

**CONTAMINATED LAND CONVEYANCES: THE  
ALASKA NATIVE CLAIMS SETTLEMENT ACT,  
THE DETRIMENTAL IMPACTS OF  
CONTAMINATION ON NATIVE COMMUNITIES  
AND THE NEXT STEPS FOR ENVIRONMENTAL  
JUSTICE**

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**FIELD HEARING**

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS**

**UNITED STATES SENATE**

ONE HUNDRED SEVENTEENTH CONGRESS

SECOND SESSION

—————  
AUGUST 23, 2022  
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**TUESDAY, AUGUST 23, 2022**

U.S. SENATE,  
COMMITTEE ON INDIAN AFFAIRS,  
*Unalaska, AK.*

The Committee met, pursuant to notice, at 12:00 p.m. AKT in the City Council Chambers of Unalaska City Hall, 43 Raven Way, Unalaska, Alaska, Hon. Lisa Murkowski, Vice Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. LISA MURKOWSKI,  
U.S. SENATOR FROM ALASKA**

Senator MURKOWSKI. Good afternoon, everyone. I am calling to order this hearing of the Committee on Indian Affairs.

Thank you for the opportunity to gather here in Unalaska. It is always an adventure, coming to Unalaska. Unalaska is in itself an extraordinary and beautiful place, a beautiful land with extraordinary people. So we are pleased to be with the people.

But it is not without its challenges. I think part of that challenge is just the traveling. Many of us at the dais here today experienced a little bit of that challenge. Many of you in the audience today either experienced that today or you do on other occasions as well.

We recognize that travel here is a little bit different than anywhere else in the Country. Many of our communities are remote and some of them are extremely remote. We are not connected by roads; we are not connected by much of anything else. So it is planes and boats that bring us together, and it is not without cost. The cost of an airplane ticket to get out here is attention-getting, when it is close to \$1,000 one way to move you and your family. That is a problem. When you have multiple cancellations and the airport packed with people trying to come and trying to go, that is a problem.

So when it comes to planning a hearing like this, it requires a fair amount of flexibility. We thank those who have been flexible with us.

I hope that for those who have traveled here you have gained some small sense of what the people who live here experience every day, all throughout the year. Thank you to our Federal witnesses in particular for sticking with this trip. I hope that now you are in Unalaska, you can see that it is worth it. It is not only worth it to be on the ground and to see for yourself, but it is good to connect and understand a little bit more what the people who live here and call this amazing place home, what they accept as the day-to-day challenge of living in a place like Unalaska.

Before we start, I want to pause and acknowledge that we are present on the traditional homelands of the Native Unangan people who have lived on the island of Unalaska for thousands of years. It is these lands, it is these lands that the Federal Government forced the Unangan to relinquish, in many cases allowed the military to use them and then in later settlement of aboriginal land claims, they conveyed them, and they conveyed them many times with contamination to the Alaska Native Corporations that Congress had created.

It is that injustice and the decades-long breach of the Federal Government's trust responsibility that really brings us here today.

A few housekeeping matters this afternoon. This is an official United States Senate hearing. As such, the format will be the same format that we use for our hearings in Washington, D.C. I will take testimony from our six invited witnesses, and then I will proceed to ask them questions.

After the hearing is over, anyone is welcome to submit their own written testimony. I include those of you here. You can submit that testimony to the Committee, and it will be made part of that hearing record. That record will be kept open for two weeks. Anyone who wants to send testimony should send it to [testimony@indian.senate.gov](mailto:testimony@indian.senate.gov). I will repeat that at the end of the hearing.

I want to extend a special thank you to the community of Unalaska for hosting us, I want to thank the city, the tribe, the village corporation staff for working with all of my team to pull together both this hearing as well as the field site tour.

This hearing is entitled Contaminated Land Conveyances: The Alaska Native Claims Settlement Act, the Detrimental Impacts of Contamination on Native Communities and Next Steps for Environmental Justice. It is an opportunity for us to examine the unique history and legacy of ANCSA, including the conveyance of contaminated lands. It will allow us to reflect on the progress made to inventory and to clean up a few of those sites along with understanding the progress that have not been made.

It is also a moment to determine what comes next, what all of us from Alaska Native tribes, ANCs and tribal consortia, the State of Alaska and our Federal agencies, all of us working together to remedy this urgent problem. I will underscore what we will hear from one of our witnesses later, another report is not a remedy to this ongoing injustice. People are looking for an actionable plan.

To me, what we are discussing today is really environmental injustice, true environmental injustice. We are talking about lands that the Federal Government conveyed to Alaska Native Corporations to settle aboriginal land claims that were often horribly con-

taminated, even in some areas that many would consider or expect to be pristine when you simply look at the place.

There are hundreds of known sites with contamination across Alaska. More than 500 of them are classified as formerly used defense sites. That means that their contamination was caused by past military activity, and the Department of Defense is responsible for cleaning them up. Many of these sites are on Alaska Native lands, including those transferred under ANCSA. Some of them are here on Unalaska Island, where we are today. We will hear testimony from the Mayor, there are 51 areas of concern impacting approximately 80,000 acres here on Unalaska Island.

We will have a chance to see a FUDS site later today. At that point we will learn more about the trilateral agreement between Unalaska Corporation, the Qawalangin Tribe of Unalaska, the City of Unalaska, but also the work of the local resource advisory board and the collaboration between the Federal Government, led by the Army Corps, and the State of Alaska.

This is, as I mentioned, an injustice, an environmental injustice. I think it is also a crisis. The contamination on Native lands across Alaska is contributing to very real and in many instances truly awful health impacts, including clusters of cancer and Parkinson's from activities as simple as harvesting and eating berries. Traditional hunting and fishing grounds have been affected, threatening food safety, food security in Native culture, which is tied to the land and the waters.

The impacts are only getting worse as erosion exposes chemicals and waste that have been buried for decades. Yet there doesn't seem to be the sense of urgency that I think is the imperative here. This is the responsibility, this is an obligation of the Federal Government to basically clean up its own mess, and there is no urgency that we are seeing. If these had been private entities that had left this level of contamination, believe me, the attitude and the urgency to address it would be entirely different.

To me, that is shameful. It is the type of thing that makes Alaskans lose faith in our government, and continues to harm innocent lives, families and communities. As the indigenous people here know that this is not the first time the Federal Government's lack of coordination and poor decisions have led to human tragedy in this region. During World War II, the United States government interned the Unangan people to squalid relocation camps in southeast Alaska while their non-Native neighbors were allowed to stay. Nearly 10 percent of internees died at the camp, and those who were allowed to return found their homes compromised by contamination.

We also cannot forget the especially tragic wartime experience of the residents of the Village of Attu who were taken by the Japanese and held as prisoners in Japan until the end of the war. About half of them died. The survivors were never allowed back to Attu. The entire village was lost. More than half a century later, these World War II impacts are still very real for the people who live there.

I have tried to make headway at the Federal level in working on this matter, have been working on this matter for years, working

with many of you that are sitting around this dais here. Progress has been slow; it has been difficult.

We now have inventories of ANCSA contaminated sites and reports full of recommendations, including funding and land exchanges. We also had to change the law to address liability concerns, because up until 2018, ANCs were considered potentially responsible parties for the contamination on the lands that the Bureau of Land Management had conveyed to them. These were lands that were contaminated by the government, BLM conveys them and then says that the liability is to the ANCs. You just can't make this stuff up.

So we are here today to shine a spotlight on these issues yet again. We are asking for help, we are asking for leadership from the Executive Branch. Yet it seems we still have more people interested in avoiding blame than taking responsibility. So we have to acknowledge a few of the recent bright spots, including EPA's grant program focused on ANCSA contaminated lands.

Even with that progress, the cold hard facts still remain. That is that at the current rate of funding, the remediation and cleanup of these lands will take decades, if not centuries. That will mean needless human suffering and environmental devastation in the meantime. That can't be acceptable for any of us. The time to act is now, and this hearing is designed to move us further along that path.

I have taken more time with an opening statement than I usually care to do. It is important to set the table for the dialogue.

We have a great panel of witnesses who have traveled with us to be here today. We are going to lead off today's panel with Mr. Steve Cohn. Steve is the Alaska State Director for the Bureau of Land Management with the Department of the Interior. He is based in Anchorage. He is accompanied by Erika Reed, who is the Acting Associate State Director for BLM at the Department of the Interior.

Next to Ms. Reed is Mr. Carlton Waterhouse. Mr. Waterhouse is the Deputy Assistant Administrator for the Office of Land and Emergency Management at the EPA, based in Washington, D.C. We welcome you.

We have Lara Beasley, who is with the Chief, Environmental Division at the U.S. Army Corps of Engineers, also in Washington, D.C. Thank you for traveling so far. She is accompanied by Colonel Damon Delarosa. Colonel Delarosa is known to many of us around the State. He is the Commander, U.S. Army Corps of Engineers for the Alaska District, and has been working on many, many projects around the State. We know you are a busy man, so thank you for being here.

The Commissioner of the Alaska Department of Environmental Conservation, the Honorable Jason Brune, is with us here this afternoon. Jason bases in Juneau and Anchorage, and usually on Alaska Airlines, where we see one another quite frequently. Thank you for making the trip.

Of course, our local leader, the Honorable Vincent Tutiakoff, who is the Mayor here of the City of Unalaska. He is also the Chairman of the Board of the Unalaska Corporation. He is the traditional



Chief of the Qawalangin Tribe. As Mayor, I also call him my friend, Vince. I appreciate your leadership over the years.

To round out our panel today is a woman who has been leading on these issues of environmental contamination on ANCSA lands for years now. Hallie Bissett is the Executive Director of the Alaska Native Village Corporation Association. She has just been a dynamo on these issues. Hallie, we are very, very grateful that you are able to be with us today.

Each of our witnesses has been told that they have about five minutes to deliver their testimony orally. We would ask that you try to summarize, if you will. Your full written testimony will be made part of the official hearing record. Know that that will be fully incorporated, but we do hope that we have an opportunity for more questions at the end. So if you can keep your statements much shorter than mine, we are going to do just fine.

[Laughter.]

Senator MURKOWSKI. So with that, I will turn to you, Mr. Cohn, with the Bureau of Land Management, if you would like to start the discussion. Thank you.

**STATEMENT OF STEVEN M. COHN, ALASKA STATE DIRECTOR, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY, ERIKA REED, ACTING ASSOCIATE STATE DIRECTOR, BUREAU OF LAND MANAGEMENT**

Mr. COHN. Vice Chairman Murkowski, I am Steven Cohn. I am the Alaska State Director with the Bureau of Land Management. I am also accompanied by Erika Reed, Acting Associate State Director for BLM Alaska.

We are pleased to be here to provide testimony regarding contaminated sites conveyed out of Federal ownership to Alaska Native Corporations through the Alaska Native Claims Settlement Act of 1971, or ANCSA. Indigenous communities, communities of color, rural communities, low-income families, and people in the U.S. territories have long suffered disproportionate and cumulative harm from the climate crisis and air and water pollution.

Alaska Natives have been especially burdened with contaminated sites on former Federal lands and facilities conveyed through ANCSA. The Department of the Interior and the BLM understand the health, safety, and environmental concerns associated with these actions. We are committed to working with our agency colleagues to chart a productive path forward.

The passage of ANCSA entitled Alaska Native communities to select and receive title to 46 million acres of Federal land. Since its enactment, over 44 million acres have been conveyed.

As the Secretary of the Interior's designated survey and land and transfer agent, the BLM is responsible for adjudicating land claims, conducting and finalizing cadastral land surveys, and transferring legal title of Federal lands. Under ANCSA, the BLM does not have discretion about whether to transfer the lands once they are selected.

Over time, it has become clear that some of the land conveyed under ANCSA included contaminated sites from former Federal facilities. Initial recognition of the growing issue led to the chartering

of a Statement of Cooperation Group in the 1990s by various Federal and State agencies which began the first collaborative efforts to address contaminated sites.

To further understand the scope and scale of the issue, in 2016 the BLM provided Congress with a report which summarized progress made through a collaborative effort to develop an inventory of potentially contaminated sites conveyed known as the Contaminated Lands Inventory, or CLI. The CLI represented the first and only comprehensive geospatial inventory of potentially contaminated sites.

Earlier this year, the BLM began to incorporate a new data base provided by the Alaska Department of Environmental Conservation into the CLI. Once the BLM completes assessment of the State's data base, the BLM expects more detailed information will be available to facilitate future action on these sites.

The 2016 report to Congress further recommended the establishment of a formal working group, which resulted in the creation of the ANCSA Contaminated Sites Working Group. This group includes the Department, the Alaska Department of Environmental Conservation, and the EPA. Additionally, the Alaska Native Tribal Health Consortium's Contamination Support Program helped established and continues to facilitate the ANCSA Contaminated Lands Partnership Group.

The efforts provide an ongoing forum to share information and create a strategic plan for cleaning up and restoring contaminated sites using the combined resources and capacities of the member agencies and organizations.

The Administration recently initiated the Arctic Executive Steering Committee to focus on an action-based approach to prioritizing the ANCSA contaminated sites issue. This interagency group has a strengthened commitment to establish a strategy that leverages Federal agency authorities through four primary goals.

These goals include strengthening communication and effective collaboration between Federal agencies, the State of Alaska, Alaska Native Tribes, and Alaska Native Corporations and determining what additional assessment and verification is needed to determine the scope of contamination at sites. It also includes identifying eligibility and prioritization requirements for cleanup at contaminated sites, and most importantly, initiating cleanup.

The Arctic Executive Steering Committee will complement the existing Statement of Cooperation interagency collaboration by establishing a Federal strategy that will successfully complete critical milestones resulting in the cleanup of sites statewide.

While the BLM's authorities under ANCSA are limited to processing those actions involved in transferring land ownership, the BLM has adapted its adjudication procedures for future conveyances of land to Alaska Native Corporations to add steps for providing notice of contamination identified through existing data base review.

The Department of the Interior and the BLM support the President's call to action to address current and historic environmental injustices and ensure accountability. We are committed to doing our part to address this important issue here in Alaska.

Thank you again for the opportunity to be here today. We look forward to your questions.

[The prepared statement of Mr. Cohn follows:]

PREPARED STATEMENT OF STEVEN M. COHN, ALASKA STATE DIRECTOR, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to provide testimony regarding sites conveyed out of Federal ownership to Alaska Native Corporations through the Alaska Native Claims Settlement Act (ANCSA). The Department of the Interior (Department) and the Bureau of Land Management (BLM) understand the health, safety, and environmental concerns associated with contaminated Federal lands conveyed under ANCSA. We are committed to doing our part to address this important issue by working with our agency colleagues to chart a productive path forward.

Indigenous communities, communities of color, rural and low-income families, and people in the U.S. territories have long suffered disproportionate and cumulative harm from the climate crisis and air and water pollution. Alaska Natives have been especially burdened with contaminated sites on former Federal lands and facilities conveyed through ANCSA. As we acknowledge that reality, the Biden-Harris Administration has mobilized an all-of-government approach to advance environmental justice. As directed in Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, the Department has partnered with agencies across the Federal government to develop a strategy to address current and historic environmental injustices and ensure accountability. This high-level, action-oriented initiative is being conducted by the Arctic Executive Steering Committee (AESC) a White House-led program to enhance coordination of national efforts in the Arctic.

**Alaska Native Claims Settlement Act**

In 1971, Congress passed ANCSA, which settled aboriginal land claims in Alaska and entitled Alaska Native communities to select and receive title to 46 million acres of Federal land. ANCSA also established a corporate structure for Native land ownership in Alaska under which Alaska Natives would become shareholders in one of more than 200 private, land-owning Alaska Native village, group, urban, and reserve corporations and/or one of 12 private, for-profit, landowning regional corporations. For Alaska Natives who were non-residents of the State at the time the law was enacted, ANCSA authorized a non-landowning 13th regional corporation. Today, most Alaska Natives are enrolled in two corporations: the corporation representing the community where they lived in 1970 and a regional corporation. Each regional corporation encompasses a specific geographic area and is associated with Alaska Natives who had traditionally lived in the area. For each corporation, whether village or regional, ANCSA provided at least two potential acreage entitlements through which it could select and receive ownership of Federal lands.

As the Secretary of the Interior's designated survey and land transfer agent, the BLM is the Federal agency responsible for adjudicating land claims, conducting and finalizing cadastral land surveys, and transferring legal title of Federal lands. These Federal lands may be managed by any Federal agency. The BLM's Alaska Land Transfer Program administers the implementation of the approximately 46-million-acre transfer of land to Alaska Native Corporations under ANCSA. When the survey and conveyance work under ANCSA and similar laws directing the transfer of Federal land (i.e., the Alaska Native Allotment Act and the Alaska Statehood Act) is completed, over 150 million acres will have been transferred from Federal to State and private ownership. This is equivalent to approximately 42 percent of the land area in Alaska.

**Contaminated Lands/Inventory**

The Alaska Native community has expressed concerns over health, safety, and economic issues relating to the presence of hazardous materials or other forms of contamination on Federal lands conveyed to them under ANCSA. The Department and the BLM share these concerns and have redoubled our efforts to work with our Federal and State partners to address them. While the BLM is responsible for processing land conveyances pursuant to ANCSA, the BLM does not have discretion about whether to transfer the lands once they are selected by Native Corporations.

Some of the conveyed land contained facilities previously developed and managed for handling large quantities of fuel, generating power, disposing of solid waste, or discharging wastewater by various Federal and nonfederal entities. In some instances, the presence of such facilities and infrastructure created the potential for contaminants to be released into the environment, and historical releases have been

documented at many such locations throughout Alaska. An unintended consequence of ANCSA was that lands selected by corporations were conveyed regardless of whether they were contaminated because the law prioritizes speed of title transfer and completion of boundary surveys and does not have a requirement for physical inspection of lands.

The explanatory statement accompanying the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113–235) directed the BLM to develop a report regarding contaminated sites on lands conveyed to ANCSA corporations. In 2016, the BLM provided Congress with its report, *Hazardous Substance Contamination of Alaska Native Claims Settlement Act Lands in Alaska* (Report), which summarized progress made through a collaborative effort to develop an inventory of potentially contaminated sites conveyed to ANCSA corporations. The Report provided recommendations to fully address cleanup of contaminated sites conveyed through ANCSA.

During development of the Report, the BLM created the Contaminated Lands Inventory (CLI) database and map by consolidating information from four databases held by the Alaska Department of Environmental Conservation (ADEC), U.S. Air Force, Federal Aviation Administration, and the U.S. Army Corps of Engineers. The BLM worked closely with Federal, State of Alaska, and Alaska Native stakeholders to obtain additional spatial, location, and conveyance information for incorporation in the Report and CLI database and map. The CLI represents the first and only comprehensive geospatial inventory of potentially contaminated sites conveyed through ANCSA. The database and map contain information about each site's land and regulatory status, including the entity to whom the property was conveyed, or is in the process of being conveyed; coordinates, if known, for where the site is located; the general understanding of the site's contamination, if known; and potential data gaps. The CLI database also includes the Orphan Site Database, which contains information on sites that do not appear to be in a clean-up program. The CLI also tracks sites that are identified as "open," or being worked on, and sites that are considered orphans and require further site assessment.

Earlier this year, the BLM began to incorporate a new database provided by ADEC and to review new sites and site locations. Once the BLM completes assessment of the ADEC database, the BLM expects more detailed information will be available to facilitate future action on these sites.

### **Working Groups**

The 2016 Report to Congress further recommended the establishment of a formal working group to address inventory and cleanup efforts. In the early 1990s, a Statement of Cooperation (SOC) group was chartered by various Federal and State agencies to work cooperatively to address and resolve environmental issues in the State of Alaska. The SOC established an Executive Steering Committee and working groups to collaborate on addressing important contaminated site issues. The ANCSA Contaminated Sites Working Group was established soon after the Report was submitted. The Group is led by the Department, ADEC, and the U.S. Environmental Protection Agency (EPA), and continues to engage on contaminated site issues.

Additionally, the Alaska Native Tribal Health Consortium's Contamination Support Program helped establish and continues to facilitate the ANCSA Contaminated Lands Partnership Group (Partnership Group), which also includes Alaska Native Corporations and Tribes. The Department, EPA, ADEC, the Department of Defense (DOD) agencies, and other SOC agencies have participated extensively in both working groups. These efforts continue to provide an ongoing forum to share information and create a strategic plan for cleaning up and restoring contaminated sites using the combined resources and capacities of the member agencies and organizations.

Further, the Administration recently initiated the Arctic Executive Steering Committee (AESC), through the White House Office of Science and Technology Policy, to focus on an action-based approach to prioritize the ANCSA contaminated site issue. This interagency group has a strengthened commitment to establish a strategy that leverages EPA, DOD, and Department authorities. In its March 30, 2022, meeting, the AESC identified four primary goals: strengthening communication and effective collaboration between Federal agencies, the State of Alaska, Alaska Native Tribes, and Alaska Native Corporations; determining what additional assessment and verification is needed to determine the scope of contamination at sites; identifying eligibility and prioritization requirements for cleanup at contaminated sites; and initiating cleanup. Each agency will perform the parts of the strategy that align with their legal authorities. The group will complement the existing SOC interagency collaboration by establishing a Federal strategy that will successfully complete critical milestones resulting in the cleanup of sites, statewide.

**BLM's Role**

The BLM's role in surveying and patenting lands under ANCSA has been administrative and the BLM's authorities are limited to processing those actions involved in transferring land ownership. As such, the BLM is not a Potentially Responsible Party pursuant to CERCLA purely by nature of its role in administering the transfer of lands under ANCSA. Nor are there any provisions in ANCSA that address responsibility for the past release of contaminants to the environment on lands that are subsequently conveyed under the Act. As a result, the BLM has no continuing obligation for documenting or remediating contaminated sites conveyed under ANCSA unless future documentation shows contamination occurred while the BLM managed or controlled a particular parcel. Work completed by the SOC's ANCSA Contaminated Sites Working Group has not identified any such parcels to-date, and the BLM is unaware of any parcels that would fall into this category. The BLM has adapted its procedures for future conveyances of land to ANCSA corporations to add steps for providing notice of contamination through existing database review as part of the adjudication process. Whether the lands are ultimately conveyed after BLM provides notice of potential contamination is a decision that continues to rest with the Native Corporation receiving the conveyance.

The Department is aware of and appreciates the concerns of the Alaska Native community regarding the risks to health, safety, and the environment due to contamination found on former Federal lands conveyed to them under ANCSA. The BLM is committed to working with Alaska Native partners in identifying priority sites for cleanup, with Federal colleagues through the AESC interagency initiative, and with State agencies directly to address this issue expeditiously.

**Conclusion**

The Department believes that a collaborative approach involving Federal, State, Tribal, and local governments, as well as Alaska Native Corporations and stakeholders, can successfully work to address these important issues. The Department is hopeful that we can assist our agency partners in effectively deploying their cleanup resources through the AESC initiative. We will continue to work diligently and collaboratively with our Federal, State, and Alaska Native partners, affected communities, and others to chart a coordinated and strategic path forward that is responsive to these concerns.

Senator MURKOWSKI. Thank you, Mr. Cohn.  
Let's next turn to Dr. Waterhouse.

**STATEMENT OF CARLTON WATERHOUSE, J.D., PH.D., DEPUTY ASSISTANT ADMINISTRATOR, OFFICE OF LAND AND EMERGENCY MANAGEMENT, U.S. ENVIRONMENTAL PROTECTION AGENCY**

Dr. WATERHOUSE. Thank you so much. Good morning, Senator Murkowski. I am Carlton Waterhouse, Deputy Assistant Administrator for the United States Environmental Protection Agency's Office of Land and Emergency Management. I want to thank you for the opportunity to testify today. Cleaning up ANCSA sites is important, and I am grateful to be here with my Federal colleagues to discuss how we can collaborate to produce greater results for the people of Alaska.

As a former resident, Alaska and its people are near and dear to my heart. The issues here are unique, and require creative and thoughtful solutions. I recognize that ANCSA lands present unique locations, remote locations, limited transportation, equipment availability, climate change, climate and the vastness of the State make cleanup more challenging.

I am excited to discuss how EPA is working to lead an effort to bring the Federal family together to take on those challenges and move forward with greater urgency to address the legacy contamination on ANCSA lands. We are actively working with our Federal and State partners to develop a robust framework to achieve faster

cleanups, informed decision making, effective coordination, accountability, and commitment to using a whole-of-government approach are critical to our success.

Today I join my colleagues across the Biden-Harris Administration in a partnership to prioritize addressing the contaminated threats that overburden Native villages and tribes, and to achieve our goal of a cleaner, healthier, and more equitable Nation for all people. Alaska Natives have long been impacted by contamination where they eat, work and play. Here in Unalaska, we know that Federal operations in the last century left a legacy of contamination, including PCBs, heavy metals, and asbestos. The independent approaches used in the past have not been effective enough.

In partnership with ADEC, EPA is currently using our available authorities, including our Superfund, Brownfields and Underground Storage Tank program to address contaminated ANCSA lands. We will continue to evaluate our authorities to expand our efforts. While EPA's authorities under CERCLA might be most useful as a tool for orphan sites, EPA has additional authorities for land-related cleanups and can also provide technical expertise and leadership.

Recently, EPA Region 10 expanded its existing CERCLA cooperative agreement with ADEC with a specific focus on ANCSA work, including site inventory and preliminary assessments. This builds on EPA's previous work to evaluate sites for CERCLA cleanup.

In June 2022, I joined senior Federal officials with the White House Arctic Executive Steering Committee to launch a collaborative initiative across the Federal family to leverage collective resources and expedite progress to clean up contaminated sites in service to this Administration's commitment to addressing environmental justice. I am co-leading the ANCSA Contaminated Lands Initiative in partnership with DOI and DOD with the support of DOE, NOAA, and others. The initiative strengthens collaboration between the Federal Government, our State, tribal, and local partners to improve the process to clean up those contaminated sites that have not been addressed. We are working together to identify how best to leverage our agency's available authorities and tools to enhance this effort.

The initiative has four main components: enhanced collaboration between Federal, State, Alaska Native tribes, and Alaska Native Corporations. Two, a focus on data assessment and verification to develop inventory and identify scope of contamination. Three, identification of eligibility and prioritization of cleanup sites. And four, an effort to move forward with assessments and cleanup activities based on the information gathered.

EPA stands ready to assist ADEC in developing and managing an enhanced site inventory which is a critical first step under a pending memorandum of understanding. Further, EPA appreciates proposals that will support any activities that further the work to address ANCSA sites and ensure that our tribal partners are engaged and involved.

In the coming months, EPA will continue working on this effort to improve the quality and pace of addressing ANCA contaminated lands. We look forward to engaging directly with our Alaska Native

partners most affected by the legacy contamination to advance cleanup efforts and produce faster and greater results.

EPA recognizes that Alaska Natives have waited too long for a solution, and it is now time for us to act.

Thank you for the opportunity to testify today, and I look forward to our discussion.

[The prepared statement of Dr. Waterhouse follows:]

PREPARED STATEMENT OF CARLTON WATERHOUSE, J.D., PH.D., DEPUTY ASSISTANT ADMINISTRATOR, OFFICE OF LAND AND EMERGENCY MANAGEMENT, U.S. ENVIRONMENTAL PROTECTION AGENCY

Good morning, Vice Chairman Murkowski. I am Carlton Waterhouse, Deputy Assistant Administrator for the U.S. Environmental Protection Agency's Office of Land and Emergency Management, or OLEM. I want to thank you and Chairman Schatz for the opportunity to testify today on addressing legacy contamination on lands conveyed under the Alaska Native Claims Settlement Act (ANCSA). This is an important issue to the federal family, and I am grateful that my colleagues from the Department of Defense and Department of the Interior have joined us today to discuss how best to collaborate and proceed with a coordinated approach to produce greater results for the people of Alaska.

The issues here in Alaska are unique and require creative and thoughtful solutions. As a former resident of Alaska, the people and the land are near and dear to my heart. Today's hearing allows me the opportunity to discuss how EPA is leading an effort to move the federal family forward in addressing legacy contamination of ANCSA lands by using a new approach which brings people together to address a problem that has taken too long to solve. We are actively working with our federal partners to find common ground and to identify joint equities to bring our collective resources and expertise to bear on this issue along with our state partners. Accordingly, we at EPA commit our eligible resources to support accelerated assessment and cleanup efforts. We recognize that informed decisionmaking and effective coordination at all levels of government is critical to the cleanup progress, and we are committed to using a whole of government approach to move this issue forward. Today, I join my colleagues at EPA and across the Biden-Harris Administration in a commitment to prioritize addressing the continued threats to human health and the environment from contaminated lands that overburden native villages and tribes. Through our partnerships, we can achieve our goal of a cleaner, healthier, and more equitable Nation where all people have equal access to safe and clean communities.

#### **Background and Challenges**

EPA recognizes that the conveyance of contaminated lands to the Alaska Native Corporations under ANCSA is a significant concern to the Alaska Native Corporations and Alaska Natives interested in using these lands for beneficial use. EPA further acknowledges the significant concerns raised by federally recognized tribes, corporations, communities, and stakeholders regarding the slow pace of progress to reach resolution on this important issue.

Alaska Natives have long been impacted by contamination where they eat, work, and play. Here in Unalaska for example, we know that federal operations in the last century left a legacy of contamination such as: polychlorinated biphenyls (PCBs) leaks from transformers, contaminated soils in underground tank farms, and heavy metal and asbestos in abandoned structures.

Further, we recognize that ANCSA lands present unique challenges that must be considered as we develop a coordinated approach to address contamination. The remote locations, limited transportation options, equipment availability and movement, and the sheer vastness of the state make site assessment and cleanup more challenging than other parts of the country. The approaches used in the past by federal and state agencies to track these lands have also made it difficult to develop a collective understanding of the universe of sites, to prioritize them, and to communicate effectively across stakeholders. EPA is committed to building a framework with our partners to address this legacy contamination as we recognize it is more important than ever to address the needs of a region with increased vulnerability to the impacts of climate change. Assessment and cleanup of contamination on ANCSA lands is critical to increasing the resiliency of these communities and the region.

### **EPA's Ongoing Efforts**

EPA is currently using our available authorities, including our Brownfields program, to support Alaska Native communities in addressing contaminated ANCSA lands. The state of Alaska receives a sizable allocation of the funding under our CERCLA 128(a) authority to maintain their State Response Program and provide site-specific assessments and cleanups. Our partners at the Alaska Department of Environmental Conservation (ADEC) are working to establish and update the database of contaminated sites and to conduct Phase I and Phase II Environmental Site Assessments to support data gathering efforts across the State.

Targeted Brownfields Assessments, for example, are a unique and flexible tool for communities to begin the process of addressing contaminated lands. These assessments are non-competitive, EPA-led opportunities provided at no charge to communities. To date, 21 tribes and tribal consortia in Alaska receive direct funding under CERCLA 128(a) for building Tribal Response Programs and their capacity to address ANCSA sites. Alaskan communities have successfully applied for Brownfields competitive grants for assessment and cleanup with recent grants to the City of Unalaska, Yukon River Inter-Tribal Watershed Council, Kawerak, Inc., and the Municipality of Anchorage. Alaskan villages may also benefit from our Brownfields technical assistance to communities, planning and redevelopment opportunities, and the Brownfields Job Training Program.

Also operating under CERCLA authority, EPA's Pacific Northwest Regional office recently expanded its existing Cooperative Agreement with the state of Alaska with a specific focus on ANCSA work, including work on the site inventory and other preliminary assessments under Superfund. This builds on EPA's previous work to evaluate sites for CERCLA cleanups by the Region's Superfund Site Assessment program.

### **Participation on the Arctic Executive Steering Committee (AESC)**

In June 2022, I joined senior federal officials with the White House Arctic Executive Steering Committee (AESC) in Alaska to launch an initiative on ANCSA contaminated lands. This effort utilizes a collaborative approach across the federal family to leverage collective resources and expedite progress to clean up contaminated sites in service to the Biden-Harris administration's commitment to addressing environmental justice. In my role at EPA, I am co-leading the ANCSA Contaminated Lands Initiative in partnership with the Department of the Interior and Department of Defense with the support of the Department of Energy, the National Oceanic and Atmospheric Administration and others. The initiative strengthens collaboration between the federal government, the state of Alaska, Alaska Native Corporations, tribes, and Alaska Native Organizations to improve data and transparency and initiate and prioritize cleanup of those contaminated sites that have not been addressed. EPA, along with our federal partners, is working to identify how best to leverage our Agency's available authorities and tools to enhance this effort.

The ANCSA Contaminated Lands Initiative under AESC leadership has four main components: (1) enhanced collaboration between federal, state, Alaska Native tribes and Alaska Native Corporations; (2) a focus on data assessment and verification to develop inventory and identify scope of contamination; (3) identification of eligibility and prioritization of cleanup; and (4) an effort to move forward with assessments and cleanup activities based on the information gathered.

The critical first step is consolidating the information from different databases. EPA stands ready to assist ADEC in developing and managing an enhanced site inventory, or "the Dashboard," under a pending Memorandum of Understanding (MOU) between federal and state partners. Further, EPA acknowledges that the Congressionally Directed Projects in the Explanatory Statement of the Senate FY 2023 Appropriations Bill sites could also support this effort and those that will ensure that Alaska Native tribes and tribal organizations, including the ANCSA Regional Corporations, are involved both in assuring the accuracy of the inventory and in taking action to assess and cleanup listed sites.

### **EPA's Authorities and Programs**

EPA continues to evaluate how our existing authorities and resources can be used to expand our efforts to address ANCSA contaminated lands. Evaluation of eligibility and funding options under CERCLA's Superfund and Brownfields programs is a top priority. EPA could leverage additional resources and programs. For instance, the Congressionally Directed Projects in the Explanatory Statement of the Senate FY 2023 Appropriations Bill are to directly support the capacity of Alaskan Native Villages and Alaskan Native Corporations to meaningfully engage and collaborate with ADEC and other partners through use of our environmental justice collaborative problem-solving cooperative agreements. These collaborative efforts



would further the work EPA is currently undertaking and enhance future clean-up efforts as well as potentially identify community-driven methods of more immediately addressing the public health threats of concern to the communities.

While EPA's authorities under CERCLA might be the most useful tool for orphan sites in the ANCSA inventory, it is important to note that EPA has additional authorities for land-related cleanups. Under CERCLA, EPA oversees cleanup efforts undertaken by our federal partners at ANCSA sites where they are the lead agency and the site is on the National Priorities List. Further, for sites that meet the eligibility requirements for leaking underground storage tanks, EPA stands ready to provide assistance, in coordination with ADEC. Sites on ANCSA lands may also be eligible for closure and post-closure care, as well as enforcement actions, under the Resource Conservation and Recovery Act. In addition to work eligible under EPA's authorities, we are poised to provide critical technical expertise and leadership for our partners in their site assessment and cleanup efforts.

It is worth noting that the Agency's existing authorities have inherent limitations for work in this space. Grants under EPA's Brownfields Program must be awarded to communities, local governments, and non-profits on a competitive basis; EPA recognizes that not all ANCSA sites will meet the definition and eligibility requirements under this program. Further, CERCLA also has a petroleum exemption.

#### **Next Steps**

In the coming months, in addition to co-signing the MOU for the public facing dashboard, EPA will continue to lead through our role on the AESC to improve the quality and pace of addressing ANCSA contaminated lands. Additional EPA support, including the addition of a new ANCSA Contaminated Sites Program Manager, is expected to be available beginning this fall.

EPA looks forward to engaging directly with Alaska Native partners and communities most affected by the legacy contamination. Leveraging EPA's relationships with existing groups, like the Alaskan Native Tribal Health Consortium (ANTHC): Tribal Lands Partnership Group, is key to progress. Further, EPA intends to participate in the meeting of Alaska Federation of Natives in October of this year to report on the work that we are doing. Through frequent and effective communication with these and other established networks, EPA will continue to coordinate policy proposals and whole of government strategies to advance cleanup efforts and produce faster and greater results.

#### **Conclusion**

EPA recognizes that Native Villages and tribes have waited decades for cleanup to occur and seek immediate action to address the failures of the past. I am here today to acknowledge that the time is now to demonstrate our commitment to progress. While EPA is already engaged on these critical issues, we know that additional opportunities exist to lend our expertise and to enhance our relationships with the Alaska Native partners, the state, and within the federal family to prioritize and expedite progress in resolving this decades-long issue. Thank you for the opportunity to testify today, and I look forward to our discussion on this important topic.

Senator MURKOWSKI. Thank you, Dr. Waterhouse.  
Next, let's turn to Lara Beasley.

#### **STATEMENT OF LARA BEASLEY, CHIEF, ENVIRONMENTAL DIVISION, U.S. ARMY CORPS ENGINEERS; ACCOMPANIED BY, COLONEL DAMON A. DELAROSA, COMMANDER, U.S. ARMY CORPS OF ENGINEERS, ALASKA DISTRICT**

Ms. BEASLEY. Vice Chairman Murkowski, I am Lara Beasley, Environmental Division Chief for the U.S. Army Corps of Engineers. Thank you for the opportunity to appear before you today to address the Corps' activities on behalf of the Department of Defense in cleaning up contaminated lands that were transferred under ANCSA.

The Corps supports the DOD's commitment to protecting our environment and preserving resources for future generations. Throughout our Nation's history, the DOD has used lands across the United States. When this land was no longer needed for these

activities, the DOD cleaned up the land using the best available practices and returned the land to private or public use.

Today, the DOD continues the environmental cleanup of its current and former lands. The Corps executes two programs on behalf of the DOD to clean up hazardous substances, pollutants, contaminants, including military munitions and debris that were the result of DOD activities on Alaska Native lands. These programs are the Native American Lands Environmental Mitigation Program, referred to as NALEMP, and the Formerly Used Defense Sites, or FUDS program.

In recognition of the Federal-tribal trust responsibility, NALEMP specifically focuses on the effects of past DOD activities on traditional ways of life. This includes the ability of tribes to safely conduct activities for subsistence or to access sites for cultural or religious purposes. Under NALEMP, funds are provided to participating federally-recognized tribes under cooperative agreements to carry out environmental mitigation projects that are proposed and prioritized by the tribes.

Since 1993, the DOD has invested over \$100 million in cooperative agreements with Alaska Native tribes, including \$30 million in the last five years, the highest funding commitment to a single State. The scope and magnitude of the FUDS program in Alaska is significant. FUDS are properties that were formerly owned by, leased to, or otherwise possessed by the United States under the jurisdiction of the Secretary of Defense.

Alaska has the greatest number of eligible FUDS in the Country, with more than 500 properties. Many of these properties are on Alaska Native lands, including lands transferred under ANCSA. Since 1984, the DOD has invested over \$1 billion in cleanup of FUDS in Alaska. This includes over \$200 million over the last five years, more funding than any other State in the Country. In Fiscal Year 2022, the Corps plans to execute approximately 15 percent of the FUDS appropriation on sites in Alaska.

Senator Murkowski, Colonel Damon Delarosa, Commander and District Engineer for our Alaska District, has prepared oral testimony as well to share local examples of how the Corps is supporting DOD's commitment to protecting our environment and restoring sites contaminated by past military activities on ANCSA lands.

Senator MURKOWSKI. Colonel Delarosa.

Colonel DELAROSA. Thank you, ma'am. Good afternoon, Senator Murkowski and distinguished members of the Committee. I am Colonel Damon Delarosa.

The Alaska District is very busy right now, largely in part due to your efforts, ma'am, so thank you. I would also like to say thank you to the Unangan people who we respectfully acknowledge you as the original people of this land. We are grateful to be specifically discussing your ancestral homeland and are thankful that you have welcomed us among you today.

Thank you, Senator, for an opportunity to discuss contaminated ANCSA lands. The Alaska District provides critical support, executing a significant amount of work for the FUDS and NALEMP programs within the State of Alaska, as you heard Ms. Beasley say. The success of the FUDS and NALEMP programs is a credit to the

extraordinary individuals at the staff level and interagency cooperation in Alaska. The Corps values these partnerships that improve consultation, communication, coordination, and cooperation.

Through a chartered partnership of the State and Federal agencies in Alaska known as the Statement of Cooperation, and through the Arctic Executive Steering Committee, the Corps is working side by side with numerous Federal and State agencies with the tribes, Alaska Native Corporations and others to foster a collaborative approach and leverage our collective resources to expedite the process to clean up ANCSA contaminated lands. These partnerships include EPA, DOI, DOE, NOAA, the Alaska Department of Environmental Conservation, Alaska Native Tribal Health Consortium, and others.

I have an Unalaska cleanup example to share with you at the site known as the Amaknak FUDS Unalaska Valley. The Department of Defense's use of Amaknak Island and Unalaska Island was expansive. After the June 1942 Japanese bombing of Amaknak, the Army moved to disperse its housing on Unalaska Island to areas such as Unalaska Valley.

Following the passage of ANCSA, the Aleut Corporation obtained subsurface rights and the Unalaska Corporation obtained surface ownership in this area. The Corps has already conducted extensive cleanup of Unalaska over the last 40 years. However, in 2019, the community expressed overwhelming support to form a restoration advisory board, or RAB. The RAB, consisting of many of Unalaska's community leaders, has helped develop the priorities for continued cleanup. Several cleanup efforts are underway by the Unalaska Corporation Environmental Services.

Senator Murkowski, in closing, we sincerely thank the Committee for this opportunity to discuss the Corps' environmental cleanup activities on ANCSA contained lands and our support for collaboration. The Department of Defense has made significant progress cleaning up ANCSA lands, and we will continue to advance these efforts.

[The prepared statement of Ms. Beasley and Colonel Delarosa follows:]

PREPARED STATEMENT OF LARA BEASLEY, CHIEF, ENVIRONMENTAL DIVISION, U.S. ARMY CORPS ENGINEERS AND COLONEL DAMON A. DELAROSA, COMMANDER

Vice Chairman Murkowski and distinguished Members of the Committee, we appreciate the opportunity to appear before you today to address the U.S. Army Corps of Engineers' activities on behalf of the Department of Defense (DoD) in cleaning up Alaska Native Claims Settlement Act (ANCSA) Contaminated Lands.

#### **Overview**

The Army Corps of Engineers supports DoD's commitment to protect the environment; ensure military readiness; protect the health of military and civilian personnel and their families; ensure operations do not affect the health or environment of surrounding communities; and preserve resources for future generations. Throughout the Nation's history, DoD has used land across the United States to train Soldiers, Airmen, Sailors and Marines. When this land was no longer needed for DoD activities, the Department cleaned up the land using the best practices available at that time and returned it to private or public uses. Today, DoD is continuing the environmental restoration (or cleanup) of its current and former lands.

The Army Corps of Engineers executes two programs on behalf of the DoD to address DoD contamination on Alaska Native lands.

First, as part of the Defense Environmental Restoration Program, DoD through the Army delegated execution responsibility to the Army Corps of Engineers for the Formerly Used Defense Sites (FUDS) Program. FUDS are properties that were formerly owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary of Defense prior to October 1986. The goal of the FUDS Program is to conduct necessary cleanup of contamination on former DoD lands resulting from past DoD activities to ensure protection of human health and the environment.

Second, the Army Corps of Engineers executes the Native American Lands Environmental Mitigation Program (NALEMP) on behalf of the Deputy Assistant Secretary of Defense for Environment & Energy Resilience. The purpose of NALEMP is to mitigate environmental effects of past DoD activities on Indian lands and on other locations where the DoD, an Indian tribe, and the current land owner agree that such mitigation is appropriate.

#### **FUDS Program**

The Army Corps of Engineers and DoD are dedicated to protecting human health and the environment by investigating and, if required, cleaning up contamination and munitions hazards that may remain on these properties. Environmental cleanup at FUDS sites is conducted in accordance with the Comprehensive Environmental Response, Compensation and Liability Act and includes identifying eligible properties, investigating releases on the properties, and addressing releases of hazardous substances, pollutants and contaminants, including military munitions, that were the result of DoD activities.

The scope and magnitude of the FUDS Program in Alaska is significant, with more than 500 properties, of which many are on Alaska Native lands, including those transferred under ANCSA.

The work performed on FUDS properties in Alaska represents a large percentage of the FUDS Program. Since 1984, the DoD has invested over \$1.0 billion in cleanup of FUDS in Alaska, including over \$200 million on FUDS in the last five years, the highest funding commitment to a single state. In fiscal year (FY) 2022, the Army Corps of Engineers plans to execute approximately 15 percent of the FUDS appropriation on sites in Alaska.

The Army Corps of Engineers is committed to achieving the cleanup program goals established by DoD and the Army. Coordination with and input from our state, local, Tribal, and federal partners is an important component of successful attainment of cleanup program goals. Teams from Army Corps of Engineers district offices coordinate with state environmental offices and the U.S. Environmental Protection Agency (EPA) and provide for meaningful involvement by federally-recognized Tribes, landowners (including ANCSA corporations), local officials, and the public in performing its work. The focus remains on continuous improvement in cleanup programs.

#### **NALEMP**

The NALEMP annual appropriation was first drafted in 1993 by Senator Ted Stevens (Alaska) and Senator Daniel Inouye (Hawaii). It funded a unique and successful partnership between participating federally-recognized Tribes and the federal government. After years of work under the appropriations process, the program was formally codified in Section 2713, Chapter 160 of title 10, United States Code in FY 2021.

The NALEMP has a specific focus on past DoD activities that may have had adverse environmental effects on Tribal lands. Congress has provided funds annually to mitigate environmental effects to Native American lands including those transferred under ANCSA.

DoD screens sites identified by the Tribes for NALEMP eligibility. A unique aspect of NALEMP is that it considers environmental effects to life-ways, including the ability of Tribes to safely conduct subsistence activities or access sites for cultural or religious purposes. Under NALEMP, funds are provided to the Tribes under cooperative agreements to carry out environmental mitigation projects proposed and prioritized by the Tribes. In addition to completing the projects, funding provides for training and technical assistance from the Army Corps of Engineers, which helps build capabilities in the Tribes to effectively complete the projects.

The work performed to date in Alaska under NALEMP is also significant. Since 1993, DoD has invested over \$100 million into cooperative agreements with Alaska Native Tribes, including approximately \$30 million in the last five years, the highest funding commitment in a single state.

### **Cleanup on Alaska Native Lands**

The success of the FUDS Program and NALEMP is a credit to the extraordinary individuals at the staff level and the interagency cooperation in Alaska. The Army Corps of Engineers partners with federal agencies, state agencies, local entities, ANCSA corporations, and the Tribes. These partnerships improve consultation, communication, coordination, and cooperation resulting in the protection of human health and the environment through environmental restoration and ensuring compliance with applicable state and federal laws and regulations. To assist our partnership with the Alaska Department of Environmental Conservation (ADEC), the State of Alaska receives an average of over \$400,000 per year under the Defense and State Memorandum of Agreement (DSMOA) Program. The DSMOA Program provides funding to the State of Alaska for requested services such as the expedited review of technical documents, site visits, and public participation support.

The Army Corps of Engineers values local community input and recognizes the importance of public involvement at FUDS that require environmental restoration. Restoration Advisory Boards (RABs) have been formed in multiple communities to discuss cleanup issues or concerns collaboratively with the Army Corps of Engineers and the state and federal regulators. RABs include members from the Tribes, ANCSA corporations, and local communities and reflect the diverse interests in the communities that are impacted by the cleanup activities.

### **Arctic Executive Steering Committee ANCSA Contaminated Lands Initiative**

The Department, EPA, and the Department of the Interior (DOI) co-lead this effort with the support of the Department of Energy, the National Oceanic and Atmospheric Administration and others, to foster a collaborative approach across the federal family to leverage collective resources and expedite progress to clean up contaminated sites. The goals of this initiative are to strengthen collaboration between the federal government, the State of Alaska, Alaska Native Corporations, Tribes, and Alaska Native Organizations; improve data and transparency through the creation of a joint lands inventory; prioritize cleanup of contaminated sites; and initiate cleanup of sites that have not yet been addressed.

### **Statement of Cooperation Executive Steering Committee**

The Army Corps of Engineers has been working cooperatively with the EPA, ADEC, Alaska Native Corporations, the DOI and other federal agencies for years to address contamination on ANCSA-conveyed lands. The Army Corps of Engineers is a member of the "Statement of Cooperation Working Group," a chartered partnership of state and federal agencies in Alaska to evaluate pollution impacts and prevention and cleanup of contamination. The charter now includes 13 agencies, and a committee for Contaminated ANCSA Lands.

The Army Corps of Engineers is supporting efforts to refine the DOI joint lands inventory, share information on cleanup efforts, develop approaches for managing complicated sites, research and categorize sites, and identifying ways to better share this information with stakeholders. The Army Corps of Engineers also provided FUDS data for the Contaminated Site Inventory map, created by the Bureau of Land Management (BLM).

### **Amaknak Island Cleanup Example**

A great example of a cleanup success story is a site in Unalaska called "Amaknak FUDS Unalaska Valley." DoD's use of Amaknak Island began with the Navy's acquisition of land for a radio station and other naval facilities in the 1930s. The Navy constructed a Naval Operating Base on Amaknak Island. The Army was ordered to defend the base and collocated its facilities on the island. After the June 1942 Japanese bombing of Amaknak, the Army moved to disperse its housing on Unalaska Island to areas such as Unalaska Valley. In 1947, the last of the posts were closed and the land transferred to the BLM. Following the passage of ANCSA, the Aleut Corporation obtained subsurface rights and Ounalashka Corporation obtained surface ownership of the Unalaska Valley in 1974.

Buildings and debris at the site were removed by the Army Corps of Engineers beginning in 1985 and continued into the 1990s. Historical information, records, and maps of the area indicated that a number of buildings potentially had underground storage tanks (USTs) associated with them. From 1997 to 2016, extensive USTs and associated petroleum-contaminated soil removal actions occurred throughout the Amaknak FUDS including the removal of approximately 52,000 cubic yards of contaminated soil, over 200 fuel storage tanks, and over 10,000 feet of pipeline.

In the summer of 2019, the Army Corps of Engineers reassessed the community's support for the formation of a RAB. This inquiry was met with overwhelming sup-

port from the community in part due to the tri-lateral agreement between Ounalashka Corporation, Qawalangin Tribe of Unalaska, and the City of Unalaska. The RAB was formed in 2020. Board members include many Unalaska community leaders and residents. Between 2020 and 2022, the RAB has expressed community cleanup priorities; top among those priorities is the cleanup of Unalaska Valley. Cleanup of seven individual UST sites in Unalaska Valley is underway by Ounalashka Corporation Environmental Services, LLC.

Recently, the ninth Amaknak RAB meeting was held on August 3, 2022. The Army Corps of Engineers will build on the success of the Unalaska Valley cleanup by next addressing the RAB-identified areas of Little South America and Summer Bay-Humpy Cove. Approximately \$3.4 million over six years is projected to be expended to address these community priorities.

### **Challenges**

Cleanup work in Alaska is logistically challenging. Many Alaska FUDS and NALEMP sites are isolated from the Alaskan road system. Equipment and workers are often flown and/or barged to the project locations with limited infrastructure available to support cleanup operations. Additionally, due to the arctic climate, the field season is limited. To maximize the field season and minimize mobilization costs, investigation work is often done concurrently with removal actions. Additionally, large sites under investigation are broken into smaller projects with achievable remediation solutions.

### **Conclusion**

In closing, we sincerely thank the Committee for this opportunity to discuss the Army Corps of Engineers environmental cleanup activities on ANCSA contaminated lands. We are committed to addressing this contamination resulting from past DoD activities in collaboration with Alaska Native Tribes and ANCSA corporations, the State of Alaska, and other federal agencies.

Senator MURKOWSKI. Thank you, Colonel.  
Let's go to Commissioner Brune, please.

### **STATEMENT OF HON. JASON BRUNE, COMMISSIONER, ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

Mr. BRUNE. Thank you, Senator Murkowski. I so appreciate the champion you have been for this issue over the years. You have long acknowledged that this is an issue that needs to be dealt with. I am very grateful for your leadership on that.

We have heard a lot of talk today; we have heard a lot of talk over the last few years. Actions speak louder than words. In 1990, again in 1995, and once more in 2014, Congress instructed the BLM to address this issue. Congress recognized that Alaska Natives did in fact receive contaminated lands. Again, Congress instructed the BLM to investigate these sites, prepare cleanup plans for every contaminated site with express timelines to do so. Then, they were to ultimately clean them up.

In the 2016 report to Congress, they passed the buck onto DEC with no funding to do this. As Senator Murkowski said in her opening comments, if this was any other responsible party, they would be the ones on the hook for doing this. The State of Alaska has repeatedly requested the bureau of Land Management to follow through with Congress' directions. To date, the BLM has ignored these directives. They have prepared skeletal reports, attempted to foist its duties onto the State, and ultimately, they have ignored the plights of the indigenous people, the Alaska Native people.

When I worked for an Alaska Native Corporation, I was the chair of the ANCSA resource managers, which was the land managers for all of the regional corporations. The number one issue that we identified that needed to be addressed was ANCSA contaminated

sites. We wrote letters to then-President Obama. We followed it with letters to President Trump. I left in the middle of the Trump Administration to take this position; I am honored to work for Governor Dunleavy on this, and Governor Dunleavy was adamant that this was an issue we needed to address. He wrote a letter to President Biden himself. I wrote letters, along with our AG, to the Department of Interior, to the Department of Defense and others.

We actually were really excited that Secretary Haaland, a Native American woman, who grew up on the reservations in New Mexico, in close proximity to contaminated lands, who recognized environmental justice issues need to be dealt with, we were so excited thinking that the Department would finally do something. Instead, what we got was a letter in response to the Governor's letter saying they are merely a real estate agent for the Federal Government, and that they have "no authority" to do any of the things Congress has repeatedly directly BLM to do.

We had an opportunity in Secretary Haaland to practice what she was preaching, and this is what we received. It was very disappointing.

So at the end of the day, ultimately the State of Alaska had no choice. We had to bring litigation against the Department of the Interior, against the Bureau of Land Management. We did not want to bring litigation. We have been hoping and we have been trying to resolve this. We all recognize this is an issue. Ultimately, the force of litigation has ultimately brought us together.

I want to point out something that, Senator, I will make sure I include in the record. Forty years ago or so, Tyonek Village Corporation received a letter from the U.S. Government. It wasn't from the Department of Interior or the Bureau of Land Management. It was from the U.S. Government. So if not the BLM, who denies responsibility, if not the Department of Interior, then who? It is the U.S. Government.

The Village Corporations don't know the difference, nor should they. These contaminated lands from a joint and several liability perspective were contaminated when they were owned by the Federal Government. The Federal Government, from an environmental justice perspective alone, not to mention a legal perspective, has a responsibility to clean those lands up and clean them up expeditiously.

What I have heard today is that things were put in place like the State of Cooperation. When Carlton Waterhouse was up here a few months ago, and I want to give huge kudos to the EPA, they have taken the leadership role on this, and I am proud to work with them on this. They are trying to address this issue. But they are not the landowners. But they are trying to convene, through the Arctic Executive Steering Committee, an effort to make this issue right. So thank you, Carlton, for doing that.

However, when we talked about the SOC, no one from the Department of Interior had ever attended an SOC meeting, no one of them knew what had been discussed at the last meeting. Yet this is what we are relying on for the effort to try to clean these lands up. Actions speak louder than words, and we need action, not talk.

I am excited and I have to give credit also to the Department of Defense, they have been a good actor. But at current levels of

spending, it is going to take upwards of 200 to 250 years to get these lands cleaned up. That is not environmental justice. These things need to get cleaned up and now.

We do not need yet another broken promise to the indigenous people of our Country. With that, I look forward to your questions, and again, I appreciate your leadership on this, Senator.

[The prepared statement of Mr. Brune follows:]

PREPARED STATEMENT OF HON. JASON BRUNE, COMMISSIONER, ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Congress is very familiar with the problem of contaminated sites on Alaska Native lands. It has, on no less than three occasions, instructed BLM to investigate the extent of contamination on ANC lands and prepare plans to remediate those sites. BLM says it can't. The State insists it must. Congress has the ability to end the dispute.

In 1971, Congress passed the Alaska Native Settlement ACT (ANCSA) to create a "fair and just" settlement of aboriginal land claims to more than 360 million acres of land. Alaska Natives were to receive 44 million acres as consideration for the rights taken. What Congress did not intend in 1971 was to compensate Alaska Natives with dirty land—that is neither "fair nor just" in any sense of the word.

In 1990, again in 1995, and once more in 2014, Congress recognized that Alaska Natives did in fact receive contaminated lands. And it instructed BLM to investigate these sites and prepare a clean-up plan for every contaminated site with express timelines to do so.

The State of Alaska has repeatedly requested the BLM to follow through. To date, the BLM has ignored Congress' directives. It has prepared skeletal reports, attempted to foist its duties onto the State, ignored the plights of Alaska Natives, and most recently through counsel stated that "it is merely a real estate agent" and "has no authority" to do any of the things Congress has repeatedly directed BLM to do.

Congress should do more than tell the BLM what it has already told them. Congress should amend ANCSA to identify clear duties and include express remedies to the State and Alaska Native corporations. To this end, the State of Alaska has developed conceptual legislative proposals that could avoid costly litigation, and put money and resources on the ground.

Specifically, ANCSA should be amended to:

- Expressly recognize that there are contaminated and potentially contaminated sites on ANCSA lands that were contaminated while owned by the United States.
- Identify the Department of the Interior as the agency tasked with characterization and cleanup of federally contaminated sites on ANCSA lands.
- Identify date-certain benchmarks for progress which, if not met, trigger additional exchanges of land to Alaska Natives.
- Identify the trigger for remedial action at any site is a risk factor of 1 x 10<sup>-5</sup>, including at the site investigation stage.
- Require DOI, or any other federal agency involved, to pay ADEC costs for oversight work.

The following amendments to CERCLA and RCRA would also provide helpful clarification:

- Amend CERCLA to expressly allow state claims against formerly owned or operated federal facilities.
- Amend RCRA to expressly allow citizen suits against formerly owned or operated federal facilities.
- Amend Section 113 to allow suit after a federal delay in performing substantive response actions at a site of more than three years.

For additional detail on this issue, a record of recent correspondence between the State of Alaska and the federal government is available at <https://dec.alaska.gov/spar/csp/federal/formal-correspondence/>.

Senator MURKOWSKI. Thank you, Commissioner.  
Mayor Tutiakoff.



**STATEMENT OF HON. VINCENT TUTIAKOFF, MAYOR, CITY OF UNALASKA; CHAIRMAN OF THE BOARD, UNALASKA CORPORATION; TRADITIONAL CHIEF, QAWALANGIN TRIBE**

Mr. TUTIAKOFF. Good afternoon, Senator Murkowski, agency leaders, and participants. Thank you for the opportunity to speak on such an important topic.

My name is Vincent M. Tutiakoff, Sr., the Mayor of the City of Unalaska. I am also Chairman of the Board of the Unalaska Corporation, the village corporation, formed under ANCSA. Also, I am the Traditional Chief for the Qawalangin Tribe.

OC received 128,000 acres of land under ANCSA on Unalaska, Amaknak, Umnak, and Sedanka Islands. I have lived in Unalaska for almost 75 years and have been to several of these areas in Alaska and the Aleutian Islands, and also have seen the contamination in such villages as Nikolski, Atka, Attu, Shemya, Adak, St. Paul, Chernofski, and Fort Glenn on Umnak Island.

Areas of concern that I have personally encountered, growing up in Unalaska, we utilized building materials such as windows, doors, siding, plumbing parts, et cetera. While retrieving necessary material to keep our homes weatherized, many of which were damaged by the military, many of the people responded to the area of concern, such as asbestos, lead-based paint covered material, PCBs in the ground and in the storage buildings left by the military.

This has been the cause for many of our people getting cancer, skin burns, loss of hair, and other sicknesses. Many of our people died because of the contaminated watersheds. Fish have disappeared from most streams for years after the war. Within the last 25 years, some of those fish have returned. Birds have starved and been found on beaches across Unalaska and Amaknak Island from eating contaminated food. Clam beds have been lost to contamination and in some cases are the cause of death to the Aleut people.

When OC is constructing a project and contamination is found, then the construction must stop. Remediation must be completed before construction can again commence. Alternatively, if we clean our lands first, OC risks not being reimbursed. We are going through this now with APIA and the Head Start Building.

The OC board, the tribal council and the City of Unalaska have formed a trilateral group. The purpose is to bring personal concerns and plans for remediation of our lands on Amaknak and Unalaska that we as a group identified as World War II contamination. We looked for the contamination on property owned by these entities. Recently, OC, the Qawalangin Tribe and the city have been working together to not only identify and prioritize the contaminated sites, but also to move forward with the cleanup.

Mitigation is important in order to address the physical and chemical impacts from past military activities to protect the health and safety and of the entire community and allow for the safe practice of traditional cultural lifestyle.

The U.S. Department of Defense created the first military outpost on Amaknak Island in 1912, and in 1940, the U.S. Navy constructed the Dutch Harbor Naval Operating Base. During the peak military activities in 1942 and 1943, the Navy, Army, and Marines had 65,000 personnel in the area, including all necessary infra-

structure for the troops, such as housing, support buildings, power plants, defensive structures that were spread all across the island.

By the late 1950s, the military largely abandoned Unalaska/Dutch Harbor, leaving behind a great deal of history, along with over 100 contaminated sites and millions of dollars in remediation costs. Even more than 70 years after the military withdrew, OC and the tribe and the community continued to be negatively impacted. We were impacted by hazardous materials like lead-based paint, asbestos-containing materials, munitions, unexploded ordnance, unsafe buildings and structures, abandoned equipment, petroleum hydrocarbons from underground and aboveground storage tanks, Rommel stakes in the thousands, only some have been removed over the past years, persistent organic pollutants, such as PCBs.

Currently, we have a known 51 areas of concern that range in size of impacts from single underground storage tanks to full military bases. The city recently received a Brownfield Assessment grant and OC is in the process of applying for one as well. There is no doubt this number will increase significantly. These impacted areas represent approximately 80,000 acres. The Formerly Used Defense Sites program under the Army Corps has been working on the island for over 30 years, and the Native American Lands Environmental Mitigation program for 20 years.

As we look to the future, we have estimated that at the present rate of mitigation, it will take more than 100 years to complete the necessary cleanup. The city, the tribe, and Ounalashka Corporation have been collaborating to address the highest priority sites that have impacted and threatened community safety, health, and the environment based on what limited available funding we have been able to procure.

Each impacted area has adversely affected tribal and community economic, social, and cultural welfare and limited full use of tribal lands and resources. The City, Tribe and the Ounalashka Corporation are dedicated to mitigating these impacts to restore safe access to tribal lands and create a healthier and safer environment for the people, community, and future generations. But the Federal Government needs to help us. We did not ask for our lands to be contaminated, and we did ask them to clean them up. We received the land from the Government already contaminated.

We the Unangan People of Unalaska and other Alaska Native groups want to ensure that our native corporations and tribal governments be involved in the cleanup our own land. We also want to prevent ancient burial sites and artifacts that have been disturbed or removed from our communities. Tribal sovereignty commands that the tribe and OC dictate such actions.

Qagaasakung to Senator Murkowski and the other participants for coming to Unalaska to hear our concerns. Thank you very much.

[The prepared statement of Mr. Tutiakoff follows:]

PREPARED STATEMENT OF HON. VINCENT TUTIAKOFF, MAYOR, CITY OF UNALASKA;  
CHAIRMAN OF THE BOARD, UNALASKA CORPORATION; TRADITIONAL CHIEF,  
QAWALANGIN TRIBE

Good afternoon, Senator Murkowski, Agency Leads and participants.

Thank you for this opportunity to speak about such an important topic.

I am Vincent M. Tutiakoff, Mayor of the City of Unalaska, Chairman of the Qunalashka Corporation, an Alaska Native Village Corporation formed under ANSCA, and Traditional Chief for the Qawalangin Tribe.

QC received 128,000 acres of land under ANCSA on Unalaska, Amaknak, Umnak and Sedanka Islands.

I have lived in Unalaska for almost 75 years and have been to several other areas of Alaska that are also contaminated, including Nikolski, Atka, Attu, Shemya, and Adak.

Areas of concern that I personally have encountered include:

- Growing up in Unalaska we utilized building material, such as windows, doors, siding, plumbing parts, etc. But while retrieving necessary material to keep our homes weatherized, many of the people reported areas of concern—*asbestos—lead paint covered material—and PCBs in the ground and in storage buildings left by the military.* This has been the cause for many of our people getting cancer, skin burns and loss of hair. Many of our people died because of contaminated water sheds, fish have disappeared from most streams for years after the war. Within the last 25 years some of the fish have returned. Birds have starved and been found on beaches across Unalaska and Amaknak Islands from eating contaminated food. Clam beds have been lost to contamination and in some cases are the cause of death to the Aleut people.
- When QC is constructing a project and contamination is found all construction must stop and remediation must be complete before construction can again commence. Alternatively, if we clean our lands first, QC risks not being reimbursed. We are going through this now with APIA and the Head Start Building.

The QC Board, Tribal Council, and the City of Unalaska have formed a Tri-lateral Group. The purpose is to bring personal concerns and plans for remediation of our lands on Amaknak and Unalaska, that we as a group identified as WWII contamination. Recently OC, the Qawalangin Tribe and the City have been working together to not only identify and prioritize the contaminated sites, but also to move forward with the clean-up.

Mitigation is important in order to address the physical and chemical impacts from past military activities to protect the health and safety of the entire community and allow for the safe practice of traditional cultural lifeways.

The U.S. Department of Defense created the first military outpost on Amaknak Island in 1911 and in 1940 the U.S. Navy constructed the Dutch Harbor Naval Operating Base.

During the peak military activities in 1942 and 1943, the Navy, Army, and Marines had 65,000 personnel in the area, including all necessary infrastructure for the troops such as housing, support buildings, power plants, and defensive structures that were spread all across the island.

By 1950 the military largely abandoned Unalaska/Dutch Harbor leaving behind a great deal of history, along with over 100 contaminated sites and millions of dollars in remediation costs.

Even more than 70 years after the military withdraw, OC, the Tribe and community continue to be negatively impacted by:

- Hazardous materials like Lead-based paint and asbestos-containing materials
- Munitions
- Unexploded ordnances
- Unsafe buildings and structures
- Abandoned equipment
- Petroleum hydrocarbons from underground and aboveground storage tanks
- Rommel stakes—is in the thousands and only some have been removed over the years Persistent organic pollutants such as PCBs

Currently, we have a known 51 areas of concern (that range in size from impacts from single underground storage tanks to full military bases). The City recently received a Brownfield Assessment grant and QC is in the process of applying for one as well. There is no doubt this number will increase significantly. These impacted areas represent approximately 80,000 acres. The Formerly Used Defense Site program under the Army Corp has been working on the island for the past 30 years and the Native American Lands Environmental Mitigation Program for 20 years.

As we look to the future, we have estimated at the present rate of mitigation it will take more than 100 years to complete the necessary clean up.

The City, Tribe and Ounalashka Corporation have been collaborating to address the highest priority sites that have impacts that threaten community safety, health, and the environment based on what limited available funding we have been able to procure.

Each impacted area has adversely affected Tribal and community economic, social, or cultural welfare and limited full use of Tribal lands and resources.

The City, Tribe and the Ounalashka Corporation are dedicated to mitigating these impacts to restore safe access to Tribal lands and create a healthier and safer environment for its people, community, and future generations.

But the Federal Government needs to help.

We did not ask for our lands to be contaminated nor did we contaminate them ourselves. We received the land from the Government already contaminated.

We the Unangan People of Unalaska and other Alaska Native Groups want to ensure that our native corporations be involved in the clean up our own land. We also want to prevent ancient burial sites and artifacts from being disturbed or removed from our communities. Tribal Sovereignty commands that the Tribe and QC dictate such actions.

Qagaasakung to Senator Murkowski and the other participants for coming to Unalaska to hear our concerns.

Senator MURKOWSKI. Thank you, Vince.  
Hallie Bissett.

**STATEMENT OF HALLIE BISSETT, EXECUTIVE DIRECTOR,  
ALASKA NATIVE VILLAGE CORPORATION ASSOCIATION**

Ms. BISSETT. Ent'e Chin'an GoOneenYoo Na'eda. Hello, thank you for being here our friends, and especially the Honorable Senator Murkowski, for your leadership on this issue. We appreciate the opportunity to testify today in one of the most affected villages in our State.

I want to point out, starting with the pledge of allegiance, and it just reminded me that Alaska Native people historically have been some of the most patriotic in our whole entire Country. In fact, we sign up for the Armed Services at a higher rate than any other ethnicity in the State, including non-Native people.

Why is that? We fought right alongside our fellow citizens. The majority of the people I talk to were just the most proud we could have ever been to become part of this great Country that we call the United States. We were the last people in the United States to be allowed to vote. We at the time the Alaska Native Claims Settlement Act passed had been fighting for 100 years, which was way less time than anybody else in the indigenous community had had to fight for their land.

By the time that we signed the Alaska Native Claims Settlement Act in 1971, the Federal Government was no longer signing treaties with indigenous people. Instead, we had to settle for this kind of negotiated agreement. We did have the opportunity to have hindsight, though, we knew that we did not want a paternalistic relationship with what we lovingly referred to as the Boss Indians Around Department. We wanted to own our land, fee simple title.

So that was kind of the idea behind owning our land and being the managers of our own destiny. Self-determination, that is what that is called. It is important to realize that from 1867 to around the 1960s, we were in a terrible era called the Termination Era, which is an era that is referred to as Kill the Indian, Save the Man. That is the type of thing that was going on. Unfortunately, ANCSA contains a little bit of both the self-determination and the termination era in that document.

We consider it a living document. We don't consider this issue resolved in any way, shape, or form. I am going to quickly tell you a little bit about the Alaska Native Claims Settlement Act, what is in it, and then we were going to jump into contaminated lands and where we need to go.

We ended up retaining right around 10 percent of what was 100 percent ours, private land for 10,000 plus years by the Alaska Native people in various locations around the States, the Country. That is 44 million acres. In fact, we were probably arguably the largest landowners in the entire world, collectively, because we had 44 million acres of land as a people. Which is a big deal, right?

It is important to point out that we only had five years to select those lands. Meanwhile, the State of Alaska continues to have as long as they want to select whatever lands they want. The gentleman started out by saying, over 44 million acres has been transferred. But I want to point out that we have not received 100 percent of the ANCSA lands. That has not happened, and it has been over 50 years.

The timeline of contaminated lands, you start in the late 1980s, early 1990s, Alaska Native people started noticing that we were getting, handed over contaminated sites. So the Alaska Federation of Natives, AFN, led the issue to Congress and they got this 1998 report. In that report, they identified over 600 sites that needed to be cleaned up. They came up with these six really great recommendations, forming a working group, cooperative agency agreements, and then plans to clean up the lands. There were about six different and really good suggestions on what ought to be done on this.

ANVCA became involved in 2012, when one of our members said, whatever happened with this 1998 report? So we started asking. In 2014, through the great work of the Senators and our Alaska delegation, we were able to get Congress to direct the BLM and the DOI to do another report. So that culminated in the 2016 report that you heard about today. In that report, they identified over 1,100 sites that had contaminations on them that were ANCSA lands. What it also basically said was that 1998 report was great, but we didn't do any of those things.

So yes, there has been some cleanup, there has been some sites that have been closed out. But let me talk about those really quick. Many of the sites in those reports, as you read through the reports, the 2016 report, are referred to as orphan sites. My understanding is they are changing that term now. But at the time of the 2016 report, an orphan site meant that that site was not currently in and had no plan to be in any type of cleanup program. Ninety percent of those sites were within two miles of a village, poisoning our drinking water and the food that we eat.

In 2018, the Senator mentioned that the legal liabilities were lifted. I want to point out really quickly, 1,100 sites, we estimate the cleanup cost of those sites to be \$60 billion and \$100 billion, that is with a B. Up until 2018, we were actually legally liable to clean those up. Excuse my language, but it was like, here is your crap sandwich, and now you are going to eat that.

So we are very grateful that the government was able to lift the legal liability. But since that time, since 2018, since 2016, have we

seen an enormous amount of cleanup? Have we had any land swaps? Sir, you mentioned that ANTHC continues to have a working group that is meeting. To my knowledge, that group has only met twice in 2018 and has had no meetings since then.

We have heard stories of glow in the dark fish, of lakes that are—up in in Utqiagvik, there is a lake that was the only source of drinking water, completely contaminated. They cannot drink out of it. But they had been. They had been for decades, before the United States Government came out and started putting signs up there that say, “don’t drink this water.”

In that village and in Unalakleet, same thing. There was an Air Force base that was seeping jet fuel down into the water that everybody in the village was drinking. High rates of Parkinson’s. If Unalakleet was here with us, they would tell you their entire family has died of that disease. This man was tested for a relationship between PCB consumption and Parkinson’s, because the health officials testing him knew or thought. I looked it up, there is no sign of the study I am mentioning, he was never told if that was actually the case or not, that they were testing him because I thought there was.

What I can tell you is we didn’t have Parkinson’s in Alaska Native villages before the last 100 years. So we know that there is a direct link between these things.

We have heard stories of the military piling up tanks of whatever, barrels of whatever on frozen lakes and then when they melt, they will be gone, that problem will be gone. That is not to point fingers; we didn’t have the same kind of rules that we do now around waste disposal that we had back then. In this very village, the tribe wants to redo their subsistence. There is a stream that leads up to a lake here, and that very lake is exactly what I am talking about. The barrels of stuff that were piled up on the ice, and then, you can’t eat this fish, you can’t walk your dog up there. There is asbestos. Teeny little signs that say “don’t go in there,” which is referred to as institutional controls, which is a high percentage of a lot of these closed out sites. Institutional controls means, we are just going to watch that area and make sure nobody goes in there, put a sign up there and hopefully nobody goes in there and drinks the water or eats the food.

So I just want to point out too that we are proud members and citizens of the United States. Under the United States Constitution, the Fifth Amendment says that you cannot take private property for the public without just compensation. Well, I just explained to you, people ask me all the time, what is the percentage? According to a recent lawsuit filed by the State of Alaska, 17.6 million acres were transferred at least partially contaminated to our people.

Now, some of the village corporations might recognize that number, because that is about the size of the land that we have received so far, 17 million acres. That is 40 percent of the land that we retained, which was less than 10 percent of our State. I would like to know what percentage of the Federal Government’s land is contaminated or Alaska’s land is contaminated.

We have heard time and again when we ask for different land or for cleanups, the solution has always been, you know what we

should do, we will do an inventory of the land that is out there and we are going to make a plan, and we are going to do this inter-agency cooperative thing. It is frustrating. It is not that we don't appreciate it. We do. We appreciate the action around this.

But putting another report out there for us to say, yes, we did it, isn't good enough. We need actions. We need actual cleanups. You cannot give in exchange, for, let's just talk about the money for a minute. We are really proud of ANCSA. We were able to hang onto what we could. In the past 50 years, we have shared about \$3 billion of resource revenue. The Alaska Native Corporations are the highest-generating—we are a quarter of the GDP right now. We bring in about \$16 billion a year into the State of Alaska. We have reversed the economic model. We go outside the State, we bring the money back home.

But in that same period of time, the State of Alaska and the Federal Government, I would imagine, have collected over \$200 billion in mineral and resource extraction monies. We got a \$60 billion to \$100 billion contamination liability. Does that sound like a good deal?

I know that none of you were here when this happened. What I am asking you, because now that we are aware that this happened, I would just ask you that we do something more meaningful than putting fences around it and saying don't go in there. We were promised self-determination, to get lands that were of economic value. Let's talk about that really quickly and then I will stop.

In the past 50 years, if we haven't been able to develop or have these lands, or if we were having to remediate everything that we dig up for a day care or whatever it is that we are trying to do, that is a cost to us. How many economic losses do you think there have been over the last 50 years? Buskin Beach, where you are going in Kodiak, that site was specifically selected so that the village could have a port or a harbor. Fifty years of no harbor fees or dock fees to collect. What does that look like?

Again, thank you for inviting us here. I know I am passionate about this issue; I am grateful for the increase in NALEMP funding which they mentioned was up to \$30 million. Thirty million dollars, though, for the entire United States, this Administration in particular, Commissioner Brune mentioned that they have completely kind of, well, we are not responsible at all, which is a very different thing when they are trying to lead environmental justice. This is easily the largest environmental justice in our State. We still have not seen anything but some more reports and we are grateful that there is currently some money being set aside in the Appropriations Bill. We hope we can hang onto that.

But \$30 million split 500 ways in Indian Country is not going to get us there. The recent ESHA [phonetically] bill established a tribal superfund that completely left Alaska out. We can work with tribe or village corporations, no matter how it is written. But this particular tribal superfund was written with a definition of tribal land that said, under trust responsibility of the United States.

And there are some of those, that is basically Metlakatla, in Alaska, there is one place that has that responsibility. Like I said, we chose this model, because you will never meet a more hard-

working person, you guys, even if you are not Native, you have been here five, six generations know that you can't survive out here without being a hard-working individual.

So we didn't want to be wards of the State. We wanted to work on our own economy. We are legally required to and we proudly do provide for the social, economic, and culture of our people in perpetuity. We can't do that on contaminated lands. So I would ask you to consider the land swaps that we have continuously brought to you. We need to have something that is actually meaningful, just compensation for the lands we gave up, which is 90 percent of our home.

Thank you for the opportunity to testify today.

[The prepared statement of Ms. Bissett follows:]

PREPARED STATEMENT OF HALLIE BISSETT, EXECUTIVE DIRECTOR, ALASKA NATIVE VILLAGE CORPORATION ASSOCIATION

Honorable Senators and visiting Agency leaders,

Ent'e Chin'an GooneenYoo Na'eda (Hello, thank you for being here our friends) my name is Hallie Bissett, I am Upper Cook Inlet Dena'ina Athabascan, Granddaughter of Nick Nicolai, last Traditional Chief of Sunshine Village or what is now called Talkeetna and Daughter of Ron and Debra Bissett, it is my great pleasure to welcome you to our beautiful Country here in Alaska. We are grateful to have the Honorable members of the Senate Committee on Indian Affairs, their staff, and the many agency representatives who have traveled so far to hear from the traditional stewards of these lands and our State leadership.

Often referred to as "The Last Frontier" as it relates to our membership in the United States, Alaska was one of the last areas of the World to experience Western colonization. We are here today to discuss what has happened since that time, and we are seeking your support for a long-awaited remedy to easily the greatest perpetual environmental injustice in our State.

I will be speaking today of the issue of Alaska Native Claims Settlement Act (ANCSA) Contaminated Lands. Lands that were transferred as part of a settlement to the indigenous people of Alaska as compensation for giving up title to nearly 90 percent of our homelands. While my oral testimony will be limited, I am providing this written statement to supplement.

### **Introduction**

I am Dena'ina Athabascan, a shareholder and former board members of Cook Inlet Regional Inc. (CIRI) the regional corporation that was created in the most populated area of the State at the time ANCSA passed. I am a current member of the Knik tribe, though my heritage is closely tied to both Montana Creek and Chickaloon Tribes in the beautiful Interior of Alaska. My ancestors and those of my fellow Alaska Natives have called this place Home for tens of thousands of years.

I am here before your committee as the Executive Director of the Alaska Native Village Corporation Association (ANVCA). ANVCA is a State-wide organization that represents the 177 Village Corporations that were created by Congress over 50 years ago. Each of these entities represent over 250 Alaska Native Villages and a shareholder base of over 140,000 individuals and their families.

### **Alaska Native Claims Settlement Act**

A departure from status quo, the Alaska Native Claims Settlement Act (ANCSA) served as the modern day Indian Treaty between Alaska Native People and The United States. It is important first to understand the moment in time that ANCSA was passed in 1971 was long after Congress had discontinued signing Treaties with Native Nations in 1867. At that time the United States entered the unfortunate "Indian Termination Era" marked by forced adoptions as well as indigenous children being forcibly removed from their homes and sent to boarding schools, all in an attempt to "Kill the Indian and Save the Man". Beginning in the 1960s, United States made a positive turn towards a new era referred to as the "Indian Self Determination Era". It is important to remember this because ANCSA straddles both markedly different Indian policy approaches ANCSA includes elements of both. The Act was supposed to settle long standing land claims that dated back over one hundred years, beginning with the sale of Alaska to the United States from Russia and accel-



erating with the passage of the Alaska Statehood Act (1958) and a significant discovery of Oil deposits on Alaska's North Slope.

In the late 1960s Aboriginal title was still left unsettled, as the State and Federal Government began selecting lands during this timeframe, Alaska Native people united and filed claims to 100 percent of Alaska, working together through a newly established Native News outlet the Tundra Times, our people were informed of the movement to advocate for our lands.

Then Secretary of Department of Interior Stewart Udall responded by instituting a "Land Freeze" and halted State and Federal selections until an agreement was reached with Alaska Natives. As the State and Federal Government were attempting to build a pipeline over 1000 miles to transport crude oil they were incentivized to settle as quickly as possible.

While negotiations were tense at times, they did reach a final agreement that was signed on December 18, 1971. The Act created 12 in-State Regional Corporations, and over 250 Village Corporations each charge with providing for their people's economic social and cultural wellbeing in perpetuity. This agreement provided Alaska Native people with 44 million acres of land split Regional and village Corporations the main difference being Regional Corporations has title to subsurface estate and villages surface estate. In addition, a one-time cash payment of \$962.5 million. We owned our land fee simple title, a very different model than the reservation system that we had by then learned do much about.

Alaska Native people were able to retain close to 10 percent of their lands, selected in what many feel was a rushed 5-year period. These lands were selected from areas that the Federal Government provided to us, that were not yet selected by the State and Federal Government. It is important to point out that the State has an indefinite timeline to select their lands, and that over 50 year later, we still have not received full title to the lands in our agreement.

### **Contaminated Lands**

There are over 1,100 known contaminated sites on land conveyed to Alaska Native Corporations (ANCs) and additional sites on land pending conveyance. These sites were contaminated under ownership and/or responsibility of the federal government and then transferred to Native ownership. In the 1980s Congress passed the Comprehensive Environmental Response Compensations and Liability Act (CERCLA) and in that Act, transferred the liability of that contamination to our people.

The Alaska Federation of Native immediately began advocating to Congress that we were being given contaminated lands, which prompted an investigation and report out from Congress. In 1998 the Department of the Interior issued a report to Congress, entitled Report to Congress Hazardous Substance Contamination 1998.

ANVCA became involved when this report was brought to our attention in 2012 by one of our member Alaska Native Village Corporations. Since 2012, ANVCA has worked to educate Alaska's Federal delegation, the State Legislature, members of Congress, and others to keep the issue in the forefront. In 2014, Congress asked for an update to the 1998 report, to identify the status of each site, for example, if any remediation had been done, and recommendations going forward. In June of 2016 the update was released, 2016 Update Report to Congress—Hazardous Substance Contamination of Alaska Native Claim Settlement Act Lands in Alaska.

The 2016 report identified over 1100 sites that were transferred contaminated and listed them in various stage of "clean-up" and again recommended action items to remedy the problem and begin clean-up but also brought to light that very little action had been taken since 1998. Many of these sites were in a status identified as "orphan sites" and "Institutional control" the first meaning that there was no plan or program identifies to clean them up the second meaning they had decided it could not be cleaned and would essentially be off-limits. 90 percent of these abandoned waste sites are within two miles of a village, contaminating our drinking water and subsistence foods.

According to a recent legal filing from the State of Alaska, 17.6 million acres of land was transferred at least partially contaminated. This equals 40 percent of the lands that Alaska Native received. The estimated clean-up costs range from between \$60-\$100 billion. In addition, our people have been held back from possible revenue generating opportunities because of this contamination, in one instance a valuable property was selected for a possible harbor port, and after decade of clean-up came to learn it was not possible to clean.

Contaminated sites contain a variety of toxic materials including:

- Arsenic
- Solvents
- PCBs

- Asbestos
- Mining Waste
- Chemicals
- Mercury
- Toxic Metals
- Unexploded Ordinances
- Petroleum & Oil waste

Few studies have been conducted on the health and safety impacts of the contamination on human health, however anecdotally villages report higher rates of cancer and other illnesses linked to hazardous substances like Parkinson's disease. Many of the rural contaminated sites are Villages which practice subsistence lifestyles there has been only limited research on the contaminants impacts to fish, berries, and wildlife in these areas.

We have heard stories of fish that glow in the dark, or salmon that appear to have grey squishy material that our Elder bury and hope not to see again. One Elder reported that he had been part of a study to determine if PCB exposure had caused his Parkinson's, but he was never provided with the results.

In 2017, CERCLA was amended by Congress to lift the legal liability for contamination that was caused by the Federal Government for ANCSA lands specifically, but we have seen little action to clean these sites since that time. While this was a huge step in the right direction, the result has left agencies and others pointing fingers at each other for liability and clean-up.

In 2022, the Biden Administration came to visit our State to hear from our people about the issue. The remedy provided was to fund another effort to gather data on the lands status and provide a plan for remediation and clean-up. While we are grateful for the opportunity to identify the remaining lands that perhaps were left unaccounted for prior to liability being lifted, we are wondering how a report of the issue with no follow-up action can be offered again as a remedy to the situation. Currently there is money appropriated for Alaska Clean-ups of \$11 million, when the sites require billions to remediate. While we were left out of recent legislation that created a Tribal Superfund for clean-up funds that utilized a definition that left Alaska tribes and ANCSA corporations Ineligible.

The United States Constitution under the 5th amendment provides that private property cannot be taken for public use without just compensation. While our people signed our rights away, they did so with the promise of economic prosperity and self-determination. Instead, we have been largely unable to develop even simple projects and that equates to losses over a 50-year period that far outweigh the money and lands received. We have watched as EPA and other agencies have re-written policies absolve themselves of responsibility to Alaska Native Corporation lands that were contaminated by the Federal Government.

To be clear, we do not view the receipt of contaminated lands as just compensation, likewise we do not believe continuing to write reports will result in the situation being resolved. Below are some of ANVCA membership developed solutions that we respectfully submit for your consideration to remedy the situation:

- Swap undesirable ANCSA lands with unencumbered federal property. See sample language. See language in appendix
- Prioritize the clean-up of ANCSA contaminated lands in existing FUDS program
- Complete ANCSA Contaminated site database—provide ANVCA, Alaska DEC, and ANTHC with needed resources
- Include ANC lands in EPA Tribal clean up superfund—or create \$1billion in Alaska specific clean-up
- Provide adequate funding for Brownfields program, NALEMP, FUDS, etc.
- Adopt mitigation clean-up credits and tax credits for clean-up activities on ANCSA lands. See sample language in appendix.
- Require a minimum of bi-annual agency reporting on the status of clean-up on ANCSA lands.
- Provide Native contractor preference for clean-up on Native land.

Thank you for the opportunity to testify before this committee on this issue, we are hopeful that a real remedy, and not just another report to put on the shelf can be developed by working together to correct this injustice. None of us at the table were part of the problem, it is not your fault, but we are asking you to be a part of the solution, surely the intent was not to provide contaminated sites that result in a negative value.

## APPENDIX

## OTHER MATERIALS WITH WEB LINKS

- Report to Congress Hazardous Substance Contamination 1998
- 2016 Update Report to Congress— Hazardous Substance Contamination of Alaska Native Claim Settlement Act Lands in Alaska .
- WATCH testimony from Afognak Board member Sarah Lukin to Senate Environment and Public Works Committee *HERE*

## LAND SWAP LANGUAGE

(a) Title 43, United States Code, is amended to insert section 1601(a), as follows:

“§ 1601(a) Further Congressional findings and purpose

“(a) FINDINGS.—The Congress finds that—

“(1) Access to a healthy environment free from contaminants is critical for the economic, social, and cultural self-determination of Alaska Native communities.

“(2) Alaska Natives face continued obstacles in their access to healthy environments, resulting in ongoing economic, social, and cultural instability.

“(3) In 1998, the U.S. Department of the Interior reported to Congress that the United States conveyed numerous contaminated lands to Alaska Native Corporations pursuant to the Alaska Native Claims Settlement Act for the settlement of aboriginal land claims. The findings of the Department of the Interior’s 1998 Report to Congress: Hazardous Substance Contamination of Alaska Native Claims Settlement Act Lands in Alaska are hereby recognized.

“(4) In 2016, the U.S. Department of the Interior reported to Congress that 920 contaminated land sites were conveyed to Alaska Native Corporations under the Alaska Native Claims Settlement Act. At least 338 of those land sites required additional cleanup. The full number of currently contaminated lands conveyed pursuant to Alaska Native Claims Settlement Act is unknown. The findings of the Department of the Interior’s 2016 Updated Report to Congress: Hazardous Substance Contamination of Alaska Native Claims Settlement Act Lands in Alaska are hereby recognized.

“(5) It is not, and was never, the intent of Congress to convey contaminated lands, or lands with the risk of contamination, to Alaska Native Corporations for the settlement of aboriginal land claims.

“(6) There is an immediate need to address the environmental and health risks to Alaska Natives presented by the United States’ conveyance of contaminated lands, and lands at risk for contamination, to Alaska Native Corporations. This should be done rapidly, with certainty, without litigation, and in conformity with the real economic, social, and cultural needs of Alaska Natives.

“(7) Permitting Alaska Native Corporations to exchange lands conveyed pursuant to the Alaska Native Claims Settlement Act, regardless of existing proof of contamination, for other, non-contaminated federal lands for lands will promote the welfare Alaska Natives and their communities.

“(8) Alaskan Native Corporations have successfully assisted Alaska Natives by supporting the preservation of traditional Alaskan Native lifestyles, while providing for the economic needs of Alaskan Natives. In support of Alaska Native self-determination, Alaska Native Corporations must be full partners in the implementation of this Chapter and in the exchange of lands conveyed pursuant to the Alaska Native Claims Settlement Act.”

## Report and Recommendations for Identification of Land Swaps

(a) Title 43, United States Code, is amended to insert section 1629(i), as follows:

“§ 1629(i) Federal Land Swap Reports and Recommendations

“(a) As used in this section the term “contaminant” means a hazardous substance harmful to public health or the environment, including friable asbestos.

“(b) Within 6 months of January 1, 2019, and after consultation with the Secretary of Agriculture, State of Alaska, and appropriate Alaska Native Corporations and organizations, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report addressing issues presented by the presence of contaminants on lands conveyed or prioritized for conveyance to such corporations pursuant to this chapter. Such report shall consist of—

“(1) existing information concerning the nature and types of contaminants present on such lands prior to conveyance to Alaska Native Corporations.

“(2) existing information identifying to the extent practicable the existence and availability of potentially responsible parties for the removal or remediation of the effects of such contaminants.

“(3) identification of existing remedies.

“(4) recommendations for any additional legislation that the Secretary concludes is necessary to remedy the problem of contaminants on the lands; and

“(5) in addition to the identification of contaminants, identification of structures known to have asbestos present and recommendations to inform Native landowners on the containment of asbestos.

“(b) Within 6 months of January 1, 2019, and after consultation with the Secretary of Agriculture, State of Alaska, and appropriate Alaska Native Corporations and organizations, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report recommending options for implementing an exchange of lands conveyed to Alaska Native Corporations pursuant to the Alaska Native Claims Settlement Act, for available federal lands of equivalent fair market value. Such report shall consist of—

“(1) identification of existing non-contaminated federal lands available for conveyance to Alaska Native Corporations;

“(2) identification of lands conveyed to Alaska Native Corporations pursuant to the Alaska Native Claims Settlement Act, and that the Alaska Native Corporation desires to exchange for available federal lands of equivalent fair market value;

“(3) recommendations for legislation that the Secretary concludes will facilitate the exchange of lands conveyed pursuant to the Alaska Native Claims Settlement Act for available, non-contaminated federal lands.”

#### MITIGATION BANKING FOR NATIVE ALASKAN BROWNFIELD SITES.

Section 104(k)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(k)(1)) (as amended by sections 8 and 9) is amended by inserting after paragraph (12) the following:

#### “(13) AUTHORIZATION OF MITIGATION BANKING FOR NATIVE ALASKAN BROWNFIELD SITES.—

##### “(A) PURPOSE.—

“The purpose of this subpart is to establish standards and criteria for the use of all types of compensatory mitigation, including on-site and off-site permittee-responsible mitigation, mitigation banks, and in-lieu fee mitigation, for the remediation of Native Alaskan brownfield sites, and to provide credits for such remediation that may be used for the issuance of permits by the U.S. Army Corps of Engineers (Corps) pursuant to section 404 of the Clean Water Act (33 U.S.C. 1344).”

##### (B) DEFINITIONS.—

“For the purposes of this subpart only, the following terms are defined:

Compensatory mitigation means the restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of Native Alaskan brownfield sites for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Mitigation bank means a Native Alaskan brownfield site, or suite of Native Alaskan brownfield sites, where resources are remediated compensatory mitigation for impacts authorized by Department of the Army permits. In general, a mitigation bank sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the mitigation bank sponsor. The operation and use of a mitigation bank are governed by a mitigation banking instrument.

Native Alaskan brownfield site shall mean a brownfield site, as defined in this subchapter, owned or operated by Native Alaskan Regional Corporations and Native Alaskan Village Corporations, as those terms are defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 and following) and the Metlakalta Indian community.

Credit means a unit of measure (e.g., a functional or areal measure or other suitable metric) representing the accrual or attainment of remedial functions at a compensatory mitigation site. The measure of remedial functions is based on the resources restored, established, enhanced, or preserved.

##### (C) MITIGATION AND MITIGATION BANKING REGULATIONS.—

“(1) To ensure opportunities for participation in Native Alaskan brownfield site mitigation banking, the Secretary of the Army, acting through the Chief of Engi-

neers, shall issue regulations establishing performance standards and criteria for the use, consistent with section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), of on-site, off-site, and in-lieu fee mitigation and mitigation banking of Native Alaskan brownfield sites as compensation for lost wetlands functions in permits issued by the Secretary of the Army under such section. To the maximum extent practicable, the regulatory standards and criteria shall maximize available credits and opportunities for mitigation, provide flexibility for regional variations in conditions, functions and values, and apply equivalent standards and criteria to each type of compensatory mitigation.

“(2) Final regulations shall be issued not later than two years after the date of the enactment of this Act.

“(3) Applicability. This subpart does not alter the circumstances under which compensatory mitigation is required.”

**TAX CREDIT FOR NATIVE ALASKAN ENVIRONMENTAL REMEDIATION.**

Subsection (h) of Section 198 of the Internal Revenue Code of 1986 is amended—

(1) by striking the period and inserting a comma followed by:

“except as to expenditures paid or incurred in connection with qualified contaminated sites owned or operated by Native Alaskan Regional Corporations and Native Alaskan Village Corporations, as those terms are defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 and following) and the Metlakalta Indian community.”

Senator MURKOWSKI. Hallie, thank you. We so appreciate that and the passion with which you come today.

In listening, it seems almost obvious that we have a Federal view to my left over here, and the State and tribal and local view to my right. It wasn't intended to be that way, but perhaps for levels of questions back and forth and the back and forth, and I would hope that there would be an opportunity for some of the issues that have been raised in both areas, for people to be able to weigh in and to provide greater clarity for the record.

Let's begin with the questions. I think it is important to recognize that we are all talking about matters of environmental justice here. I would hope that if there is any agreement up here, it is with a recognition that when our Native peoples, our indigenous peoples, are provided or given a promise by the Federal Government that the very basic promise will be kept and that it will be fair. I think we should be able to stipulate that it is not fair that the lands that were provided to many of our Alaska Native people through the conveyance of ANCSA, it is not a fair deal when the lands are tainted, when the lands are contaminated, when you cannot derive economic value as was promised.

I want to start with you, Mr. Cohn. There has been a fair amount of back and forth here about the role of the Department of Interior and the reports that we have seen. I think you can fully appreciate that when a report is asked for in 1998, and then 20 years later you are still dealing with the fact that you just have a report and now we have asked for yet another updated report, and then we resolve the issue of liability in 2018, and then five years later we are here at a field hearing to discuss collaboration, that from the perspective of those on the ground another report is not the place where anybody wants to be.

In 1998, with that report, the Department of Interior did seem to recognize the environmental justice, that when you are conveying contaminated lands to settle land claims through ANCSA, that this needs to be reconciled. At that time in that report, there was a commitment to take a leadership role to coordinate the im-

plementation of the report's recommendations back then. So that was back in 1998.

Then in 2016, in the updated report, the BLL takes a different view, to the point that the Commissioner raised effectively, saying BLM doesn't have a responsibility for any aspect of the contaminated lands problem. You reiterated that here in your testimony saying that basically your role is the transfer of lands, and you have characterized the agency as the Federal Government's real estate agent, and basically placing any coordinating role with the State of Alaska as well as EPA. That has been pointed out, EPA is not the landholder here.

So I would ask if you would provide to me what you believe the responsibility is that the Department and BLM specifically have to Alaska Native peoples with regard to the contaminated lands. Do you feel that you have no obligation other than what you have mentioned? Going forward, you will provide notice that these lands are contaminated? Is there no obligation effectively with the agency itself as it relates to contaminated lands that were conveyed?

Mr. COHN. Thank you, Senator, for that question. Speaking for myself, I do hear everything that is being said. I really do appreciate and understand the injustice that has happened, and want to recognize that. I do think it is a situation that has developed literally over decades. So I understand the frustration and the length of time that this issue continues to be a problem for communities, for Alaska Native tribes and for the State as a whole.

When ANCSA was passed in 1971, it was prior to really the sort of modern environmental laws that really govern so much of what we are talking about today. The role of the BLM in that Act was fairly straightforward. It was really to act as the agent that would adjudicate land claims, survey those claims, and eventually transfer title. We have been doing that, both with Alaska Native claims through ANCSA as well as with the State of Alaska through the Statehood Act, diligently for the last decades.

At that time, the statute was very clear that it is not a discretionary action for the BLM. Our role is to convey those lands pursuant to the Act. At the time that the Act was passed, it did not contain a measure regarding evaluating those lands for contamination. As we know, many of those lands were selected in the 1970s. They were done prior to any acknowledgement or recognition of the scope of the problem.

Senator MURKOWSKI. So in 2014 then, with that Congressional directive specific to BLM, BLM was effectively told, prepare a cleanup plan for each of the contaminated sites that were transferred pursuant to ANCSA. So I get what you are saying about that period in between 1979, in 1971 with the passage of ANCSA, and prior to this directive. But it seems to me that the language in 2014 was pretty clear.

Now, that was not done. That was not included in the 2018 report. So you have a clear directive, it seems to me, to the agency to do this. We haven't seen that. Are you working to do that now?

Mr. COHN. We have been working through following the recommendations and the report, the 2016 report, with the primary initial step of really, for the first time, trying to have sort of a consolidation of all the information we have from various sources

through the State, through the other Federal agencies, and putting that information into a geospatial data base. So actually not only having sort of written records or contemporaneous notes about these sites, but actually beginning to map them, so that we have some sense of what we are dealing with.

Some of these different data bases and different data sources, they don't all agree. They have approached the problems differently. So we might have one data base that describes one site and another data base that might describe the same area with ten sites. So we are trying to reconcile all that. Our intention is to finalize that with the most current data that we are receiving from the State, then to transfer all of that information to the State as a central clearinghouse for getting that information out.

Senator MURKOWSKI. So your plan is to bring together a more coherent inventory, and then give that to the State to fix? It seems to me that the directive to the BLM was to prepare a cleanup plan for each of the contaminated sites. So just transferring it to the State, then, doesn't seem to be a very fair plan for cleanup.

Mr. COHN. I appreciate the question. I think our intention here is to provide this information to the State given that the State has the authority to basically identify the responsible parties and to then work with those—

Senator MURKOWSKI. We have already identified the responsible parties. We have done that. That is what we began to do in 1998. That is what we saw with that second report in 2014 and in 2016. We are not still identifying responsible parties.

Mr. COHN. I would defer to the State on that issue.

Senator MURKOWSKI. Are we still identifying responsible parties, or are we pointing fingers?

Mr. BRUNE. Senator Murkowski, through joint and several liability, the Federal Government is a responsible party, full stop. There are definitely other responsible parties, but the Federal Government, who was a landowner during the time that contamination occurred, is a responsible party. I don't know if that is Department of Defense, if it is the Bureau of Land Management, if it is the FAA or who it is, Senator, but it is the U.S. Government.

And it is the responsibility, I would hope, of someone in the Federal Government, to stop pointing fingers, to stop saying it is the responsibility of a different Federal agency other than themselves, and to put a plan together as instructed by Congress to clean up these lands. The responsibility, full stop, is the Federal Government, and the indigenous people, the Alaska Native people have an expectation that the Federal Government will work out who the responsible party is amongst themselves, or who may have contaminated the lands when they were in the ownership of the Federal Government, then they can go after them.

But through joint and several liability, Senator, the United States Government is the responsible party.

Senator MURKOWSKI. So what we have been asking for, for some period of time, is really to have that entity, that Federal entity that is the coordinating agency, and I know nobody wants it, everybody wants somebody else to take this on. But it seems to me that the Department of Interior, that BLM, is probably in the best position to act as coordinating agency to help to coordinate all of this, to

speed this up, to do exactly what the Commissioner has just outlined. If there is an issue about whether the contamination was caused by military or by another Federal agency, to figure out how we prioritize additional funding to pay for the cleanups, to provide land exchanges as Hallie has suggested, to take back the damaged lands, to allow the corporations to gain different lands, useful lands, that will again address this longstanding issue.

It seems to me that that should be one of the outcomes from what happens today, is that at a bare minimum here, we get some commitment. I would hope the Department of Interior and you as the new BLM State director would be willing to make that commitment, step up and take on the coordinating agency role here with respect to ANCSA contaminated lands.

We have got to stop saying that we are going to come together, we are going to collaborate, we are going to create these task forces, interagency working groups. I am all over the Arctic Executive Steering Committee. But again, this is not an issue that we need to study and study and study. What we need to do is we need to have an actionable plan.

So I would ask if you can commit to me today that the Department of Interior, through BLM here in the State, can take on this coordinating role.

Mr. COHN. Senator, I can certainly take that request back to the Department.

Senator MURKOWSKI. Ms. Reed, can you speak to that?

Ms. REED. I think I would have to echo Steve's comment that we will take that request back to the Department. But we are committed to working with our Federal partners to correct this injustice.

Senator MURKOWSKI. Well, know that I have already asked Secretary Haaland on this specific issue, have raised this issue with her when she was before the Energy and Natural Resources Committee, I don't believe that I have raised it at an Indian Affairs Committee. But I have suggested that is Interior, the Department of Interior, that would play a very key and a very important role in terms of a coordinating agency.

So I would like to know that by the end of this week, we can get some kind of a determination from Interior as to a commitment as a coordinating agency. Because for too long, we have had lots of eyes on things. But when nobody is really exercising the oversight, it is just too easy to not make forward progress. I think that is where we have been with this issue. Everyone recognizes there is environmental injustice that has been done. Everybody recognizes that this has not been just. Everyone recognizes that this is expensive. Nobody wants to take it out of their budgets.

This is where I am going to turn to the EPA and bring you into the conversation, Dr. Waterhouse. I want to echo what the Commissioner has said. I think EPA has been willing to be a partner working with us, certainly through the appropriations process, to figure out what more we can do to actually start the cleanup. The cleanup is where we want to be.

I don't want to be sitting here in another hearing to just talk about what more we need to be doing on an inventory side. I want



to know actually what we have been doing to get these specific sites cleaned up.

Let me ask you, Dr. Waterhouse, what does it mean to treat the ANCSA contaminated lands issue as an environmental justice issue? Is this something where, when you view it through this lens and a recognition that there are opportunities, I think, for resources, if we viewed these contaminated lands sites through the lens of environmental justice and being able to tap into different resources there? Talk to me a little bit about that.

Dr. WATERHOUSE. Thank you so much for the question, Senator. One, it means that we need to have an all hands on deck approach. It means that we not only as a Federal family need to reach across and beyond the silos that we have operated in in the past, to be creative, to work with our State partners, to work with the tribal corporations, to work with the Native villages, to work on this problem.

It also means we need to have an all-of-EPA approach. What we have done is look at the authorities that we have within our agency to bring together different funding streams that we can put together toward this problem. So it means that we are working within our Superfund program to make additional resources available for site assessment work.

We are working within our Brownfields program to make additional resources available, to get Brownfields funding and grants out to community members. We also are making more persons within the Office of Land and Emergency Management available to help oversee this work. It means that we are working to prioritize this as something that we are dedicated and committed to seeing done and seeing it through.

So, for us, because environmental justice is a priority within the Administration, we have prioritized this work. That is why we have already made past visits here and have other visits planned. We have our staff in Region 10 who are working very diligently with us to help oversee this work.

We are committed, Senator, to work with whatever resources Congress provides that support the inventory, assessment, and cleanup of contaminated lands. We plan on moving forward as quickly as we can. We agree with you that there is an urgency. And the urgency is part of our attention to the environmental injustice which has been much too long going on.

Senator MURKOWSKI. So when you talk about a whole-of-government approach, I agree. I would just ask that through BLM, through Interior, that they play a role as the coordinating lead. Do you think that is important to how we are able to execute a whole-of-government approach?

Dr. WATERHOUSE. I think we absolutely have to have coordination to move forward. I think the problem of the past, Senator, is the fact that we have had multiple agencies working, but they are all working on their own tracks. We need to work together to be effective to get this done.

With looking at cleanup work across the Country, I am going to very candid with you, Senator, whether we are dealing with issues in New Mexico and in Arizona and Colorado and Utah, with the Navajo Nation, or whether we are dealing with cleanup issues that

are taking place in Alabama or in Michigan, I see similar problems when we have Federal agencies that aren't really working together, and they are working at cross purposes. Even if DOI takes the lead as coordinating agency, unless everybody is moving in the same direction, we still are struggling with the same problem.

That is why I believe that the Arctic Executive Steering Committee work moves beyond just saying, let's get a report out. But it means working together to get a unified data base and dashboard that is shared between all the Federal agencies and our partners on the ground and Native corporations and villages that is a public-facing tool that we all can use.

It is not an end, but it is a necessary step forward. Right now, we have different data bases across different agencies. Sitting right here at this dais, we don't all agree on exactly where all the problems are.

So until we get that, it is going to be hard for us to get solutions.

Senator MURKOWSKI. So let me ask on that, I think you have outlined the importance of making sure that you are consolidating the information, that everybody is not using different sources there. It kind of goes to what you were saying, Steve, about additional inventory.

Yet, you have an imperative on this end of the table. You have people out here that probably had important things to do today but they really care about the fact that their drinking water could be contaminated, that the berries, the salmon berries that are ripe now, or the blueberries that they are waiting for might be contaminated.

Nobody wants to hear that, well, we are doing additional consolidation of information and additional inventory, that we are not going to be able to see action on the ground. As we do this, as we work to build out this coordinated dashboard, does this mean that cleanup work is put on hold while we do all this?

Dr. WATERHOUSE. I think it absolutely can't mean the cleanup work. I think we have to, as my boss is fond of saying, we have to learn how to fly and kind of build a plane at the same time. That is why we are really excited about the additional Brownfields funding that is available. We are excited about the additional appropriations that have been kind of set up for work on the ground. That is why we are excited about using additional site assessment work to address orphan sites and moving forward as urgently as we can while still moving this data base that will be necessary for us to have prioritization.

One of the things is, when you have a big problem, you have to figure out exactly what has to be done first. Having the data base allows us to then have a prioritization to say, this is posing the greatest risk, we need to go there next. This site is posing a lower risk, but it is greater than the rest, we go there next. Those are essential steps that we have to move forward to be successful.

Senator MURKOWSKI. So let me ask you on the prioritization, because it is something that we hear a lot about, I think we recognize the longer the FUDS are contaminated, the more we see the PCB pollution remain in the food chain, the more we see associated health problems, we are seeing increased instances of breast cancer amongst Alaska Native women attributed to the PCBs from FUDS

that we are seeing out in St. Lawrence Island. They think that other chronic illnesses could be attributed to them as well.

I understand there is no direct research to support the claims that we are hearing out there. But again, we are hearing too many of these health-related concerns to not be paying attention to them. What active research programs do you have to better understand the health effects of the contamination that we know exists? How then is that information being used to help prioritize the different sites for cleanup? How does that factor in?

Dr. WATERHOUSE. Right now, because we have literally the DOD, it has its important FUDS work that is going forward, its cleanup work, we have BLM, which also has its footprint and approach to this within DOI, we have work that we are doing for assessment and work that we are doing for Brownfields. To be honest, as of right now, we all have different work that is going on. We don't have a unified approach. So we are directing Brownfields and other resources based on what we are hearing from people on the ground.

So when people on the ground are telling us, this is where there is a problem, this is where we are trying to say, well, let's see what we can do to try and assess that.

Senator MURKOWSKI. You listen to the stories and the anecdotes, you don't necessarily wait and say, well, we want to have a study on that?

Dr. WATERHOUSE. I don't think so, but we do, under our resources, we have to get scientists and engineers out there to do sampling and to do investigation. That is what we are doing in the Superfund program by making additional site assessment resources available. We can inform the use of those resources by talking with our partners on the ground, the consortia, Native villages and others.

Senator MURKOWSKI. And you are doing that in many of these visits that you are doing in the State, aren't you?

Dr. WATERHOUSE. We are having a lot of public engagement, and we are trying to meet. Yesterday I was meeting with the Alaska Native Tribal Health Consortium. These meetings are essential for us to know where we need to direct our resources.

Senator MURKOWSKI. This is a question for anyone over here, Interior, Corps, or EPA. Does the Federal Government have an estimate on the cost to investigate and remediate the ANCSA contaminated sites? Hallie has suggested in her testimony that it is somewhere between \$60 billion and \$100 billion is what is estimated. Can any of you speak to that estimated number and give me a gauge here?

Colonel DELAROSA. In looking at the DOD-specific areas, obviously there are more contaminated ANCSA lands than just what the DOD is looking at, we estimate it to be about \$1.65 billion for the whole State of Alaska, for the DOD FUDS program, yes, ma'am.

Senator MURKOWSKI. What about other lands that we have identified that are non-DOD?

Mr. COHN. Senator, I will speak a little bit for what BLM has been doing. We have mostly in terms of our cleanup work on the ground been focused on sites that you could characterize mostly as abandoned mines. They were mined previously by private entities.

Those entities no longer exist or went bankrupt and left the State. So we are working to clean up sites of that nature.

It is a limited number of them, and we have cleaned up several sites already around the State. Probably the largest single site that we are working on right now is the Red Devil Mine in the Kuskokwim, which is, it depends upon the final cleanup in terms of the final remediation. But the cost could range anywhere between \$30 million and \$200 million for that one site. That is probably the longest single site that we are trying to address in the State.

Senator MURKOWSKI. But BLM has not more broadly identified cost of remediation throughout the State?

Mr. COHN. No, we haven't. We have only been focused primarily on the sites where we know the responsible party for those sites, or potential responsible party. Again, mostly abandoned mine sites.

Senator MURKOWSKI. Commissioner, do you have a handle on what you believe remediation costs may be?

Mr. BRUNE. I think it is important to understand the extent of the problem. Many of these sites, as you outlined in your opening comments, are rural. Getting logistic support to rural Alaska is extremely expensive, Senator. To get some drill rigs out there, to actually understand, as BLM was instructed to do by Congress in 2014 and 2016, to actually understand the extend of the problem, we have to get boots on the ground.

So to make an estimate, Interior needs to do what they were instructed to do by Congress already. What Colonel Delarosa was saying, the \$1.65 billion, that is what we know, prior to the liability being removed. I was with the regional corporation at the time. Folks were scared to say what they knew was contaminated because they might be responsible for it. So I think there are a lot more contaminated sites out there than we even know about.

So Hallie's leadership on this effort has been amazing, and she deserves huge credit. I think the number is significant. I can't tell you what it is, but let me use Red Devil as an example. That \$30 million to \$50 million cost, we had a mine project proponent in Donlin ready to clean that area up for mitigation. The Corps of Engineers said no and instructed them to lock up lands. I was responsible for some of those agreements when I was at SERI [phonetically] to lock up lands for conservation for mitigation for what Donlin was going to do. instead of cleaning up Red Devil and using their expertise.

That is the part of thing that we should be considering as a win-win-win for the environment, for the watershed, and for project proponents who want to help areas. That is an opportunity where, if the Federal Government is going to be not giving the money, you have the private sector willing to do it for mitigation. That is an opportunity.

I think as we are talking about, we can't let a geospatial data base or all that discussion get in the way of actually getting boots on the ground for doing site delineation, finding out the extent of the contamination, and actually doing the cleanup. They need to be parallel approaches. We are not seeing that. The scale of the funding that we are seeing today is so minuscule, it is going to be decades.

I will conclude with an answer to that: we don't know the number. But if, truly, Interior felt that this was a priority, they would do what they have done for Ambler Road. They would do a brand-new EIS on it even though they don't need to. Because that EIS and that ROD was already done. They would dedicate money that is being focused on fighting the State to navigability cases, when we are trying to get rivers extended to us. They would use that money.

Nope. They are not finding that extra money because it is not a priority for them, Senator. I guarantee you if they wanted to make it a priority, they would.

Senator MURKOWSKI. Yes. I don't disagree with you, my friend.

I want to get into this issue of, all right, we recognize that it is going to be costly to clean up, so what are some of the other proposals. There have been some suggestions here that I want to follow up with.

But before I do that, I want to go over to the Corps for just a moment. I asked Dr. Waterhouse a little bit about the prioritization, when you have health and safety issues. Can you explain to me the prioritization that DOD uses for FUDS cleanup? We have over 530 FUDS sites in the States, 196 are on Alaska Native lands, and 35 projects here on Unalaska and 20 on Amaknak alone. Through DOD, how do you prioritize for FUDS cleanup?

Ms. BEASLEY. Thank you, Senator, for the opportunity to explain that. As I have said, we have a significant problem, a significant issue with FUDS in Alaska as well as in the United States. So when we prioritize a site for investigation and cleanup, we follow a risk-based process. We address sites with the highest risk to human health and the environment first. We have two different ways of doing that, depending on the type of site.

For sites that are contaminated with hazardous, toxic, and/or radioactive waste, we use the relative risk site evaluation score. Every single site that, HTRW site in the FUDS program has a relative risk site evaluation score. For sites that have contamination from military munitions, we use the military munitions response site prioritization protocol, or MRSPP. Every single site in the FUDS inventory that has military munitions has been scored for the MRSPP. Those are not only scores that we do within the Corps of Engineers and the Department of Defense, but we work collaboratively on the data that generates that information with our stakeholders, property owners, and our regulators.

The Corps also develops a statewide management action plan on a yearly basis with the State of Alaska. Our teams coordinate cleanup activities with the State, EPA, and have meaningful involvement by our tribes, landowners, including ANCSA, corporations, local officials, and the public. Then at the very local level, ma'am, we have the restoration advisory boards. We are really proud of the very active restoration advisory board here on Unalaska that meets quarterly.

Senator MURKOWSKI. You mentioned the word coordination with other agencies. I will urge you to be really focused on that as you are working through the various cleanup sites. As most of you know, I have been very aggressive over the years in trying to get these legacy wells cleaned up on the North Slope. I think we have

made some progress, and that is good. But it is in the category of about damned time we have made some progress.

I have heard different stories about how we are not being as efficient as we should be across our Federal agencies. It is expensive to mobilize equipment to get up to the North Slope for one season. The equipment is relatively specialized. What I hear is, we will send it up, it will be up there for the period of time that it needs to be, and then it is sent back down, goes right back, right across the area where the Department of Defense is working on another cleanup that needs the same equipment.

But because one job is related to the legacy well and another one is a FUDS site, we are not partnering as we might want to, even within our own Federal agencies. The specifics I am talking about was a cleanup on Point Lay, this was some years ago. But it was just a reminder to me that we could be a lot smarter with how we are moving things around and how we are saving dollars on some of these cleanup projects.

Are there issues with regard to permitting that can be approved? We are always talking about what we may want to do with NEPA exemptions to just facilitate more readily some of these projects. Is that something that would be important as you try to advance some of these projects on a more expedited timeline?

Colonel DELAROSA. The challenges of having two people from the same organization over here. Ma'am, obviously when we talk about regulatory permitting, it is certainly a big topic. We have had a lot of conversations with both yourself and Commissioner Brune on this topic itself. The permitting of the NEPA piece with regard to getting into the FUDS cleanup, they are separate and distinct. So it is not impacting, changes to the NEPA process doesn't impact how we go about doing our FUDS cleanup.

Senator MURKOWSKI. Okay.

Colonel DELAROSA. So maybe I don't understand your question.

Senator MURKOWSKI. As we look at those things that we put in our way, those barriers to getting the job done, I want to know what the barriers are and if we can take some of those down. It sounds to me like you are saying at least when it comes to NEPA, that is not an issue for you. Maybe there are other permitting issues?

Ms. BEASLEY. No, ma'am. I really am proud of the work that we have done in the State of Alaska. We are a continually improving organization. But we are getting work done, and we are committed to continuing to clean up these sites. We have spent more here than in any other State in the Country.

Senator MURKOWSKI. Which we appreciate. But again, I think we recognize that when you are talking about \$30 million over the last five years, I appreciate that it is the most for any other State. But we know, we can go through \$30 million awful quick moving stuff around this State.

So, I don't know, when you were walking me through the prioritization, if there is any way that you can prioritize ANCSA lands within the FUDS selection process.

Ms. BEASLEY. We certainly take all of our environmental justice requirements seriously when we do all of this, whether it is a relative risk site evaluation or MRSPP, and in our discussions with

the State of Alaska and the statewide management action plan where we do our prioritization.

Senator MURKOWSKI. So then if we are recognizing that ANCSA contaminated lands is an environmental justice issue, we are going to try to encourage the Administration to commit to utilizing environmental justice funds. So if that is the case, can that not be incorporated as yet one of the considerations for prioritization when you are looking at FUDS?

Ms. BEASLEY. I think that is a great question, and I think it deserves a detailed response. But I would say I would like to take that question back to the Department of Defense as those prioritization protocols, those site evaluations are policy from the Department of Defense. I think you deserve a detailed response on that, Senator.

Senator MURKOWSKI. I will await that response, and I would encourage you to look at that critically. Again, when I think about the matters that we are referring to as environmental justice in the political world of Washington, D.C. today, I can't think of any example where there has been greater injustice done to our indigenous peoples than when it comes to our own government's failure to respond to our matters of contamination. So I would ask you to take that back.

I want to raise one very local issue here. This came to my attention through the Mayor. This is a site that the Qawalangin Tribe razed its Building 551, it is a former Navy mess hall at the Dutch Harbor Naval Operating Base. It is located within the Amaknak and the Unalaska Islands FUDS. It is a World War II era building, was a former mess hall. The building and apparently the lands are just full of PCB contamination.

This site was bombed by the Japanese. The site is not eligible for remediation under the FUDS program based on the high level of PCBs. It was not eligible for work under the NALEMP program. But the tribe was actually told that this building can't be cleaned up under NALEMP because the impact at the site was caused by the Japanese bombing. It superseded the DOD being there.

Now, to me this is one of those things that is like, wow, it is hard to fathom why the DOD would not be willing to work to address that. So as I understand it, and I am looking to you, Mayor, for correction of this, but the burden, both financial and health related, is now falling to the tribe and to Ounalashka Corporation. So you are undertaking that.

It just seems to me that this is something that the Department of Defense should be willing to work with the tribe and the native corporation to address and fix this. I want to make sure that I am detailing this correctly, Vince. So it is my understanding that you are moving forward to address this, because the Department of Defense will not. Is that correct?

Mr. TUTIAKOFF. Yes. And this is one of the issues that I just don't understand. I worked for BLM early on in the program in 1972 when we were doing the land selections for the village of Unalaska. One of the concerns we had then was contamination. This is one of the points that this specific building was hit by machine gun fire from a Japanese plane at the time they bombed. They were trying to bomb the building, missed it and hit a contractor

based vessel that is now sitting in Captain's Bay, the Northwestern. That was part of the damage that was done.

I just don't understand, because I worked for Standard Oil for 20 years during that period. Of course, they came back, said, well, Standard Oil, you are responsible because you were using that building for storage. But that was 30 years later. Yet the contamination was there.

It is proven, the City of Unalaska, I will speak to it here, when they took over the power plant which we are using now, we had to sue the Federal Government to clean it up. PCB tunnels that ran from that building, 552, to the transformer to the power plant, were all traced to the military. We didn't put them in there. We don't have concrete vats plants, we don't have equipment.

In fact, we weren't allowed on Amaknak Island until the late 1950s as residents of Unalaska. If they caught us over there or chased us down, we were arrested by shore patrol, and the marshal would be called coming out of Cold Bay. You can't make this stuff up.

And I am hearing some of these issues. My concern is that I would like to see the Federal agencies get together and work, talk about it. It is like you have your own little, you do, most of you, have your own building and you are afraid to go out and talk to the other one across the street. That has to stop. Because this is a very important issue, and has been.

I appreciate the comments being made about trying to get it done. But for me, and for probably many of the others that have been on the OC board for many years, we are tired of it. Every time we get a letter back, oh, we are going to confirm this, then we are going to start a study.

Well, we have been studied enough. It is time to get the funding, ask the Senator for more help there. Let's get these programs, take all these studies and put them up on the shelf. They have been studied enough. Come out here, send people out here. When you send out people to do work in the Aleutian Islands, you have to be ready and prepared to do it in a short season, four to five months.

And it is going to cost. So we need to get it done. Thank you.

Senator MURKOWSKI. Thank you for that.

I would ask you, Colonel Delarosa, if you will commit to work with me and with the tribe and the ANC to see if we can address this.

Colonel DELAROSA. Yes, ma'am. One thing I will say, I am very, very proud of the RAB here in Unalaska. I think the corporation is a leader, the community leaders that are participating with that, my team from the Alaska District, they know them very well. They know them on a first-name basis. They see them regularly. I look out here and I see faces that know me, and I know them.

So I do, hope you do understand that we do take this very seriously, we do get on the ground and we do talk to these folks. We do talk about the priorities. I am very familiar with this building. I know it is a contentious issue. Sometimes there are unfortunately things that get in the way. I think we owe you a detailed response on this one.

Acts of war, unfortunately, don't get covered under the FUDS. It creates problems with regard to CERCLA, which is what we have



to clean the FUDS projects up to. So there are challenges within that.

I recognize that there are contaminants underneath this building, which in and of itself creates a problem. How do you clean up underneath a building? You demolish a building; you clean everything underneath it. But we don't build the building back.

So there are competing challenges with this particular building. I feel for that community, and we have this conversation, ma'am, and we commit to giving you a more detailed response on this particular one. This is not one that weighs lightly on us. We know this is one of the biggest issues here. So we owe you a better response.

Senator MURKOWSKI. It is just kind of tough here, you recognize that it was here, it was here in the Aleutians where this Country was invaded by the Japanese. Everybody else in the lower 48, when they think of World War II and how America was hit, it was Pearl Harbor. It was here. It was here. You had a whole village that was completely removed from their homeland. You had Alaska Native people, to Hallie's point, who were standing watch, the Eskimo Scouts.

This needs to be addressed. It just needs to be addressed.

I will accept your offer to have further background to it, but we owe it to these people here, not just Building 151, but so many of these other issues in terms of prioritization and what we can be doing to prioritize the cleanup on our Native lands that have been transferred.

Some of you have suggested, all of you, but BLM and EPA in particular, indicate that you have existing statutory authorities that have some inherent limitations for work on ANCSA contaminated lands. If you have limitations, part of what I can do as a lawmaker is we can work to change those. We can change the law. We can work to address some of these barriers.

Do any of you have for me right now a list of the limitations that are kind of holding you back, or some proposed changes to the law that would help you better facilitate what we are trying to do here when it comes to remedying the situation with our ANCSA contaminated lands? If you have that quick list, I am happy to take it now. But know that I would ask for more details on the specifics to this from the DOD, from the EPA, from the DOI.

Would anyone care to comment on that at this point in time? Or you can all get back to me.

[Laughter.]

Senator MURKOWSKI. All right. I do see that as our EPA representative down there, you are nodding your head. I am going to look for a list of proposed changes from you. Commissioner, were you going to weigh in on that?

Mr. BRUNE. I was just going to say, Senator, in the testimony that I submitted, there is a list of recommendations for potential statutory changes to ANCSA as well as to CERCLA and RCRA that will help resolve many of the issues that we have.

Senator MURKOWSKI. Thank you for making the job easier for those of our Federal partners. Hallie?

Ms. BISSETT. Thank you, Senator. I just want to address one thing, first, thank you so much for your service, and all the hard work you do here in Alaska. I know you guys are working hard,

all of you, to address this issue. You are limited to your constraints.

But \$1.65 billion to clean up the entire State, if I just took the example you used, \$30 million to \$200 million, well, we will just use \$30 million for one site times 1,100. I am not super good at math, but I think that is like \$30 billion. So I don't know how you get from there to one. It is a matter of putting those fences up and saying, well, these will never be cleaned, so let's just put that under institutional controls, or those are orphaned, we are just going to abandon those.

I think the number is closer to what I—well, we don't know until we have this study. I just wanted to clarify that number perhaps.

Senator MURKOWSKI. So, I would like to turn to you because you have raised the issue of exchange mitigation, both you and Commissioner Brune. I think we recognize that when it comes to land conveyances in this State, none of this is easy. I have worked the Sealaska Lands Conveyance for how many years, we are working the landless now, our Alaska Native veterans allotments, these continue to remain challenges.

But I think we recognize that there are other ways to address the issue. You have noted some in your written testimony. I think those are appreciated. But as we look to what will come out of this hearing, this dashboard and this inventory that is perhaps better defined, but a plan for remediation and cleanup isn't enough unless we actually act on it.

What additional follow-on would you specifically recommend?

Ms. BISSETT. Thank you, Senator, for that question. I think first and foremost, when you take into consideration just the size and scale of what needs to be done to clean up these lands and then this one village, that will take 150 years to get there, just in this one. And the 50 years past of lost economic opportunity, I mean, is it reparations? I don't know. I think it is land that is valuable, like I said. So this land swap, we want the lands cleaned up, too.

Commissioner Brune actually was the first one to say, we think we ought to get 100 acres of land for every one acre we received contaminated. Sounds like a good plan to me. And people in Congress will tell you it is really hard to get lands in Alaska given over to private individuals. That might be true, but it shouldn't be for Alaska Naïve people who are in this situation. Maybe for a private industrial development company that is hard. But it shouldn't be hard for the people who gave up 90 percent of their country for \$60 billion or \$30 billion, if we are going to be nice about it, worth of contaminated liability.

There are also some creative solutions, Senator, that again, Commissioner Brune was the first to bring to us. This is around mitigation and cleanup. I know it is hard to get government funds to do stuff, but right now, if you are going to develop a project in Alaska, and I think it is everywhere in the Country, but there is a 404 permit. You have to purchase two acres of wetlands for every one acre that you impact. Well, that is expensive, right? But we have to do what we have to do.

However, what if instead of having to buy two acres of mitigation wetlands credits, you were able to buy a cleanup credit, or you were able to actively clean up a site and get credit for that, and

to restore the mine or whatever it was that was there to what it used to be, and you are still in kind of a net zero in terms of impacts to the environment. I think that is a beautiful idea. Private industry, Donlin Mine is a great example, and Red Devil was brought up. They would have loved to clean Red Devil up and have that be their mitigation project.

But that kind of law just doesn't exist. We were nice and provided you some suggested language in our written testimony for you to consider. I think that is a really creative solution. We understand that you don't have billions and billions of dollars to give out for cleanup. But we cannot sit around for the next 100 years continuing to lose on the lands we did receive and continue to think that we got a fair shot at this deal.

Senator MURKOWSKI. And Mayor, that was one of the things that you had mentioned in your comments as well, is that the Uonalashka Corporation would like to be more included in cleanup aspects of it, and recognizing that this builds capacity and provides for economic opportunity. Cleaning up somebody else's mess, but you are able to provide for jobs here for your shareholders as well.

Mr. TUTIAKOFF. Yes, Senator. That was a point that we saw early on in the formation of the corporation, that we had contaminated lands. When we asked BLM or Department of Interior, BIA, whomever, they would tell us, hey, you selected it, it is your problem.

Well, it took us back to the point to, well, how are we going to do that without an economic base, which was not necessarily here then at the time. We didn't have fishing as we have seen for the last 40 years at the time. Yet we continued to move forward, work with the companies such as the cities, other partners in industry, recognizing the fact that there maybe, that they do not dig, you build from the ground up, cover it, build from the ground up.

I know as far as a company like Unalaska Environmental, which is an 8(a) company we formed because of necessity, we wanted to be able to clean our own lands, identify when we do run into soil movement, that we find sites where Unangan people have lived for thousands of years, these midden sites, that we be the ones to take care of that and bring these people to where we can understand the life that they had before we put them back into the ground again, which we do.

But yes, we would like to, and that is one of the reasons we formed the 8(a), was to be the person, be the company. Now in the past we have had companies come in and not only companies but museums, in the late 1940s and 1950s through the 1950s, came in and dug up our lands and we didn't know what they were doing, why they were here. They would tell us, well, we are trying to find your culture and we will get back to you.

That didn't happen. A lot of that stuff was never returned. It is a big part of our history that is now sitting in some vault somewhere that nobody even knows about. So we want to prevent that for any future Aleuts that are interested in their culture.

But yes, we want to be the companies that do the work on our land.

Senator MURKOWSKI. And you have also mentioned that you have to take the initiative to resolve some of these lands. Other-

wise, you can't make things happen within your own communities. I think you mentioned a Head Start building here in Unalaska. Walk me through exactly what you are dealing with there. You obviously need to provide for your children in the community. I suppose you could wait until somebody prioritizes this as a cleanup project. But you haven't done that; you have attempted to move forward and address these issues yourself.

But you are doing that at the city's own expense, is that correct?

Mr. TUTIAKOFF. Yes, it is more of a working in partnership with the tribe and APIA, which is a regional non-profit that has put up this facility on behalf of the community. As we identified early on, if you don't have a day care center or a place to take their children, a lot of workers cannot work. So that is one of the reasons. What happened was, after they did a soil remediation, a test in the area of the building, where the building was going to get built, while they were finishing the foundation they were putting in their access road, secondary access road. They went down into the gravel and dirt and found fuel, it was an underground tank site.

Immediately stopped all work and rather than letting this building sit all summer without getting built, APIA and the corporation and the city also, to get the thing going, did the remediation. Now APIA is seeking additional funding to get that paid for.

But we are working with APIA, the tribe, to try and remediate this property. It is a small area, I don't think it is more than half an acre, quarter acre, if that, 200 by 100 feet or something like that. It is a stretch that it was an underground tank, identified after that there was a building there. Just unfortunately that nobody knew it was there, wasn't on our radar, nobody ever had been up there before.

But there are more sites like that on this island that we don't even know about. They have been identified, 5,000, 6,000 buildings, but where are the tank? You have to dig to find them, drill to find them. It is unfortunate, but that is what we are dealing with here.

Senator MURKOWSKI. Let me ask you one more question, Commissioner. The State is in a position where we get to a point where the level of cooperation and discussion is not yielding the action. So the State has moved forward with litigation that won't proceed. That is clearly a tool that the State has.

As a member of the Federal delegation, and as somebody on the Appropriations Committee, one of the tools that I have been working in my tool box is trying to figure out, all right, can we work with the folks in EPA to stand up a separate program? We have funding in this next fiscal year, we are starting out pretty skinny, but the fact that we have a new program in is something that I am encouraged by and think that we have some opportunities there. But I think we are all trying to figure out, all right, how do we move this in different ways and whether it is at the tribal level with the village corporations doing what the State is doing, what we are doing, and the agencies.

So this is kind of a general question. Do you feel that the State has a fair working relationship with the Federal agencies on this issue of contaminated lands? If not, what more can we do to figure out how we are going to use this whole-of-government approach? Because when I think of whole-of-government, it can't just be the

whole Federal Government. It has to be all of government, at the State, the tribal, the Federal. What more do we need to be doing?

Mr. BRUNE. If we thought the Federal Government was doing enough, we wouldn't have brought the lawsuit, Senator. I have talked with some folks off the record from the Federal Government that have said, there is no way they are going to settle this case that we have brought, which is disturbing to me.

What we need are commitments. We need legally defensible commitments from the Federal Government, a compliance order by consent that will make commitments that they are going to advocate for funding and they are going to put a timeline for the clean-up of these sites.

We also want to ensure that, and again I need to give big credit to Carlton for the efforts with the Arctic Executive Steering Committee, but those groups come and go with Administrations. We saw that group do nothing for the preceding four years.

So those efforts need to be codified. We also need to ensure that the plans that they are putting together, and when Carlton was up with folks a couple of months ago, we told them, it is imperative that it is not just the Federal Government talking to themselves. They need to consult with the tribes. They need to consult with the regional corporations and the village corporations. They need to consult with the State. They need to use, as the Mayor said, the regional and village corporations to do this work, the 8(a)s. It would be a shame if they did not utilize those efforts.

But we don't want to be told what they are going to be doing. They need to be consulting with us, with them, in developing the plans.

But consultation cannot get in the way of cleanup. We could talk this one to death, we have for 50 years, Senator. We need to see action, concurrently with consultation for these efforts. And trust me, like I said, Senator, we did not want to bring this litigation, but we had to. The only way we won't go forward with this is if we see an agreement that will be followed, that will be adhered to. We have already seen broken promises or Federal law ignored. In 2016, you, Senator, along with the rest of your colleagues, got at least the 51 votes and whatever number in the House, you passed law that said the Department of Interior, BLM, shall develop plans, and they ignored it.

So I don't know what else you could do. There has to be something that is enforceable to ensure that the Federal Government just doesn't put this energy today for the next two years, and then in two years a new Administration comes into play and ignores it again. We need commitment that is enforceable from the Federal Government to make this. And again, we need to make sure that the folks who are impacted are part of that process in developing the cleanup plans as well as the State.

Senator MURKOWSKI. I have in my notes that I have taken here, I have various actionable items that I have kind of jotted down. But rather than me sharing with you what I think they are, I would like to hear each of our witnesses today give me what your takeaway from this hearing is, and your actionable items as a follow-on, so we all can hear where the Department of Interior, the EPA, the Department of Defense, the State, the tribe and our vil-

lage corporations feel like, okay, this is what I am doing, my agency is doing as we leave from here.

I don't want to have people who live here feel that that was a nice two and a half hours where people came together and talked about a really important issue and it is just going to be more of the same. We cannot continue with more of the same. Because more of the same is an injustice to these people and to Alaska Natives and people really all over our State and in our Country. We have an obligation on the Federal side to clean up messes that have been created by our own government.

How we keep that commitment for all the right reasons, environmental justice, health, safety, just doing the right thing, we need to do more than talk about it. We need to be able to act on it and we need to be able to act on it now.

So I am going to begin with you, Steve, and we will just go down the list as you were introduced in terms of your takeaway and what you plan to report back to me, the Committee, the Congress, and to one another.

Mr. COHN. Thank you, Senator, and thank you for the opportunity to testify today.

There are two takeaways that I have in my notes. One is very specific to the Department. It is your preference that the Department play a key role in coordinating these Federal agencies that are here today.

Senator MURKOWSKI. I think it was beyond more than just a key role. I think I asked you to be the coordinating agency.

Mr. COHN. The key role. The coordinating agency. It is a question that I will take back to the Department, and you are looking for a response very soon, if not by the end of the week.

The second was a general question for all of the Federal agencies represented here today: what is holding us back, and what, from a statutory perspective, what are the limitations that we face, and do we have any thoughts or suggestions on things that might help better facilitate our ability to make more rapid progress on this very serious problem that is facing all of us.

So those are the two that I wrote down. I will ask Erika if she has any additional takeaways that we would like to bring back with us.

Ms. REED. I would just add a commitment to consulting with the tribes, the ANCs, other Alaska Native entities, and with the Alaska Department of Conservation in our efforts moving forward.

Senator MURKOWSKI. And with the State.

Ms. REED. I think I said the Alaska Department of Conservation, yes. That is what I meant.

Senator MURKOWSKI. Good. Thank you.

Dr. WATERHOUSE. Thank you, Senator. For us, I see that we want to go back and find out what are the restrictions that we have and limitations and barriers that we can get your help with, and the help of your fellow Senators and others to remove that would keep us from being even more effective in helping to address contaminated lands. That is the key takeaway.

But I should say that additionally, I am energized by the conservation that we have had and hearing from our partners across this dais, and looking for ways that we can lean in further and

more effectively in getting cleanups done expeditiously while we continue to work toward building and developing this data base.

Senator MURKOWSKI. On the DOD side.

Ms. BEASLEY. Senator, again, thank you for having us here today. In addition to our robust execution of the Formerly Used Defense Sites program in Fiscal Year 2022, we are going to spend about \$45 million in the State of Alaska alone as well as our execution of the NALEMP program. We have taken back that we are going to research a more thorough answer to you on the restrictions for cleanup of act of war sites specific to this community but more broadly throughout our Alaska Native lands.

Then specific considerations, potentially, for ANCSA considerations and our prioritization protocols. Then anything else that may be holding us back from a statutory limitation.

Colonel Delarosa, did I miss anything?

Colonel DELAROSA. No, ma'am, I think you got everything. I guess what I would take away, obviously, if the Army doesn't show up for participation [indiscernible], I am very proud of the fact that we have cleaned up 65 percent of the known FUDS sites here in the State of Alaska with the past billion dollars. And as we said before, looking at about \$1.65 billion to clean up the remainder of it.

So I am very, very proud of this team that is here in the communities. I take your point on consultation very seriously. I spend probably about 200 days of my year out in the communities here of Alaska. I am very proud of the teams that I have with me that know these folks on a by-name basis. We take that back with us as well.

Senator MURKOWSKI. I know you can't necessarily speak to it, but I believe if I ask you the question, do you think that we appropriately or adequately fund the Native American Lands Environmental Mitigation Program? Does that line item get sufficient funds given the need?

Ms. BEASLEY. I believe that the President's budget accurately reflects the requirements of the NALEMP program, Senator.

Senator MURKOWSKI. Colonel Delarosa, do you think you have enough here in Alaska for the projects that you have?

Colonel DELAROSA. Ma'am, I think we do. I think what the challenge is, the challenge is we know there is a lot of work to be done. We also have to be realistic in terms of how much, what is the capacity of industry to accomplish what we are trying to do. So what we are being funded annually, which is as Ms. Beasley has said, is more than any other State in the United States, we are executing it. We are pushing industry to its extent.

So I think we are currently funded adequately annually at this point.

Senator MURKOWSKI. Okay. And maybe I framed it wrong. Maybe it is not, is the budget adequate. Do we have the resources? We have not only Ounalashka Corporation that has its own environmental team, I know that many of our 8(a)s are forming these. We are trying to build the capacity to do the projects that are required.

So maybe we haven't built sufficient capacity. In other words, we could be cleaning up more if we had greater ability to do so. Are those some limitations that nobody has really talked about today?

Colonel DELAROSA. I think the answer is yes, ma'am. Having more capacity obviously means the ability to do more work. At the same time, it would also then feed my need for a larger staff to maintain. So they do go together to get up to what you are asking for.

We do have a very competitive, we do follow competitive contracting rules, and we do a lot of work with our 8(a)s, whether through 8(a) set-asides or sole source. As I stated earlier, Ounalashka Environmental Services is already doing seven projects actively right now for underground storage tank removal here in Unalaska.

So there is room for growth if industry grows with it. We are on the ragged edge of probably pushing what industry can do, given our current funding.

Senator MURKOWSKI. Thank you. Commissioner Brune, takeaways for the State.

Mr. BRUNE. Thank you, Senator. My takeaway from this hearing is that we need to continue to hold the Department of Interior's feet to the fire. We need to continue our litigation. The fact that they could not make a commitment on the spot, knowing today that that question would have been asked is kind of a face palm, it was amazing to me.

With that said, Senator, I am committed to working with our Federal partners. Again, I am excited that Carlton has made this a priority. Administrations change, so we need to ensure though that whatever ends up coming as a settlement is enforceable.

I am committed to working with our Federal partners on data bases, on understanding orphan sites. Orphan sites is such a misnomer. They are not orphan sites, the Federal Government is the responsible party. Orphan site, that title normally is given to when you don't know who the responsible party is. Federal Government owned the lands when they were contaminated. They are not orphan sites.

But we are committed to working with them to give them suggestions for what work needs to be done on these sites. I have worked with your team, Senator, and the Appropriations Committee to give recommendations for earmarks or Congressionally directed funding for what needs to be done to delineate the extent of the contamination. But these should not be Congressionally directed funds. These should be in the base budgets of these agencies, because it is their responsibility.

Another takeaway, I am committed to providing you and with our Federal partners legislative ideas that will help resolve this issue so they can't point to reasons and statutes why they can't do things. I am committed to working with the Corps of Engineers, as I have said previously. Three years ago, I met with the Corps in D.C. with my suggestions for mitigation options.

I have given that suggestion as well to Dave Hagge [phonetically] and to Sarah and to Colonel Delarosa. Alaska has 175 million acres of wetlands, more wetlands than the lower 48 combined. Yet when projects happen in the State, they want us to create more. We also



have more conservation system units than the lower 48 does, 175 million acres of CSUs. More wilderness than the lower 48 combined.

It is a no-brainer that we should be providing alternative and working with the Corps of Engineers for mitigation opportunities, to clean up watersheds, to use the private sector, their funding and their desires from an ESG perspective as well as from a doing what is right for the watershed to change the law so that 404 mitigation opportunities to clean up ANCSA contaminated lands, as Hallie brought up, is an option.

The final takeaway is I am committed to working with ANVCA and the affected folks to identify the sites that I know have not yet been put on one of these lists. There are sites, because the fear was there, Senator, that they would be responsible. We need to get an education campaign out there to make sure the village corporations, the regional corporations, know that the contamination that occurred before they owned these lands is not their responsibility.

In conclusion, I am committed to working, but I am not committed to being the lead entity. That entity, that responsibility falls on the U.S. Government.

Senator MURKOWSKI. Very good. Mayor? Actionable items.

Mr. TUTIAKOFF. I want to thank everyone who attended this hearing from different Federal agencies. I know it sounds easy for me to say, work together, get it done. I know you have a process, every department has different goals, different maybe even different agendas sometimes.

But you are affecting a community, small community, of our people. The big picture of that whole thing is a community that is 5,000, 6,000, and sometimes 9,000 to 12,000. We have gone through, so many times, this process. This kind of hearing is a first for me, but I have testified on behalf of the Unangan people in regard to repatriation, when our people were taken from six other communities besides Unalaska, from their homes.

So I understand there is a lot of issues. But we have to clean this up, and our people are getting sick. A lot of them have died in the last 45, 50 years, some my age I grew up with. I know at least three of them died of cancer, from various degrees of cancer. That is kind of alarming, that that is happening. I think a lot of it has to do with the contamination that was left here by the military, by the U.S. Government.

Some of these sites I mentioned are in other villages, they were not necessarily done by the military. But they were done by the U.S. Government, like the FAA, White Owl stations that were put up many years ago after the war. Some of that has been cleaned up, but a lot of it hasn't been only because they didn't have enough funding.

The cost to put people out on these sites is four to five times more than if you were doing it in downtown Anchorage or Juneau or these other places where tens of thousands of people live. We need to understand that it is costly. We know that.

But at least try and clean up the lands that are economically viable for putting back into the community. We are afraid to do that without being accused of giving up property for homes and schools and things like that down the future and then being told it is con-

taminated and not having the resources to work to get it done, get it cleaned up.

So work with the corporations, work with the city and work with the village. Find the areas that have priorities for this community and work from there out. If we go way out there, 20, 30 miles out there and start cleaning up, I think it would be good for OC but nobody else is going to be there to enjoy it. In other words, downtown to Amaknak or the island of Amaknak, downtown Unalaska is still contaminated. Some of these houses are sitting on lands that were never cleaned.

Every time the city or GCI, who has been here for almost six to eight months now, they are finding stuff. And they have to stop and go to another location until it has been cleaned or remediated or report, follow the process. It is costing them another millions of dollars just to put that cable in. This is the cost that I don't know who is going to pay to that company.

So work with us, and we will do all we can to support you as industry, similar to what the companies that we have in this community. Thank you, Senator, for what you do.

Senator MURKOWSKI. Thank you, Mayor.

Hallie, you get the last word.

Ms. BISSETT. All right. I just want to reiterate that the leaders of the Alaska Native Claims Settlement Act, Mayor Tutiakoff being one of them, very much alive today, signed that document with the promise of economic prosperity and self-determination. Sadly, we have been largely unable to develop these simple projects, and that equates to losses over a 50-year period that far outweigh the money on lands that we received. To be clear, we do not view receipt of contaminated lands as just compensation. Likewise, we do not believe continuing to write reports will result in the situation being resolved.

So we have come up with, we have already talked about swapping undesirable ANCSA lands with unencumbered Federal property, prioritizing the cleanup of ANCSA contaminated lands and existing FUDS program.

Just one comment on this that I want to highlight, I heard you say the relative risk analyzing that you do in terms of which sites to prioritize first. I used to do risk analysis at BP when I worked there. One of the top things that goes into the risk analysis is the number of people impacted by the contamination. When you are looking at little tiny communities, a larger picture of the United States in general, all that money is going to be funneled into population centers that don't include villages.

That is where we are hugely disconnected, right there we get kicked out. We just have to have some kind of a rural plus-up or something in the risk analysis of how you are doing that. How many years have gone by that this site has been sitting there? We have technology out there that can analyze how the contamination is going to spread. We would like to see some of that being done.

We need to complete the ANCSA contaminated site data base. We agree with you. We look forward to working with you and we are excited about getting some funding to do that, to finally get a data base that talks to each other, that is comprehensive, that talks about which various stages of cleanup and which ones have

been qualified as done when we don't consider them done. Institutional controls is not good enough.

And if that is what it is, if we can't clean it up, we need new land. We need to include ANCSA lands in EPA tribal cleanup superfund, or create a \$1 billion Alaska-specific cleanup fund. And if you are right, sir, we will be done in one year.

Adopt mitigation credits, like we have talked about already. Require minimum reports, let's do that biannually. Let's just automatically write that report every other year to give an update on where these cleanups are. SO then we don't have to come for five years just to result in this other thing that we have already done.

We need to provide the contractor preference that these folks have talked about. A lot of times folks are showing up the villages and they start doing cleanup projects and the city and the village corporation are, what is going on? They have been given no opportunity to participate in the sole source or whatever. Even if it is a competitive bid, these guys know the logistics. I am sure they would be competitive if they were able to bid on the projects to do the cleanups.

So I think the biggest takeaway I have is after listening to everything that has been said, we are clearly not on the same page in terms of the cost. Getting that data base done, getting the analysis done will get us to that point. I am looking forward to working on tweaking anything and providing some more suggestions to you on changes to the actual law that are holding us back.

We have watched the tribal superfund cleanup as a great example where the United States has said, oh, we only do reservation cleanups. Well, that just means you are only going to do your stuff, and oh, we are not responsible for private lands. This was Congress' design to make it private, so that we could be the owners of our own destiny. That is what self-determination is. Now it is, no, that is not our problem, that is your problem.

Again, that is just not good enough. So I think those are all the comments I have. I want to say thank you one more time for allowing us to be here today and talk about such an important issue to our people.

Senator MURKOWSKI. Thank you, Hallie. Thank you all. I appreciate your contributions to the discussions. I think there have been some very good and constructive takeaways that can be done at the department, the agency level. Certainly at the legislative level, whether it is appropriations, we will be looking critically at some of these accounts.

Also, do we need to give more specific directive in statute? So to your point, Commissioner, the enthusiasm doesn't wane or the commitment to doing something doesn't disappear, that we actually have statutory enforcement. But then if it is statutory enforcement, then we need the Department to do what the law says that it does. That is where I think BLM has specifically failed in that.

But I do think there are some positive things that can be done now. I want to encourage all of us that while greater information gathering is coming together, whether it is identifying those areas that have not yet been identified for a host of different reasons, identifying costs, determining this more fulsome inventory that

does cross all of departments and agencies here, that we make sure that we are not halting the cleanup that is moving forward already.

I appreciate what the Department of Defense has shared in terms of ensuring that Alaska is seeing significant resources that are coming for that. We want to encourage that, but we want to see more of that. I think how that all works concurrently rather than kind of chronologically is going to be important.

I am reminded that it was just a matter of weeks ago that in the Congress, we passed pretty substantial legislation to recognize the reality that our government actions sometimes have consequences that are costly. All you need to do is look to our national security, what we ask of our men and women who will don the uniform, volunteer to serve and then who go overseas to other areas and they are exposed to toxic chemicals. We see the consequence of being in that environment. It may or not be in a war environment.

But whether it is exposure to things like Agent Orange or the burn pits that you see in Afghanistan Iraq, it is expensive. It is expensive to make sure that those veterans who come back and then test positive for cancer or disease or just the health consequences that they bear, we look at that and say, well, that is expensive. That is expensive.

But you know what? We should have thought about that before we exposed them to these situations where their health is compromised for perhaps the rest of their life. They may die because of this exposure.

So we can talk about how much this is going to cost. But I think we need to recognize that that cost to the environment, we have to fix it. The cost that comes to human life and people that pass of cancer, those who have been exposed again unwittingly, you think that you can eat from the land and from the ocean only to find out that you have been exposed to toxins that have been sitting there for decades, through no fault of your own. It is not like you needed to go out and research this. You are living in a land that you thought was pretty special, and it is pretty special.

We have an obligation to clean up the messes that we create. Sometimes we just have to acknowledge that it is going to cost money. But we don't walk away from it, particularly when it is our government that has caused the problem, the environmental degradation, just the devastation, and then the human consequence and the loss of life.

So we have some work to do. We can't let this be another hearing where we check back in later and we get another report. We have action items that we need to move forward on. We have a lot of different ways we can be working together. But we cannot, we cannot continue to say it is somebody else's responsibility.

So let's figure this out. Know that I am going to be looking for some feedback very shortly from some of you. I think we will figure out a way that we can reconvene to get status reports, because I think we have some deliverables to the people of Alaska.

With that, ladies and gentlemen, the Committee record is going to be held open for another two weeks. Two weeks, whatever that voice just said, we will just believe her.

[Laughter.]

Senator MURKOWSKI. For those who are interested, a recording of this hearing today is going to be posted on the Committee's website, for your information. To those who were either listening or who are here, know that you too are welcome to submit your comments. We appreciate that.

Now we are officially adjourned. Thank you all.

[Whereupon, at 2:42 AKT, the hearing was adjourned.]



## A P P E N D I X

### PREPARED STATEMENT OF ELISE CONTRERAS, ENVIRONMENTAL REMEDIATION MANAGER, QAWALANGIN TRIBE OF UNALASKA

The Ounalashka Corporation (OC) received 128,000 acres of land under ANCSA on Unalaska, Amaknak, Umnak and Sedanka Islands. Unalaska is located 800 miles from Anchorage, Alaska.

The U.S. Department of Defense created the first military outpost on Amaknak Island in 1911 and in 1940 the U.S. Navy constructed the Dutch Harbor Naval Operating Base. After the Japanese attacked Dutch Harbor in 1942, the military added to, and upgraded its facilities, eventually constructing over 1000 structures to support the U.S. Soldiers.

During the peak military activities in 1942 and 1943, the Navy, Army, and Marines had 65,000 personnel in the area, including all necessary infrastructure for the troops such as housing, support buildings, power plants, and defensive structures that were spread all across the island.

Even more than 70 years after the military withdraw, the Tribe and community continue to be negatively impacted by:

- Hazardous materials like Lead-based paint and asbestos-containing materials
- Munitions
- Unexploded ordnance
- Unsafe buildings and structures
- Abandoned equipment
- Petroleum hydrocarbons from underground and aboveground storage tanks
- Screw pickets
- Persistent organic pollutants such as PCBs

By 1950 the military largely abandoned the Unalaska/Dutch Harbor area leaving behind a great deal of history, along with over 100 contaminated sites. Currently, we have 37 areas of concern (that range in size from impacts from single underground storage tanks to full military bases).

These impacted areas represent approximately 80,000 acres. The Formerly Used Defense Sites (FUDS) program under the U.S. Army Corp of Engineers (USACE) has been working on the island for the past 30 years and the Native American Lands Environmental Mitigation Program (NALEMP) for 20 years. However, as we look to the future we have estimated at the current rate of mitigation, it will take more than 100 years to complete the necessary cleanup.

Mitigation is important in order to address the physical and chemical impacts from past military activities to protect the health and safety of the Tribal community and allow for the safe practice of traditional cultural lifestyles. The Qawalangin Tribe and Ounalashka Corporation work in collaboration to address the highest priority sites that impact community safety, health, and the environment based on what limited funding we are able to obtain through NALEMP or the minimal remediation that is done through the FUDS program.

The process in which remediation can be addressed under these programs often requires years of lead time, assuming that all necessary programmatic red tape and approvals are taken care of in advance. If the Ounalashka Corporation is pursuing a development project and contamination is found, all construction must stop and remediation must be completed before construction can continue. If the Qawalangin Tribe or the Ounalashka Corporation decide to tackle the cleanup work before it is addressed under another program, both entities run the risk of not being reimbursed for the associated cleanup costs.

The Qawalangin Tribe and Ounalashka Corporation have seen a larger push from the U.S. Army Corp of Engineers to implement institutional controls, or to approve "alternative cleanup levels" on FUDS, where some level of contamination is left in place, and cleanup levels are less stringent than state or other cleanup regulations respectively. Unfortunately, by implementing institutional controls or alternative cleanup levels, the future development of the land is limited.

Additional burden is caused by federal agencies arguing over responsibility for cleanup, playing a game of “hot potato” that ultimately prevents action and perpetuates harm to the community. A clear example of this is the Building 551 site, which remains unmitigated due to interpretation of laws and “eligibility.” The Building 551 site, a former Navy Mess Hall at the Dutch Harbor Naval Operating Base which is located within the Amaknak and Unalaska Islands FUDS (FUDS Property No. F10AK0841). The Building 551 site is a parcel containing a World War II-era building and the surrounding land adjacent to East Point Road.

Building 551 was built as a mess hall for the Cantonment Area of the Dutch Harbor Naval Base and the facilities consisted of a building with a basement, access to a utilidor, and utility services. Under military operations, transformers containing dielectric fluid with polychlorinated biphenyls (PCBs) were put into use, operated and maintained for electrical services to Building 551. These transformers were located on the northeast side of the building. In addition to installation, maintenance, and operations of the PCB-containing devices, PCBs were likely distributed in the area due to the military practice of dumping of waste oil along roadways for dust suppression. Incidental to these long-term activities, the area was also bombed by the Japanese during World War II on June 3 and 4 of 1942.

The Tribe has found high levels (greater than 1 part per million [ppm]) of PCBs in both soil and mussel tissue in and adjacent to the site. The release of PCBs from former World War II-era transformers and the use of waste oil on adjacent roadways is believed to be the primary source of contamination.

Based on PCB concentrations found, this site is not eligible for PCB remediation under the FUDS program and more recently was found not eligible to be considered for work under NALEMP even though previous work at this site, including a hazardous materials survey, has been allowed under NALEMP. Regarding the eligibility of Act of War sites, the Office of Secretary of Defense (OSD) General Counsel (GC), Margy Carlson, and

USACE GC, Ann Wright, specifically the Qawalangin Tribe of Unalaska Building 551 recently determined that, “the codified NALEMP language still precludes this PCB project at Building 551. The NALEMP statute only allows for environmental effects (10 USC Sec. 2713 (a)(1)) “attributable to past actions of the Department of Defense (DOD)” and the impact at this site was caused by the Japanese bombing. The Japanese superseded any DOD action and are responsible for the release of PCBs at this site. The DOD’s presence in the area and being a target for the Japanese is not an action that can be attributable to DOD under the statutory language. Since NALEMP is included in Title 10 under “Environmental Restoration”, all the existing law and policy regarding the “Act of War” defense to cleanup in CERCLA and DERP still applies to NALEMP.”

This kind of determination and subjective interpretation is frustrating regarding cleanup progress when the DOD is responsible for the base, troops and infrastructure brought to Unalaska in the first place. Regardless of whether the release of contaminants was intentional, unintentional or a combination of the two the financial and health related burden should not fall on the Qawalangin Tribe and the Ounalashka Corporation.

This PCB impact at Building 551 is also identified in the Alaska Department of Conservation (ADEC) contaminated sites database, since levels exceed the ADEC criteria of 1 mg/kg of total PCBs (18 Alaska Administrative Code 75 Article 3). Elsewhere on this site, there are other military impacts (petroleum releases) being addressed under the FUDS program. Although these impacts are nearly 80 years old, free product still remains at the site with no remediation time-frame estimated.

Each impacted area has adversely affected Tribal and community economic, social, or cultural welfare and limited full use of Tribal lands and resources. The Qawalangin Tribe and the Ounalashka Corporation are dedicated to mitigating these impacts to restore safe access to Tribal lands and create a healthier and safer environment for its people, community, and future generations.

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PREPARED STATEMENT OF MICHELLE ANDERSON, PRESIDENT, AHTNA, INCORPORATED

My name is Michelle Anderson, and I am the President of Ahtna, Incorporated. Ahtna is an Alaska Native Claims Settlement Act (ANCSA) regional corporation. I would like to provide testimony on behalf of Ahtna and its shareholders. I was raised in the Copper River region and am a tribal member of the Native Village of Gulkana and a member of the Udzisyu (Caribou) clan of the Ahtna Athabascan people. I am an original Ahtna shareholder.

Ahtna is one of the 13 regional corporations organized under ANCSA. Each region is comprised of Native people who had aboriginal ownership of their lands. Ahtna



represents more than 2,000 shareholders who are of Ahtna Athabascan descent. Ahtna has 8 villages, but we are unique because 7 of the village corporations merged with Ahtna in 1980. We now speak for the 7 merged villages on land issues and customary and traditional subsistence issues.

Ahtna's land entitlement under ANCSA is approximately 1.7 million acres. The historic Ahtna aboriginal territory is over 24 million acres and larger than 12 of the states. We are adjacent to and own inholdings in the Wrangell-St. Elias National Park, the largest in the nation, and adjacent to the Denali National Park, the third largest in the nation. The Wrangell-St. Elias National Park was established under the Alaska National Interest Lands Conservation Act (ANILCA) in 1980. Much of the Wrangell-St. Elias National Park is comprised of Ahtna's historic lands. We have had historic and cultural claims to use these public lands since time immemorial.

The Ahtna people's customary and traditional (C&T) way of life remains the cornerstone of everything that Ahtna does. For us, C&T does not just refer to cultural activities like hunting, fishing, trapping and the like; it is actually the successful continuation of a lifestyle that has existed for thousands of years—a lifestyle that is the foundation of Ahtna's culture, values and vision. Ahtna, unlike many of the other ANCSA corporations, made its land selections based on C&T values, not for minerals or economic exploitation.

Although the Ahtna region is highway-accessible and fairly modernized, our people still practice a C&T lifestyle whenever possible. Our region's fish and game resources and proximity to major urban centers make it a popular location for hunting, fishing and other recreational activities, which makes maintaining our lifestyle challenging. As a result of this constant influx of outside parties, our people have to compete more and more for the resources (game, fish and plant life) located on traditional Ahtna lands.

These resources and the cultural practices surrounding them play a significant role in maintaining our C&T way of life and, because of this, we are constantly seeking ways to continue or further that way of life through cultural education programs aimed at future generations of Ahtna; partnerships with local, state and federal agencies; consultation with our region's tribes, villages and local organizations; and continuous dialogue with our most important constituents—our Elders and shareholders. The protection of these resources is paramount to the Ahtna people's very existence.

One of the principal risks to the Ahtna people's way of life is the contamination of the land. The Ahtna region has been significantly impacted by exploration and development. Starting in the mid-19th century, gold and copper miners flooded the copper river valley and the Valdez creek area near Cantwell. The mining activity left scars in the land, abandoned equipment, railroads, towns, telegraph lines, camps and waste scattered along our precious rivers. The world's largest Copper Mine, leaching plant and processing mill operated from 1911 to 1938 in the Ahtna region and was abandoned along with a railroad, maintenance camps and towns. Many of these sites have been transferred to Ahtna with no assessment for contamination done. During the period following the 1889 gold rush through 1945, the United States Army brought significant equipment into the region to build telegraph lines, roads, bases, airports, and other infrastructure to support exploration, mining operations, WWI and WWII. As the war efforts wound down, the military transported materials using the road system and the Gulkana Airport to dispose of surplus equipment, fuel drums and hazardous materials. These materials were abandoned or buried.

During the 1950s through the 1970s, the military used the Ahtna region for training and recreation sites to support the cold war efforts. Many roads, trails and camps were developed and then abandoned leaving waste materials, unexploded ordnance and equipment scattered throughout the region. From 1905 to 1956 the Alaska Road Commission constructed roads and developed material sites, construction camps and maintenance camps. The Alaska Road Commission was originally part of the War Department and was transferred to the US Department of the Interior in 1932.<sup>1</sup> These sites were contaminated by disposal of solid waste, buried equipment, used oil, antifreeze and lubricants. From 1974 to present, the Trans-Alaska Pipeline System, which has supplied up to 20 percent of our nation's oil, was built and operates across Ahtna lands, introducing more abandoned materials, equipment, and contamination.

Faye Ewan, an Ahtna shareholder, and member of the Native Village of Kluti-Kaah, spoke to the issue in the Copper River Record:

<sup>1</sup>Alaska Road Commission Historical Narrative, 1983 Report Number 1983-06-01, found at: <https://rosap.nrl.bts.gov/view/dot/40615>.

Ewan also spoke of hazardous waste dumping in the area during World War II and subsequent military exercises. “That has a lot to do with what is happening here today,” she said. “There was no protection of our land. It was a free-for-all. All of that contaminated waste was dumped right in Dry Creek and now the community is cleaning that up,” she said. Ewan wonders whether some cases of cancer among the community could be attributed to inappropriate waste disposal.<sup>2</sup>

Our land is the most important thing to the Ahtna people, and we know that the contamination left behind by the invasion of western society has impacted our people and will continue to do so until it is cleaned up. While not evidenced by any formal medical studies, we are seeing high rates of cancers and other illnesses in our villages. We attribute this to contamination in our water and our food.<sup>3</sup>

### **Federal Material Sites**

Ahtna has received title to 98 former Federal Material Sites. These sites were established under the Federal Highway Act of November 9, 1921, to help develop the highway system in Alaska. In the Ahtna region, there is a long history of use of these sites by the Alaska Road Commission starting back in at least the 1920s, during the upgrades to the Richardson Highway, through WWII with the construction of the Glenn Highway. During this time, it was common practice to dispose of waste associated with road construction by burying it at these material sites. After statehood, the United States Bureau of Land Management granted the State of Alaska rights-of-way to these sites for the continued construction and maintenance of the highway. Prior to modern environmental laws, and perhaps for some time after, it is very likely that the State also used these sites to dump waste.

After ANCSA, the United States conveyed the surface and subsurface estates encompassing the material sites to Ahtna “subject to” the “[r]ights-of-way for Federal Aid material sites.” Ahtna now administers these sites with little to no authority to dictate the State’s activities or uses.

We do not have a good inventory of the contamination buried at these sites. Over the years, our staff, shareholders, and tribal members have discovered buried barrels, equipment, road-building material, and hazardous substances buried in and around our villages. The United States Government did not conduct any hazardous material studies or surveys prior to conveying these sites to Ahtna.

### **Brownfields Funding**

On December 1, 2021, Ahtna, Inc. requested funding for the FY 2022 Environmental Protection Agency (EPA) Community Wide Assessment Grants for States and Tribes (Funding Opportunity Number: EPA-OLEM-OBLR-21-04) to assess 15 of the higher priority material sites. This proposal was not funded with the agency stating that the proposal did not score high enough. Ahtna received a debrief on this proposal and is working to resubmit it during the next funding cycle. There are some items that the SCIA should be aware of to make this program more beneficial to Alaska Natives. Since its inception, the Brownfield grant program has allocated more than \$250,000,000 annually.<sup>4</sup> Of this, only three grants in the amount of \$1,096,533 have been awarded to Alaska Native Tribes or Tribal Consortiums, and no grants have been awarded to an Alaska Native Corporation. This is far less than 1 percent of the funding. Alaska has 40 percent of the tribes on the Federally Recognized tribes list and 100 percent of the Alaska Native Corporations. This distribution percentage is far from equitable. The eligibility in Alaska is limited to ANCSA Corporations, yet no grant has been awarded to an ANCSA Corporation. It would be helpful to have a priority made for assessments on lands transferred to ANCSA Corporations that did not have assessments done in the past. Consideration should be given to lands transferred that have known military and federal agency use prior to transfer.

<sup>2</sup> Excerpt taken from the Copper River Record, *Powerful Public Testimony at CRNA Climate Change Plan Meeting*, found at: <https://www.copperriverrecord.net/tributaries/powerful-public-testimony-at-crna-climate-change-plan-meeting>.

<sup>3</sup> There have been some studies of contamination buildup in moose populations. More needs to be done to determine the impact of that contamination on the consumer. See, e.g., Arnold et al. 2006 *Public health evaluation of cadmium concentrations in liver and kidney of moose*; Larter and Kandola 2010 *Levels of arsenic, cadmium, lead, mercury, selenium, and zinc in various tissues of moose harvested in the Dehcho, Northwest Territories*; Danielsson and Frank 2009 *Cadmium in moose kidney and liver—age and gender dependency, and standardization for environmental monitoring*.

<sup>4</sup> The EPA Brownfield Grant Fact Sheet, found at: [https://cfpub.epa.gov/bf\\_factsheets/index.cfm](https://cfpub.epa.gov/bf_factsheets/index.cfm).

### Ahtna Tribes

Of the eight tribes in the Ahtna region, at least three of them have applied for funding under the Native American Lands Environmental Mitigation Program (NALEMP). One of our significant frustrations is the limited availability of funds for the landowner, the corporation, to clean up its own lands. To date, the clean-up of Ahtna lands has either been funded by Ahtna, Incorporated (private) or in conjunction with our tribes using federal grant funds. To date, there is simply not enough money available to even determine the extent of the problem, let alone, clean it up.

#### *Gulkana*

The Native Village of Gulkana has had an active NALEMP since 2003. Notably, in 2008 a Tier I Reconnaissance Report prepared for the Gulkana Village Council identified five areas impacted by former Department of Defense activities during the construction of the “Alaska Highway.” The five areas identified in the report were found to have buried hazardous materials including, oil and diesel fuel, and a “tar-like preservative” coating buried structures. Based upon field observations and analytical results, the report indicated that soil and groundwater are impacted in the village.<sup>5</sup>

#### *Tazlina*

The Native Village of Tazlina has several significant NALEMP projects identified to locate hazardous materials and clean up the lands around the village. One significant project to clean up hazardous material at the former Gulkana Prepositioning Area & Army Site began in 2017. The project includes the removal of an abandoned 315,000-gallon aboveground storage tank and debris, including tires, food service unit, stove, water cooler, vehicle batteries, propane tanks, 5-gallon paint buckets, and several 55-gallon drums.<sup>6</sup>

Tazlina Village NALEMP Program Coordinator Rick Young described the project and the history of contamination:

When the military came in 1944 or ‘43 the village was there. The military came in and they told the people in the village, “OK, we’re going to build a military base here. You guys have to leave.” It was pretty short notice. And the homes—particularly the one that comes to mind is the Stickwan home that was in the village—they burned their homes.

The site was used after the war for maneuvers for the army. They dug foxholes and did all kinds of things, just staying prepared for war. I graduated from high school in 1970 and there were still maneuvers going on. At that time [the military] had huge fuel supplies and some stored ammunition.

It was sometime in the ‘70s that the military quit. A lot of the debris they just dumped in the woods, the way the military did things in those days. There were big debris piles. They would drive things off into Dry Creek into the creek bed and just leave them. Some was buried. I understand there are still caterpillars and all kinds of equipment that was just buried.

There’s an old—it looks like a tank and had a gun turret on top—used for transporting military personnel. They unhooked the tracks and drove it off the tracks and let it sink in the moss. Over across the road in the state park there’s huge slabs of cement out in the woods. They had military hospitals, it goes further over in that direction to the northwest of there. There’s some Native allotments that were contaminated.

It’s too much for a small village to do. Most of our work is contracted out. It’s going to be going on for years.

We’ve spent quite a bit of money on tests and we’ve found contaminated ground with fuel. We’ve found lead. There’s contamination like you would expect from batteries. This summer we’re going to be doing more soil sampling. We expect there’s more contaminated soil. We know there’s contamination that we found and we don’t know how much we haven’t found. It is something that can be dangerous to one’s health. I’ve told people not to pick berries or mushrooms [in certain places].<sup>7</sup>

<sup>5</sup> Further details about this project can be found at: <https://dec.alaska.gov/Applications/SPAR/PublicMVC/CSP/SiteReport/26750>.

<sup>6</sup> Further details about this project can be found at: <https://dec.alaska.gov/Applications/SPAR/PublicMVC/CSP/SiteReport/26751>.

<sup>7</sup> Excerpt taken from the Copper River Record, Tazlina Village Cleans Up After World War II, found at: <https://www.copperriverrecord.net/tributaries/tazlina-village-cleans-up-after-world-war-ii>.

*Gakona*

The Native Village of Gakona (NVG) became a partner in the NALEMP in FY 2008 with the signing of their first Cooperative Agreement (CA). The NVG has a land base of 61.3 square miles and is located 175 miles northeast of Anchorage, Alaska at the convergence of the Copper and Gakona Rivers. The United States Air Force operated the Aurora Radio Relay Site (RRS) from 1960 until 1983 and the communications station was a part of the Ballistic Missile Early Warning System of the White Alice Communication System. The Aurora RRS is located by the Copper River near the NVG and has a total land surface area of 73.71 square miles. The Aurora RRS was bought by AT&T Alascom, Inc., in 1983; AT&T Alascom, Inc. remains the owner of the surface and subsurface lands to the site. Ahtna holds the title to affected surface and subsurface lands next to and surrounding the Aurora RRS.

One project in 2010 funded the cleanup of 28, 55-gallon drum tops, 5 grounding posts, 100 pieces of metal strapping, one Army truck tailgate, and one rusted metal stove, among other debris from 5.62 acres of Ahtna land adjacent to the RRS site. In addition, analysis of samples collected and tested confirmed earlier findings that neither soil nor groundwater on affected Ahtna land was contaminated by petroleum products. There is still much work to be done to determine the extent of contamination in and around NVG.

**Conclusion**

The sad conclusion to this story is that even 50 years after the passage of ANCSA, the Ahtna people still do not know how much contamination they received in their land entitlement. The little investigation and clean-up work that has been done so far is limited by Ahtna's own money and the paltry funds made available to Alaska tribes to clean up ANCSA lands. Further, the federal funds that are available under many clean-up programs are not equitably distributed to Alaska Natives. We are in desperate need of more, specifically targeted federal dollars, to investigate and clean-up ANCSA lands.

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PREPARED STATEMENT OF DIMITRI PHILEMONOF, PRESIDENT/CEO, ALEUTIAN  
PRIBILOF ISLANDS ASSOCIATION, INC.

Dear Vice-Chairman Murkowski,

Please accept our deep appreciation for the Senate Field Hearing in Unalaska on ANCSA Contaminated Sites and the ongoing impacts. I share my regrets missing it as I attend to our previously-scheduled Board of Directors Meeting.

The Aleutian Pribilof Islands Association, Inc. (APIA) is an Alaska Native non-profit consortium of the thirteen federally-recognized Unangaġ (Aleut) Tribes of the Aleutian Chain, Pribilof Islands, and lower Alaska Peninsula. APIA provides primary and behavioral health care, public safety and family protection, cultural and language revitalization, and environmental advocacy and technical support. By continually inhabiting our lands, and thriving on the riches from our waters for over 10,000 years, we demonstrate our unity as a people and our stewardship of the region's bountiful resources. We want to share information on two areas of Board priority: environmental advocacy and economic development.

**Our Region**

From ancient village sites on every island throughout the region, the currently-inhabited Unangaġ region consists of 12 communities: thirteen federally-recognized Tribes in ten regional Tribal communities and two regional non-Tribal communities. These are the most remote communities with some of the highest costs of living in the state. 2020 Census data counts 8,652 residents, with seasonal commercial fishing and processing increasing local populations substantially. Stretching over 1,500 miles west to east, the Unangaġ traditional lands cover over 7,000 square miles and almost 100,000 square miles of the Bering Sea and North Pacific Ocean. The Aleutian Chain, as the most southern extent of the U.S. Arctic, makes the Unangaġ people Arctic Council Permanent Participants through the Aleut International Association. This and our location as the heart of the North Pacific Great Circle marine transportation route and with the Bering Sea as the primary gateway to the Arctic, cement our international role and interests beyond our vast region.

**Environmental Impacts**

APIA keenly understands the scope and scale of impacts previous military and federal activities have brought to the region. From the direct losses of Unangaġ lives and communities in World War II, permanently displacing many families and scarring the individuals subjected to internment, to the legacy of contamination and

land-use restrictions, these impacts are still felt today. While we have worked to address many of these losses, significant work remains to be done. Our work has shown us the long-term successes that can be achieved when our Tribes and their authorized representatives prioritize and lead these efforts in partnership with the responsible agencies. We collaborate with the US Army Corps of Engineers (USACE) on the important cultural and historic considerations as we address the impacts of Formerly Used Defense Sites (FUDS). APIA and Tribal partnerships with Native American Lands Environmental Mitigation Program (NALEMP) allow for local prioritization and execution to appropriately address FUDS issues impacting our communities. Unfortunately, the largest projects are frequently left to outside contractors and remote project management of these responses. Seventy-seven (77) years after WWII's impacts on our lands, (40) FUDS sites still remain awaiting clean-up. Around (30) sites have been addressed since the 1990's, but because many of those site closures were accomplished without full remediation, but by requiring perpetual institution control. Many of these (30) sites retain caveats excluding or limiting future development, highlighting one of the most evident regional environmental justice concerns.

One of the most important, longstanding and successful ways that APIA serves the environmental justice needs in our region is through the capacity that we develop and maintain with EPA IGAP Program support. Staff turnover, changing EPA administrative requirements, and evolving technical needs perpetuate our Tribal Environmental Programs requests for the customized regional support provided by APIA's IGAP Tribal Consortia funding, the future of which has been made uncertain by recent AIEO policy discussions. Our work ensures the capacity to address our region's environmental justice efforts as we also directly care for our environmental issues in partnership with the responsible agencies.

IGAP allows our Tribal governments to have the support for trained personnel to staff and build their local Environmental Programs. The community benefits from IGAP funding are visually evident in improved solid waste management and the community's environment, with direct economic impacts of year-round local employment, and climate considerations found in mandatory environmental planning. EPA's Brownfields Program, particularly the Tribal Response Program (TRP) are important opportunities to grow beyond the capacity-only IGAP funds, but higher TRP ceilings and removing matching requirements for Tribes and small communities from other Brownfields funding would improve regional participation, where the best outcomes can be found. Our region cannot address environmental justice without mentioning Amchitka Island and the nuclear testing that has left a perpetual threat in our midst. After an unsatisfactory partnership with DOE Office of Legacy Management was ended abruptly at the end of 2021, APIA is working closely with DOE's Arctic Energy Office to address this environmental justice issue that impacts all our regional organizations and interest, including the Aleut Corporation and our village ANCSA corporations.

#### **Economic Impacts: An Unalaska Example**

In Unalaska, suitable buildable lands are limited by more than the mountains meeting the ocean. Primarily owned by the Ounalashka Corporation of Unalaska, these lands are likely to be impacted by previous WWII military and other historic, mostly federal, activities, creating cleanup costs and substantially increasing construction costs. APIA provides Head Start Early Learning delivery to the community of Unalaska, including investing in our long-term service provision by planning and constructing a purpose-built Head Start beginning in 2021. Despite having a Phase 1 Site Assessment completed, contamination was found during construction. The limited contamination was common low-level fuels, but the delays until reporting, sampling, analysis, remediation and contaminant transportation were completed, added months and thousands of dollars to the project. As climate change impacts our region and the fisheries we are almost entirely reliant on, our longterm economic opportunities rely on improving basic societal services and infrastructure. Delayed infrastructure investments are hampering the settlement of very populations that this infrastructure would serve. Resilient communities are built on sustainable economics and the support brought by economies of scale. Air transportation routes allow for (6) of the (13) regional Tribes' members to access Unalaska as a sub-regional hub for medical care, regional conferences, essential trainings, and other goods and services.

Dutch Harbor is America's largest fishing port by volume and the nation's largest fisheries are executed annually in the Bering Sea. Protecting our invaluable renewable resources makes economic sense, most simply in the nearly billion dollars of annual revenue. Environmental protections for the millions of seabirds and thou-

sands marine mammals, many of them endangered or threatened, are also benefited by well patrolled waters.

The specific needs for greater environmental protection and enforcement capacity in the region have been outlined in the Aleutian Islands Risk Assessment, driven by foreign-majority innocent passage vessel traffic. Whether these ships are accessing the Bering Sea as the primary gateway to the Arctic, or using the North Pacific Great Circle marine transportation route, our regional spill and grounding risks are large, and poised to grow substantially with Northern Sea Route traffic development. Whether in Unalaska or Adak, greater environmental response capacity requires appropriate lands to site infrastructure. In the current context of our very limited response assets, greater enforcement capacity is key.

Improving in-region search and rescue capacity saves lives. Increasing storminess and shifting fisheries distributions add to the inherent danger of making one's living at sea. Growing regional and Arctic eco-tourism places the relatively inexperienced in some of the world's harshest and most remote locations. As local subsistence users venture farther in our vast region for traditional foods, every hour counts should they require the same response resources that are taken for granted in the lower 48. Increased US Coast Guard presence in the region through re-stationing permanent assets requires usable and uncontaminated land.

The Unangaŋ have been the sentinels of our lands and waters for over 10,000 years. As many of your initiatives have demonstrated, we are also committed to ensuring the continued security of our people and resources. Strategic investments building towards our future that address shared economic, environmental and security concerns can literally be built on the solid ground reclaimed from the errors of the past, securing us all far greater rewards than matching short-sighted provocations. While military reuse is priority, widespread remilitarization of our region could result in reiterations of the many WWII impacts we continue to suffer, including those seemingly irrecoverable losses like the Village of Attu and all those western dialect speakers. We work to revitalize our language and cultural practices and train the next generation of language teachers. With the loss of the Village of Attu, Atka is the last remaining community speaking our western dialect of Unangan Tunuu. We work closely with the Aleut Corporation to support the community of Adak, its infrastructure and public safety for the residents. We are working with the Qawalangin Tribe of Unalaska to rebuild the health care services that were lost when the BIA Alaska Native Service Hospital was destroyed in WWII.

Please let us know if we can host you or any of your team at our main office in Anchorage on your way out to on upon your return from our beautiful region.

Thank you very much for your interest in our storied lands and our resilient people. Your efforts on our behalf and continued leadership for all of Alaska is greatly appreciated.

