of Land Management, which is responsible for conveyance, claim that interim conveyancing is sufficient in most cases to provide the corporations with a landed estate for exploitation and development. Representatives of Native groups are likely to offer a different view. They argue that lands conveyed on an interim basis have a clouded title, that third parties still may contest their ownership, and that the corporations cannot use

the lands as collateral for borrowing money. Only with final conveyancing will title to lands be clear and only then can their potential be realized. The Bureau of Land Management hopes to complete the necessary survey work for final conveyancing within 10 years, but one spokesman has admitted that this is optimistic. A representative for the Doyon region thinks the process is more likely to take 30 years.

Speaking in general terms, future prospects for the corporations seem rather bleak. An economist at the University of Alaska stated confidently last March that the currently struggling and only marginally profitable regional corporations, and with them most of the for-profit village corporations, are doomed to failure. It seems that future prospects have not changed much since another observer offered the following summary comment five years ago:

"Before 1991, both Regional and Village corporations must be generating cash for operating expenses, any continuing litigation, shareholder relations, and land management; to these costs will be added taxes, the expenses of reissuing shares, and whatever amounts need to be allocated to political efforts to protect what they have received. If inflation continues,

revenues will be diminished accordingly. If anything, just when the corporations will need money most, there will be less of it to go around; and the prospect of large dividend payments in such circumstances appears miniscule."

Against all this doomsaying, however, must be placed the record of some of the more successful regional corporations whose activities are described in Part D. The list must include Sealaska Corporation despite its recent losses, and certainly includes the Cook Inlet and NANA Corporations. Ahtna and Bristol Bay likewise have shown reasonably good performances and with a fair degree of consistency. Calista is a marginal case, but appears recently to be showing some potential. The Chugach Corporation, with its recently attained settlement in land and money, may yet prove viable.

G. SOME CONSIDERATIONS FOR CANADIAN PLANNERS

This is a topic which can only be addressed here briefly and in the most general terms. The Alaskan land settlement experience calls attention to a number of problems and situations which the Canadian Government would presumably wish to avoid in establishing any land claims regime. These include:

1. Native Organizations being burdened by regulations imposing unrealistic objectives, conflicting responsibilities, impossible deadlines, and needlessly complex and costly management structures that syphon off settlement benefits before they can be put to further economic use.
2. Native groups being manoeuvred into any situation which they perceive as threatening them with loss of their lands or other claims benefits.
3. Provisions that leave inexperienced Native groups exposed to the uncertainties of free-market forces that could dissipate their benefits. In this regard, the question of whether or not business corporations are appropriate settlement vehicles demands close examination.
4. An absence of adequate provision to ensure that Native organizations receive the advice and technical assistance they need while learning to manage their settlement benefits.

Finally, it bears repeating that despite the many problems experienced, the establishment of business corporations has had some positive consequences. Chief among these has been the development and enhancement of Native political, business, and organizational skills, and with them a sense of pride and self-confidence not only among the top corporate leaders, but also at other levels in the Native social structure. Perhaps the expectation that they must sink or swim in a competitive business world contributed to these positive consequences, and to the real economic successes of some of the corporations.

5. Provisions for revenue sharing among corporate bodies which, while aimed at ensuring equality, threaten to impoverish the more energetic and better managed groups.
6. Structured situations that promote conflict and undue competition among Native corporate groups.
7. Extraordinary delays in the disbursement of lands or other benefits, which in the Alaska case stemmed from difficulties of legal interpretation and inadequate administrative measures to facilitate implementation of ANCSA.
8. Establishing among Native individuals anything resembling a "two-class" system of shareholders or beneficiaries, and the resentment it engenders.
9. Any provision that causes the average Native individual to perceive that he personally is realizing few if any benefits from a claims settlement.
10. Provisions that may interfere with the inheritance of benefits by future generations.
11. Establishing a timetable for settlement implementation that imposes unrealistic and unnecessary deadlines on government agencies, as well as on Native groups.