

Tribal Nations The Story of Federal Indian Law

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Tribal Government Track
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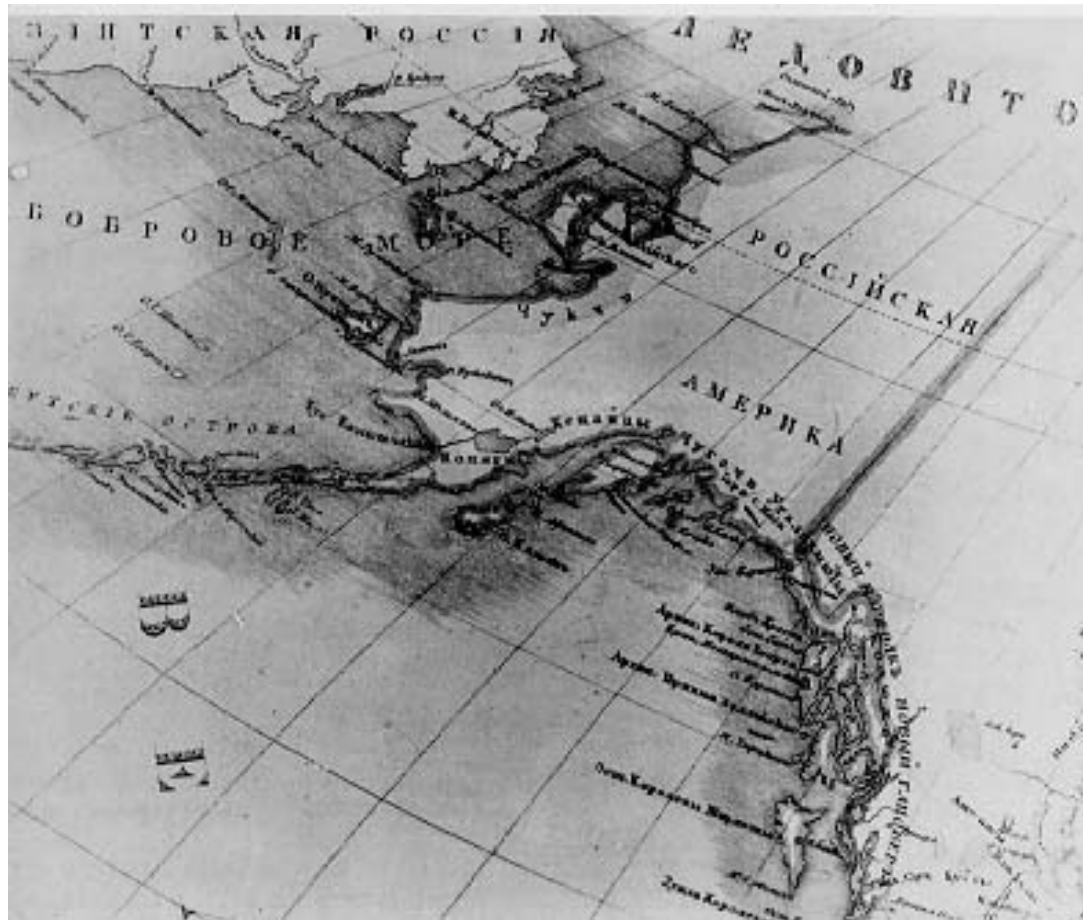


“It’s often said that Alaska is unique in terms of federal Indian law, my own view is that all Native Americans are unique, each individual Native American nation is unique. Its own history, its own culture, its own relationship with the United States. And so to say that Alaska is unique is nothing more than saying Pueblos are unique, or the Navajo’s are unique, they are, and that ought to be acknowledged.”



Dave Case

Russian Invasion



1728
Vitus Bering
Sails through
The Bering
Strait



1792 first permanent Russian Settlement Kodiak, Alaska



Alaska State Library PCA 20-134

- ◆ **1799 Baranov establishes a Russian post known today as Old Sitka.**
- ◆ **Trade is done through the Russian American Company.**
- ◆ **Russian American Company flies over Alaska until the purchase by the United States.**





William Seward Secretary of State

Alaska Purchase 1867



Signing the treaty of cession, March 30, 1867:

L to R: Robert S. Chew, Secretary of State William H. Seward, William Hunter, Mr. Bodisco, Russian Ambassador Baron de Stoeckl, Charles Sumner, Fr.rick M. Seward.

Alaska State Library PCA 20-181

1867 Alaska Purchase : 7.2 million

Alaska is purchased from Russia through Treaty of Cession. The treaty recognizes Alaska Natives and basically says that they should be treated the same way American Indians are under federal Indian law.



Treaty of Cession



Article III:

The inhabitants of the ceded territory, according to Their choice, reserving natural allegiance, may return To Russia within three years; but if they should prefer To remain in the ceded territory, they, with the exception Of the uncivilized native tribes, shall be admitted to The enjoyment of all the rights, advantages, and Immunities of citizens of the United States, and shall Be maintained and protected in the free enjoyment of Their liberty, property ,and religion. The uncivilized tribes Will be subject to such laws and regulations as the United States may, from time to time, adopt in regard To aboriginal tribes of that country.

What was happening in the Lower U.S. when Alaska was purchased?

- ◆ **Marshall cases had been decided, Andrew Jackson succeeded in Indian removal, Civil War had ended 2 years prior**
- ◆ **1871 Congress ended the practice of treaty making with the Indians**
- ◆ **Major assimilationist policies followed that such as the General Allotment Act and Indian boarding schools.**



Federal Policies from purchase to turn of the century

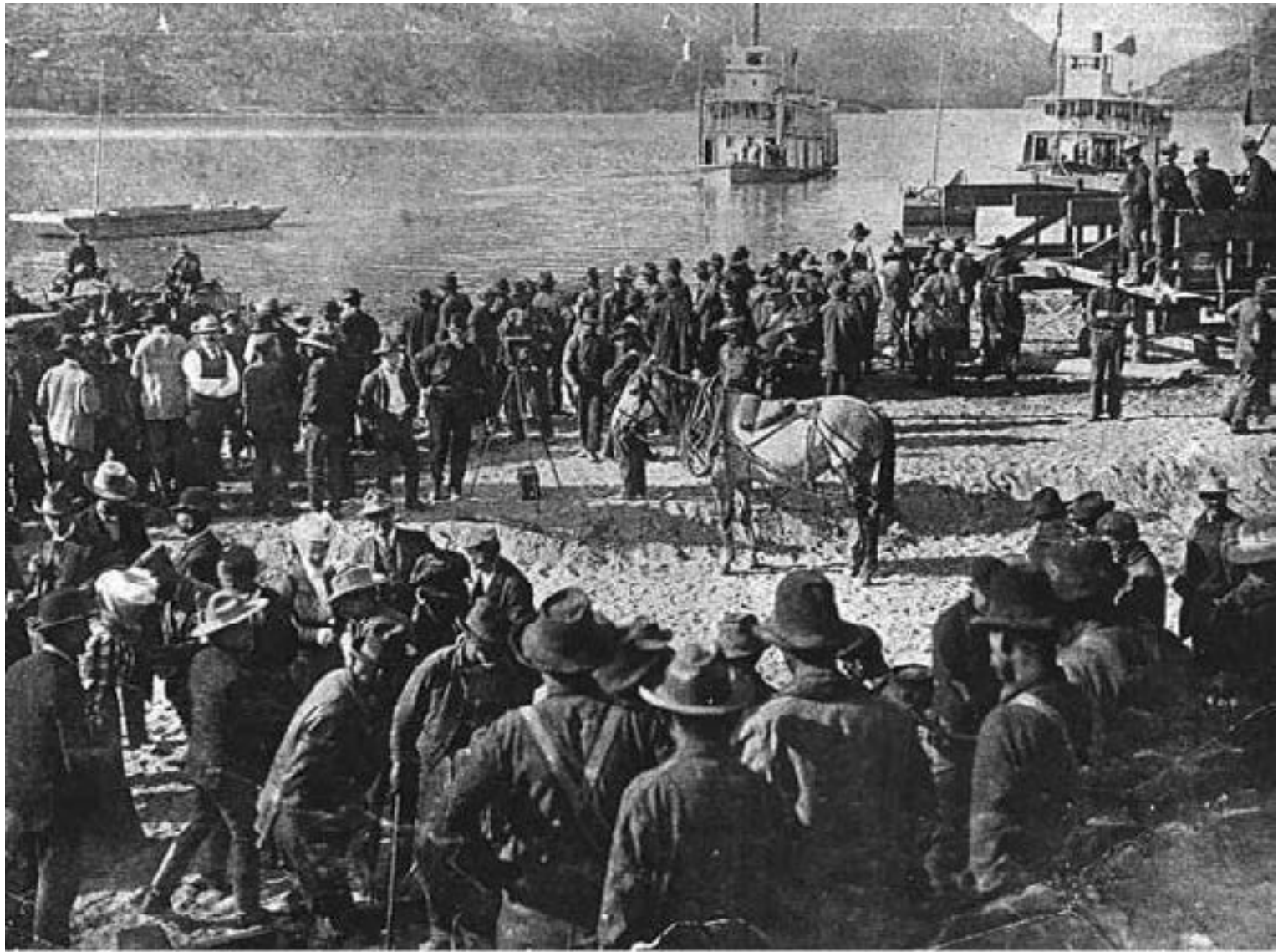
- ◆ **Congress neglected Alaska almost entirely at this time, took no particular notice of the Alaska Native people, no treaties, no removals, no confinement to reservations, no provisions made for support and education.**
- ◆ **This planted seeds for the idea that Alaska Natives were legally in a different status than American Indians**





Klondike gold rush 1897





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Devastation by Epidemics

- ◆ **By 1800, 80% of the Aleut people had died from disease brought by the Russians**
- ◆ **1830s – 1840s Smallpox epidemic in Alaska**
- ◆ **Followed by waves of epidemics as Russians and then Americans invaded the land**

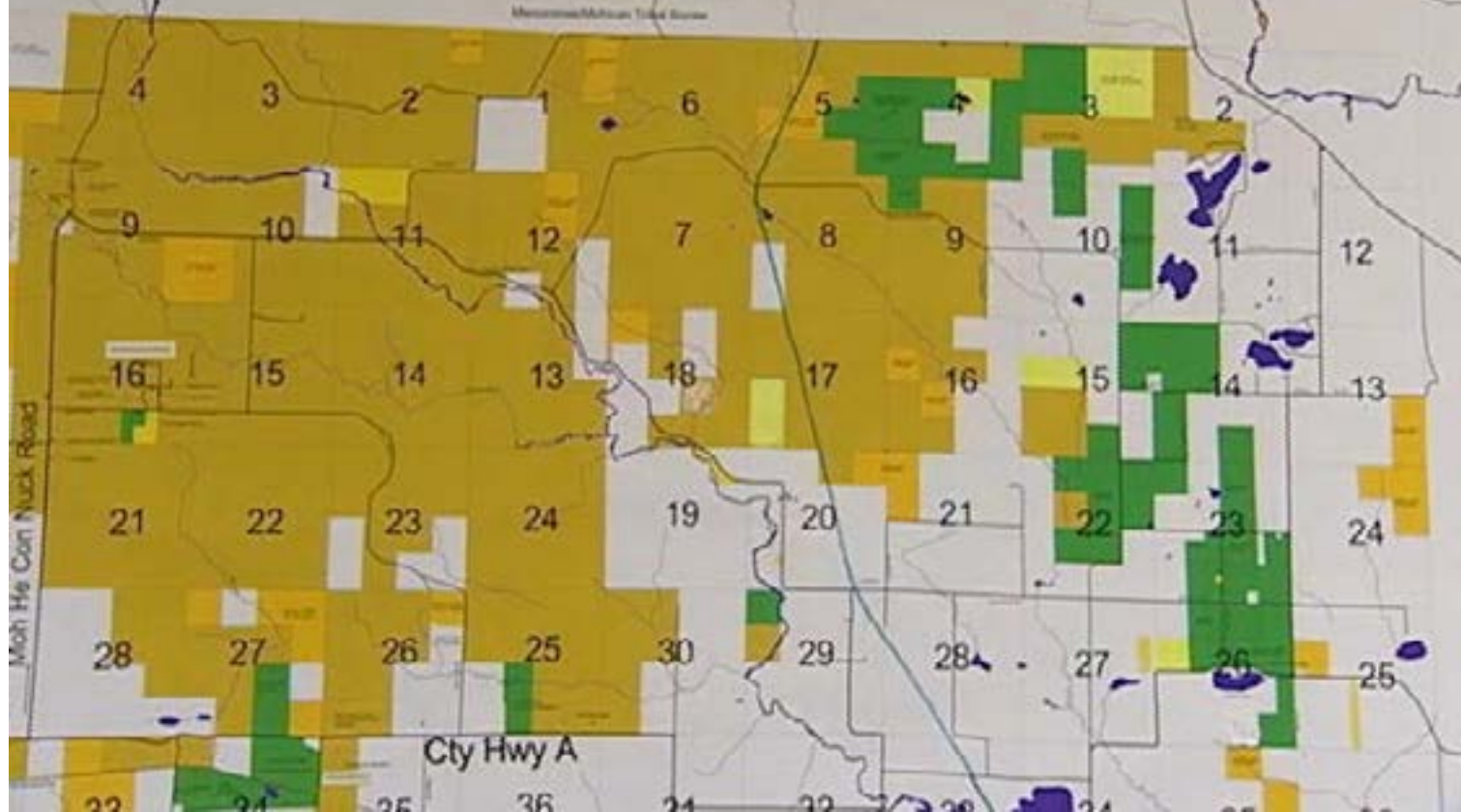








Stockbridge Munsee Land Holdings 2003





Early 1900s

1904 U.S. v Berrigan

Judge Wickersham held that the United States had both the right and duty to file suit to prevent non-Natives from acquiring lands occupied by Natives, implying that the non-Natives could not acquire such lands without the consent of the federal government. In other words, Alaska Native people had an aboriginal claim to land that only the U.S. government could settle.



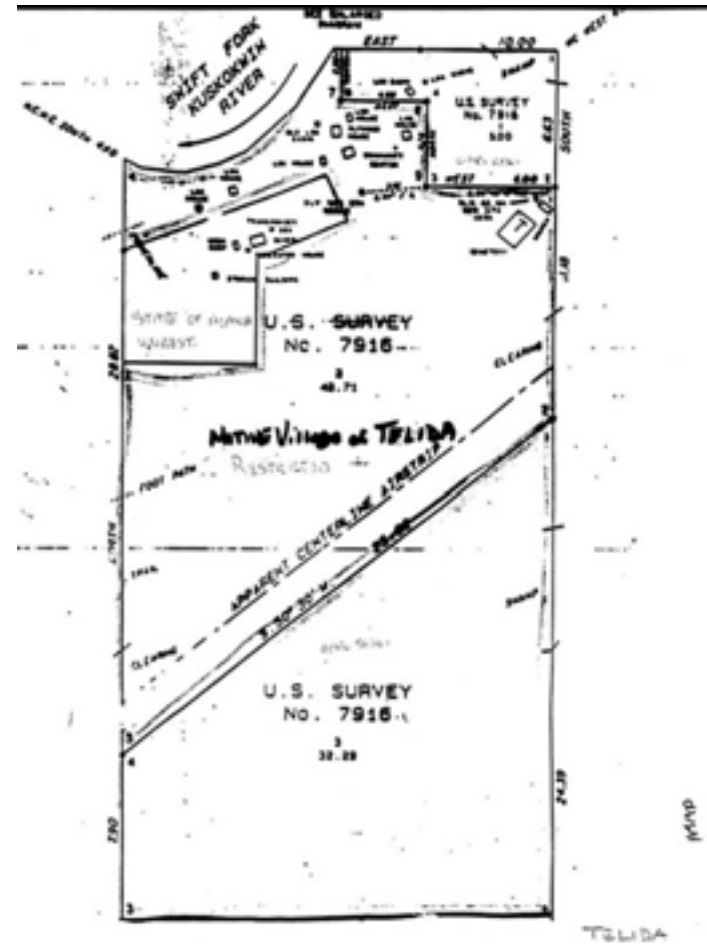
1905 Nelson Act – Set up education system separate for Alaska Natives



1906 Alaska Native Allotment Act

A system to get land from federal ownership to individual Alaska Native owners

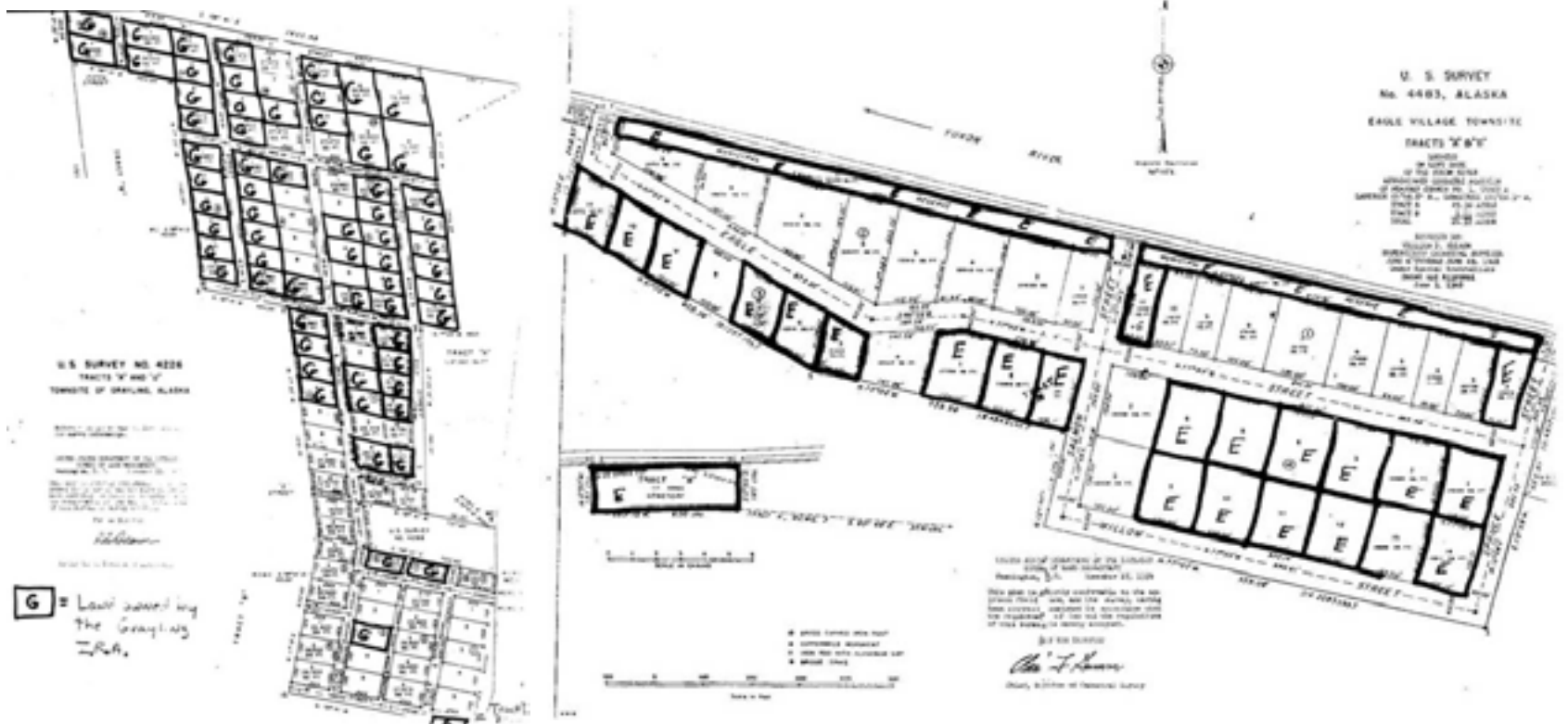
This allotment act did not subdivide Native owned land (land claims had not been settled yet so no land was in tribal 'ownership' at that time).



1912 Organic Act Established the Territorial Government



1926 Alaska Native Townsite Act



1934 Indian Reorganization Act Amended for Alaska 1936



- ◆ **The Act reaffirmed tribal authority to govern**
- ◆ **About one third of Alaska tribes have tribal constitutions under the IRA**
- ◆ **It established mechanisms for tribal business enterprises under section 17.**
- ◆ **The boiler plate was different in Alaska than in the Lower 48**
- ◆ **A few reservations under the IRA were formed in Alaska**

World War II – Aleut Removal





1950s Termination Era

- **Relocation, Termination of tribes, Public Law 280**
 - **BIA had a relocation program in Alaska, and many Alaska Natives were sent to cities in the Lower 48**
 - **No tribes were terminated in Alaska**
 - **Public Law 280 was applied to Alaska**
 - **Because of the scarcity of Indian country, Public Law 280 is not as significant for Alaska tribes as it is for P.L. 280 states in the Lower 48.**
 - **Metlakatla, the only remaining reservation in Alaska, is specifically excluded from the application of Public Law 280.**



Alaska Statehood 1958

- ◆ The Act preserved the status quo on aboriginal title, neither clarifying nor denying the existence of an aboriginal claim to land.
- ◆ It permitted Alaska to select land for state ownership.
- ◆ Land selections were later frozen upon the discovery of large amounts of oil and desire to construct the Alaska pipeline.



President Eisenhower signing
Statehood Act

Aboriginal Claims

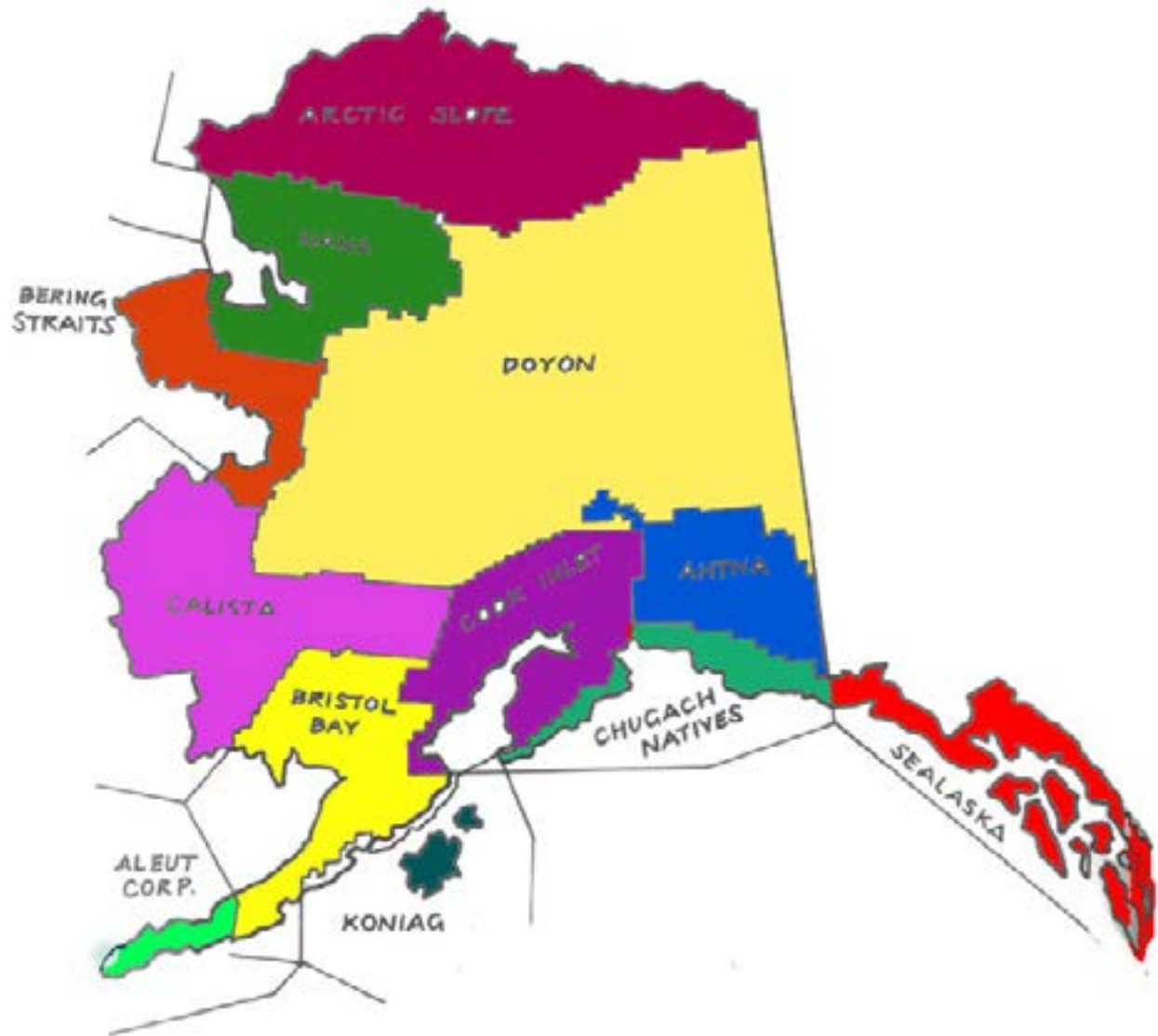
- ◆ In 1971, one hundred years after treaty making ended, aboriginal land, fishing and hunting rights in Alaska were 'settled.'
- ◆ Rather than land going into trust for tribes themselves, the land went to specially constructed Alaska Native corporations. The corporations are guided by both the Alaska Native Claims Settlement Act and by Alaska state corporate law.
- ◆ Aboriginal hunting and fishing rights were not adequately settled by ANCSA, and an attempt to rectify the situation occurred 9 years later through the Alaska National Interest Land Conservation Act (ANILCA).



1971: Alaska Native Claims Settlement Act

- ◆ **‘Settlement’ of Alaska Native aboriginal land claims**
- ◆ **Some 150 Indian reservations/reserves in Alaska were terminated**
- ◆ **44 million acres of land was conveyed to special Native owned and operated corporations, along with a cash settlement of nearly 1 billion dollars.**
- ◆ **Hunting and fishing rights were later ‘settled’ by Congress in 1980 through the Alaska Natural Interest Lands Conservation Act (ANILCA)**





ARCTIC SLOPE

BERING STRAITS

BRISTOL BAY

DOYON

CALISTA

CAPE WELCH

ANTNA

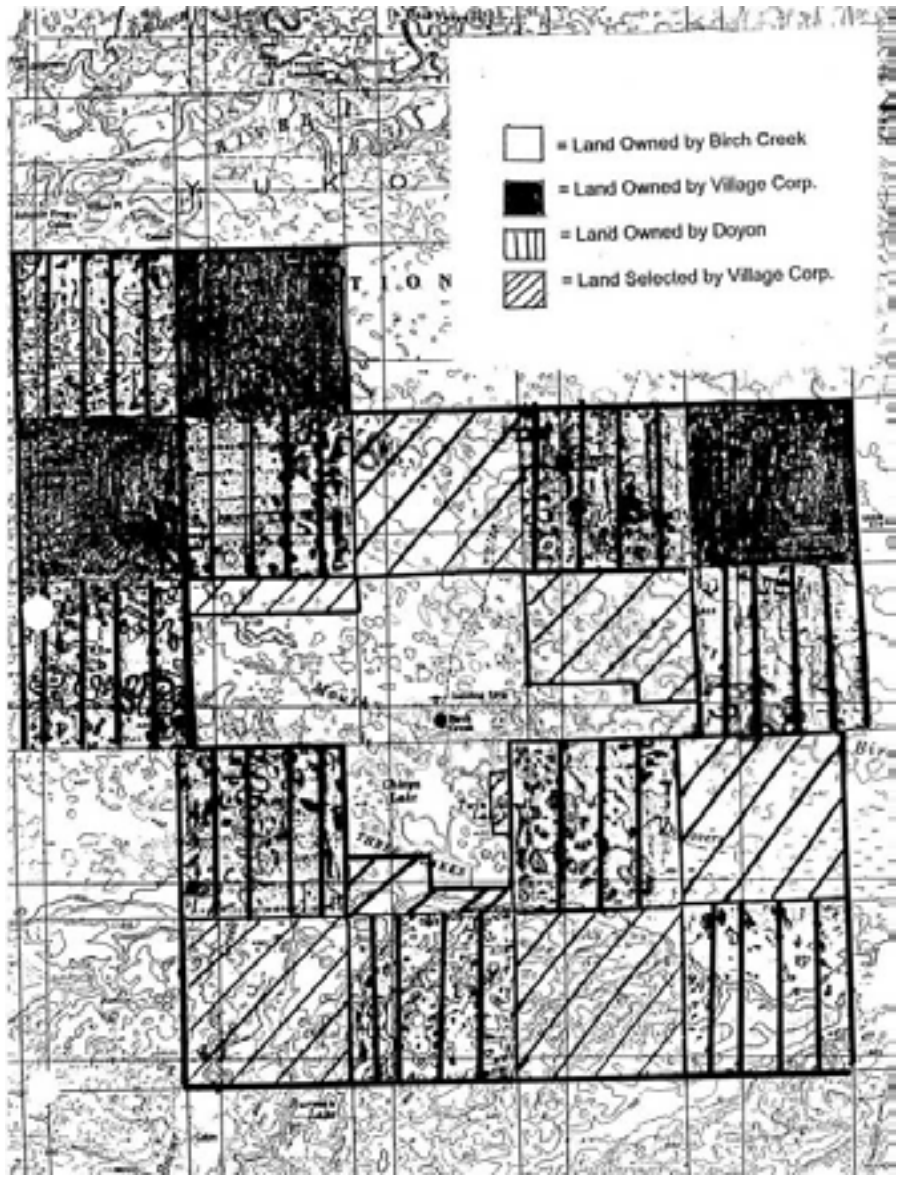
BRISTOL BAY

CHUGACH NATIVES

ALEUT CORP.

KONIAG

SEALASKA



Birch Creek

'Recent' Federal Political Events Affecting Alaska Tribes

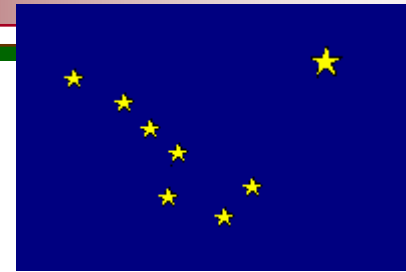
- ◆ **Federal Administration:**
 - 1993 included Alaska Tribes on the Department of Interior list of federally recognized tribes

- ◆ **Congress:**
 - 1994 List Act confirms the list of tribes
 - Regionalization through appropriations
 - Establishment of the Rural Justice and Law Enforcement Commission

- ◆ **U.S. Supreme Court:**
 - *Venette* decision 1998



Pendulum Swing in Alaska



- ◆ **Positions of Alaska Governors :**
 - **Governor Cowper - recognized tribes: Admin Order 123**
 - **Governor Hickel - did not recognize tribes: All One People**
 - **Governor Knowles - recognized tribes: Admin Order 186**
 - **Governor Murkowski - anti-tribe AG Opinion October 2004**
 - **Governor elect Sara Palin....Issued supportive issue paper on Tribes prior to election 2006**

- ◆ **State Legislature:**
 - **Have recognized tribes in the past through various pieces of legislation**
 - **Cooperation with tribes completely depends on the political make up of the legislature**

- ◆ **Alaska Supreme Court**
 - **Stevens Village v Management and Planning 1989**
 - ***John v Baker* decision 1999**
 - **C.R.H. decision 2001**



Gene Thin Elk

“to be able to overcome the oppressors fear by giving forgiveness, and holding accountable based on the structure of that history, that at what places we can intervene to restore dignity to everyone involved so that we can walk in a good path. I think it’s the future hope for our people, for all of our people.”