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Institutional innovation in less than ideal conditions: management of commons by an Alaska Native village corporation

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Abstract: Alaska Natives have experienced less than ideal conditions for engaging in management of their homeland commons. During the first 100 years after the Treaty of Cession of 1867, Alaska Natives received limited recognition by the United States. The Alaska Native Claims Settlement Act of 1971 (ANCSA) was signed into law by President Richard Nixon after tedious negotiations by Alaska Natives, the United States Congress, and special interest groups. As part of the settlement, 12 regional corporations and over 200 village corporations were established to receive fee title to 40 million acres of land and a cash settlement of \$962.5 million for lands lost. This arrangement has been considered by some as an act of social engineering to assimilate Alaska Natives into a capitalist economy. In spite of the goal of assimilation, Alaska Natives have utilized ANCSA to strengthen their indigenous identity and revitalize their cultural traditions. This paper examines the innovative efforts of Alaska Natives to successfully manage their commons despite the introduction of new and foreign institutions. Since the passing of ANCSA, Alaska Natives have cultivated good skills to navigate and modify legal systems and engage bureaucracies with considerable success. More than 36 years after the passage of ANCSA, most Alaska Native homelands remain intact in ways not previously imagined. Village corporations have used a number of legal methods to allocate land to shareholders, manage ownership

of stocks, and contribute to the Alaska economy. ANCSA provided no special aboriginal rights for harvesting and management of fish and wildlife. Resultant rural-urban conflicts have been confronted with a novel mix of agency-Native cooperation and litigation. Although aspects of the arrangement are not ideal, the conditions are not hopeless. Our paper explores the hypothesis that while formal institutions matter, informal institutions have considerable potential to generate innovative solutions that overcome formal institutional shortfalls. We draw on the experiences of Native corporations in several regions of Alaska, with a focus on Bean Ridge Corporation (BRC), the village corporation which owns lands in and around the community of Manley Hot Springs, Alaska. Programs to distribute corporate earnings, address trespassing, and maintain cultural traditions are described.

Keywords: Alaska Natives, Alaska Native Claims Settlement Act, land claims, village corporations

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1. Introduction

This paper focuses on village corporations established under the *Alaska Native Claims Settlement Act* of 1971 (ANCSA) and their role as a formal institution for commons management in providing for the resilience and adaptation of Alaska Natives and the lands on which they depend. As a case study, we focus on Bean Ridge Corporation, a village corporation established through ANCSA, which has forty-two original shareholders and owns lands in and around the interior Alaska community of Manley Hot Springs. ANCSA was a unique and historic piece of federal legislation that settled the claim regarding aboriginal title to lands in Alaska. The settlement consisted of transferring fee title to some 40 million acres of land, about ten percent of the state, to Alaska Natives. A cash settlement of \$962.5 million (USD), about three dollars per acre, was paid in compensation for the ninety percent of the lands in the state that were lost (Berger 1985). The land title and cash settlement went to state chartered business corporations in which Alaska Natives would own shares. This land claims model was different from any other settlement the US government had made with Native Americans. Never before had corporate entities been established as the mechanism by which

land title was transferred to Native Americans. Under the Alaskan settlement, 12 regional corporations and some 200 village corporations were formed (a 13th regional corporation representing Alaska Natives living outside Alaska was formed later). The settlement was also unique among aboriginal claims settled in other countries of the North (Broderstad and Dahl 2004), and served a forerunner to aboriginal claims that followed in Canada, even though the Canadian settlements had their own unique provisions. For example, whereas the Alaskan claim established corporations and provided land title and financial resources, most subsequent Canadian claims, such as the Inuvialuit Final Agreement, established corporations, and provided land, financial resources, as well as special aboriginal rights in resource governance and economic development.

The novel approach of the ANCSA to aboriginal settlement initially raised many questions about the potential of corporate organized interests and the dependence on entrepreneurialism to meet the needs of aboriginal peoples and ensure the long-term health of lands and resources (Case and Voluck 2002). With thirty-seven years of history, ANCSA now provides a basis for examining that potential. The focus here is on village corporations with an emphasis on Bean Ridge Corporation, a small village corporation of ANCSA with landholdings in interior Alaska. We examine the Bean Ridge Corporation's experience to present key historical aspects of ANCSA, the experience of regional and village corporations, and focus on how ANCSA and its modifications have enabled Alaska Natives to sustain their natural resources and cultural traditions.

The Bean Ridge Corporation case study illustrates how ANCSA leadership and management integrate traditional knowledge into the ANCSA western corporate models and how traditional values often guide organizational decision making. In Alaska, this process is occurring in a context in which subsistence is a way of life and provides a deep and historic connection of Alaska Natives to land and animals (Norris 2002). Subsistence harvesting by Bean Ridge stockholders should not be taken as a sign that Alaska Native cultures are static but as a dynamic set of practices built around the values of respect and care for resources and community (Kawagley and Barnhardt 1998). The Bean Ridge Corporation case provides examples of how the village corporation has sought to maintain traditional values, while concurrently supporting growth that provides for sustainable development. With the evidence below, we argue that while the formal institution of ANCSA shapes the transactions of parties, traditional informal institutions such as respect for land, animals, and people, shape people's behavior. The case study also demonstrates that the efforts to manage commons through the terms of ANCSA, at times, also results in turbulent relations with many non-shareholders, shareholders, and community organizations.

Our method of analysis in the study of ANCSA and the case of the Bean Ridge Corporation is based on informant interviews, a review of archives and published literature, and the personal experience and insights of the lead author of the paper, who has served as a board member of Bean Ridge Corporation for thirty years.

2. Background

2.1. History

Alaska has a short history of formal Native organizations, beginning with the Alaska Native Brotherhood (ANB) in 1912, which had the goal of gaining citizenship for Alaska Natives. The Tanana Chiefs Conference, an early organization representing interior Alaskan Native interests, was formed in 1915 by Athabascan chiefs who had concerns for the management of fish and game and land issues. In 1936, *The Indian Reorganization Act* of 1934, also known as *The Wheeler-Howard Act*, was amended to include Alaska. As a result thirty-eight Native villages in Alaska were formally organized in the five years that followed (Pullar 1997). In 1966, the Alaska Federation of Natives (AFN) was incorporated to represent the twelve regional non-profit associations participating in the land claims negotiations.

During the 19th century, issues surrounding the U.S. Government's relationship with Native Americans became known as the "Indian Problem" (Cornell 1988). Consistent with that description, the term "Alaska Native Problem" was introduced into the Alaska Native land claims settlement process, which by its design would be different from those involving Native American Indians outside Alaska. The US Federal Field Committee for Development Planning in Alaska published a report for the US Senate Committee on Interior and Insular Affairs in 1968 that was to serve as a compilation of background data "relevant to a fair and intelligent resolution of the Alaska Native problem" (FFCDPA 1968, iii). Robert Arnold, a former staff member of the committee and author of the report, said after ANCSA was passed, "Benefits under the settlement act would accrue to Natives not through clans, families, or other traditional groupings, but, instead, through the modern form of business organization called a corporation. All eligible Natives were to become shareholders – part owners – of such corporations." (Arnold 1976, 146).

The idea of using for-profit corporations as the basis for organizing conveyance of land and settlement funds to Alaska Natives was not without controversy, and there continues to be disagreement on whether corporations were the best vehicles to implement Alaska Native land claims. Former Alaska Governor Walter J. Hickel, looked back on the claims and Alaska's management of commons to say, "When I first traveled to interior Alaska, it became clear that the elders understood the commons. If they caught a whale, it wasn't 'my whale,' it was 'our whale.' They didn't have a tradition of land ownership, but they decided they had to claim title to the land to protect their way of life on the commons and to benefit from the mineral resources in Alaska" (Spatz 2008). Yet during the claims process, some perceived that there was no alternative to the corporate model, viewing it as the only logical solution to the reservation system of land settlement used historically in more southern parts of the US and in parts of Canada. Vic Fischer, a delegate to Alaska's Constitutional Convention in 1955 reflected by asking, "What was the alternative to corporations?"¹. In fact, the settlement of ANCSA was an agreement

¹ Victor Fischer, personal communication, February 20, 2008.

negotiated by Alaska Natives and the US Federal Government that was enacted by Congress. In retrospect, Elizabeth Woods, a Manley Hot Springs tribal leader and village corporation board member, believes there should have been more tribal representation in the negotiation process.²

Some saw ANCSA as being poorly designed and inadequately funded to meet the future needs of Alaska Natives. Larry Mercurieff, then president of St. Paul Village Corporation, testified before the Alaska Native Review headed by Canadian Justice Thomas Berger to point out that the claim came with little seed capital, a lack of local business opportunities, limited infrastructure adequate for business development in communities, and a lack of human resources with training and experience in the business arena. He noted that the Native leadership was spread too thin by the many demands placed on them from inside the village and out, and that political pressures to invest brought internal and external conflicts because of ANCSA's ambiguities and unrealistic shareholder expectations (Berger 1985). Young and Osherenko (1992) argued that a majority of the village corporations faced inadequate liquid assets as well as a lack of appropriate investment opportunities, and were moribund or facing bankruptcy.

Yet by some accounts, the outcome is not altogether a failure. State Senator Albert Kookesh, an Alaska Native leader from Southeast Alaska, noted that "Very few in Congress expected ANCSA to succeed. It was intended for us to fail." Considering the surprisingly successful conditions today, he noted that "A measure of entrepreneurship is our contribution to the economy in Alaska and the United States. No regional or village corporation has disappeared."³

In 1966, Willie Iggiagruk Hensley⁴, a University of Alaska Fairbanks graduate student, wrote a paper for a political science class titled, "What Rights to Land Have the Alaska Natives?: The Primary Question." The paper outlined the Treaty of Cession clause recognizing tribes "...if they should prefer to remain in the ceded territory, they, *with the exception of 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*" (Hensley 2008, 2, emphasis added.)

The Organic Act of 1884, passed by Congress, brought the first civil government to Alaska. Arnold pointed out that *The Organic Act* "provided

² Elizabeth Woods, personal communication, May 30, 2008.

³ Albert Kookesh, personal communication, June 1, 2008. Senator Kookesh, a resident of Angoon, is the Chairman of the Board of both the Sealaska Corporation and the Alaska Federation of Natives as well as a member of the Alaska State Legislature. He is a past President of Kootznoowoo Corporation of Angoon. A lawyer by education, he has many years of experience with ANCSA.

⁴ Dr. Willie Iggiagruk Hensley would go on to be an architect of ANCSA as well as an important figure in its implementation. He was also involved in Alaska politics as a member of the state legislature and a member of the governor's cabinet. Iggiagruk's memoirs are found in *50 Miles From Tomorrow* (2008).

specific protection to claims of miners and lands used by missionaries, but gave only promise of continued use and occupancy of lands to holders of aboriginal rights” (1976, 68–69). Arnold went on to say, “While the provision of the act regarding Native lands did not permit them to acquire title, it was a provision of much future importance” (1976, 69). The act states that “Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them, but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress.” (1976, 69)

During the early 1960s, major events led Alaska Natives to organize a statewide movement to settle aboriginal land claims in Alaska. The events that provoked this mobilization were: (1) the proposed construction of the Rampart Dam, which would have flooded a huge area of the interior Alaska Yukon Flats region and dislocated many of the region’s Gwich’in (an Athabascan group in interior Alaska) from traditional lands; (2) a plan for a nuclear blast to create a deep-water port (called “Project Chariot”) at Point Thompson that would have dislocated the Iñupiat village of Point Hope and contaminated vast areas of the North Slope; and, (3) the discovery of large oil reserves at Prudhoe Bay, which has produced up to twenty percent of the US oil supply. This final event, in particular, motivated Native and non-Native’s to settle land claims since there was a sense of urgency to begin producing oil from Prudhoe Bay and construct the 800 mile pipeline to the port city of Valdez. The proposed pipeline needed to cross lands that were still under the cloud of unsettled aboriginal title, thus the question of Alaska Native land claims needed to be resolved expeditiously to ensure certainty in investments by oil producers and others. In support of the land claims process and to resolve the uncertainty, the US Secretary of Interior imposed a “land freeze” that prevented any pipeline construction until the claims were settled.

2.2. Selection of Native lands

After ANCSA was passed by the US Congress the regional boundaries of ANCSA regional corporations were established to reflect the traditional lands and language dialects of Alaska Natives as much as possible. Lines were literally drawn on paper maps to establish the twelve regional corporation boundaries as shown in Figure 1. Lands specified and allocated by the Alaska Native Claims Settlement Act are held in common by shareholders of corporations. The village corporation lands are located within regional boundaries with the total acreage determined by the total number of stockholders as indicated in Table 1. The village corporations own the surface rights to lands within the regional corporation areas. In addition to each regional corporation owning the surface estate of their lands, each organization also owns the subsurface estate of most village corporations ANCSA lands. The revenues from subsurface development is shared in common and distributed among Native corporations,

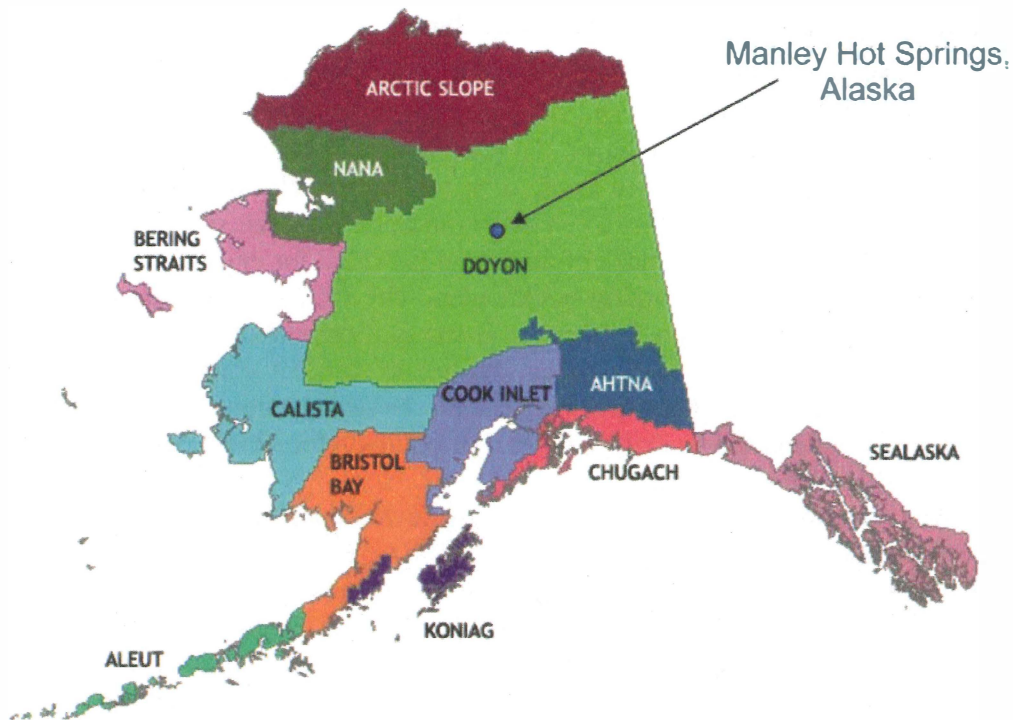


Figure 1: The Twelve ANCSA Regional Corporation boundaries and the community of Manley Hot Springs, Alaska.

Table 1: ANCSA formula determining the number of shareholders and number of acres available to convey to local corporations.

Number of corporation shareholders	Number of acres entitled to be selected
25–99	69,120
100–199	92,160
200–399	115,200
400–599	138,240
600 or more	161,280

as defined in section 7(i)⁵ of ANCSA. There are a few exceptions. For example, in Southeast Alaska, village corporations own both surface and subsurface rights to land.

⁵ Public-law 92–203 section 7(i) The language in ANCSA states, “Seventy per centum of all revenues received by each Regional Corporation from the timber resources and subsurface estate patented to it pursuant to this Act shall be divided annually by the Regional Corporation among all twelve Regional Corporations organized pursuant to this section according to the number of Natives enrolled in each region pursuant to section 5. The provisions of this subsection shall not apply to the thirteenth Regional Corporation if organized pursuant to subsection (c) hereof.”

2.3. Membership rules regarding stockholders

Stock in ANCSA regional and village corporations was issued only to Natives born on or before December 18, 1971 and who could demonstrate that they were at least one quarter Alaska Native by blood. To prevent ANCSA stock from becoming alienable (i.e. the ability of such stock to be sold to non-Natives), ANCSA was amended in 1988. This and other amendments addressed the sale of ANCSA stock to limit the loss of Native control of lands and provided for enrollment of “new Natives” born after 1971 as voting stockholders. The 1991 amendments also had provisions to establish Elders Settlement Trusts to distribute dividend payments to Elders who are stockholders. Today, the ties to ANCSA corporations shape people’s identities. While kinship ties continue to be strong among Alaska Natives and people are identified by their families, it is common for Alaska Natives to ask others, “Where are you enrolled?”

The amendments described above are just a few of many modifications which have been made by the US Congress to ANCSA. Since its passage in 1971, ANCSA has been amended 107 times, with all amendments made in response to lobbying efforts by Alaska Natives.⁶ The number of changes and sources of such change are important when considering the power dynamics and adaptability of the institutional arrangement in response to emergent problems or objectives faced by Alaska Natives.

3. Bean Ridge Corporation and Manley Hot Springs

Bean Ridge Corporation (BRC) was established by ANCSA with 42 original stockholders and selected 69,120 acres of land located around the settlement of Manley Hot Springs in interior Alaska. The settlement of Manley Hot Springs has a population of 72 people living in 36 households of which 24% of the population is Alaska Native as indicated in the US Census of 2000 US Census. The settlement, which is the center point of Bean Ridge’s land holdings, is located at the end of the Elliott Highway near several river systems including; the Tanana River, the Hot Springs Slough, Zitziana River and Baker Creek (See Figure 1). Employment opportunities in Manley Hot Springs are limited with median family income being \$59,500 (USD). There has always been a high dependence on subsistence harvesting by residents of the community.

Settlement land was selected on the basis of access and potential for resource development, such as gravel and timber as well as for subsistence activities. The process of selecting land for villages, as well as regional corporations, was a challenge in ANCSA because it required meeting the requirements of the settlement while also negotiating conflicts with private in-holders of property. In-holdings consisted of previously deeded federal property, Native allotments and patented mining claims. The newly elected board of directors and Elders of the village corporation selected the land, and the Bureau of Land Management

⁶ Kookesh, personal communication, June 1, 2008.



Figure 2: Bean Ridge Corporation Office located in Manley Hot Springs, Alaska. (Photo Credit G. Pullar)

(BLM) was to manage corporate lands until interim conveyance was completed. BLM was, however, ill equipped to take on this task and trespass by non-shareholders quickly became an issue for the corporation. For example, the BLM was to survey forty million acres selected by corporations; this has still not been completed, in part because of the high cost and logistical requirements of this task. Due to these problems a new arrangement between BLM and corporations is being implemented. In the new arrangement, corporations have the opportunity to contract with BLM to have lands surveyed. The new arrangement has been a successful endeavor, so far, because many corporations now have a better understanding of their boundaries and better capacity to oversee the process of land ownership. ANCSA section 14(c) 3 states that 1280 acres of land were to be selected for the local city and if unincorporated, the land would be held in trust by the state of Alaska Municipal Lands Trustee for a future city. Lands selected under this section were to be surveyed thus allowing for capital projects to move forward in an efficient manner.

3.1. Bean Ridge Corporation membership/stockholders

Bean Ridge Corporation's 42 original shareholders were each issued 100 shares of stock. Being a mixed community of Native and non-Natives during the time of land claims negotiations, Manley Hot Springs was the site of debates on whether the Alaska Natives were eligible to establish a village corporation under

the terms of ANCSA. The claim of eligibility was challenged through litigation by some non-Native community members. The decision of the court was that Manley Hot Springs was indeed an eligible village. Bean Ridge Corporation members (shareholders) included individuals who were originally from the area and others who had recently moved to the village. This created a company with shareholders that represent a mix of Alaska Native cultures. Although the local traditional culture was Koyukon Athabascan there were several clan groups that lived in camps in the area. Yup'ik, Iñupiat and Athabascans, who all called Manley Hot Springs home, elected to enroll as stockholders in Bean Ridge Corporation. The situation of diverse membership in Bean Ridge was not altogether unusual, which has had implications to the way Alaska Natives would have to interact with each other. As Kookesh eloquently summarized enrollment under ANCSA:

“There are all cultures represented in regional and village corporations. This is one of the reasons regional corporations are careful not to offend one another. People are nomadic. For example, following the Aleut relocation during World War II, in southeast Alaska many Aleuts stayed and enrolled in Sealaska after ANCSA was passed. Most of the regional corporations have many cultures represented among their shareholders. Where we enrolled was not based on money. Enrollment was based on where we were raised, on where one's mother or father was raised or a husband and wife connection. Enrollment under ANCSA is based on Alaska Native blood and this is a new concept.”⁷

ANCSA provided considerable flexibility compared to other settlements in the US. Under ANCSA provisions, one's one quarter Alaska Native blood can be any combination regardless of tribal affiliation. In contrast, Navajo and Apache tribes in the Southwest US only consider percentage of blood ties from a single group; there is no provision for dual enrollment.

The passage of ANCSA required that Alaska Natives learn the highly legalistic terminology associated with their claims and after 1971 village corporate shareholders began learning the language of their new institutions. Terms like assets, balance sheets, income statements and fiduciary responsibility plus numerous others were introduced. At the time, the cash settlement of nearly one billion dollars seemed like a lot of money but when divided among 12 regional corporations and some 200 village corporations, Bean Ridge Corporation's total share was a mere \$245,000 (USD) awarded over an eleven year period. This total settlement has hardly covered the cost of operating expenses. In the process of learning this new corporate language, ANCSA village leaders relied on their traditional knowledge and core cultural values to guide decision making in these new ANCSA institutions.

⁷ Kookesh, personal communication, June 1, 2008.

Initially, after settlement, there were unrealistic expectations among individual shareholders that they would receive land and money. However, it was the corporations that received the land and money, not individuals. Corporations were expected, by some shareholders, to distribute dividends and land immediately. However, ANCSA corporations were incorporated in the State of Alaska and are subject to state statutes that did not allow shareholder land distributions or dividends unless there is a profit. Thus, the possibility of Bean Ridge Corporation distributing land and money was not possible until the Board of Directors designed creative ways for distributions. Several examples of these creative methods are presented below.

3.2. Conveying land to local municipalities and for future cities

Village corporations are independent entities of the settlements, such as Manley Hot Springs, where corporation lands are situated. Thus, village corporations and local governments need to interact. Understanding the implications and importance of local governments, which may not be aboriginal based entities, the architects of ANCSA determined that village corporations would develop a plan to provide a land base for local municipalities. The number of shareholders that enrolled determined how much land a corporation could select, with the exception of Southeast Alaska corporations.

ANCSA section 14(c) 3 provided unique opportunities for current and future municipalities by requiring village corporations to re-convey 1280 acres to a municipality. In the event there was no municipality (city government) as a part of the village, land would be conveyed to the state in trust for a future “city”. (“City” is a municipality status in Alaska and a recognized local government.) The granting of these lands was intended for the expansion of the municipality and other foreseeable community needs. This section of ANCSA was later amended with ANILCA, which states that up to the amount of 1280 acres can be conveyed if both parties can agree in writing on the lesser amount. Conveyed lands can be selected for parks, green space, well houses, sanitation facilities, dog race trails, ski trails, community buildings, village clinics, rifle ranges, cemeteries and cemetery expansions, easements for access to rivers and waterways, and in some instances for individual homes. Once the land is re-conveyed from the village corporation to the municipality, it can then be used for whatever the municipality wants; this land conveyance is non-binding in nature.

Section 14(c) 3 of ANCSA, which directed the transfer to lands, ultimately cost village corporations money for planning, board of directors’ time and the cost of the land. For example, in Manley Hot Springs some 600 acres was re-conveyed for the future city. With land values appraised at \$10,000 per acre and around 400 acres of its conveyed lands being prime property, this was a revenue loss of some four million dollars to the village corporation.

Section 17(b) of ANCSA provides for easements across corporation lands to private property or state and federal lands. These easements are managed by

the federal government. Bean Ridge Corporation has settled ANCSA sections 14(c) 3 and 17(b) claims and the community reaps the benefits of these lands. Management of these lands is through an institution unique to the village, the Manley Hot Springs Community Association that advises the state of Alaska Municipal Lands Trustee (MLT) officer on how 14(c) 3 lands are managed. For example, when the community needed an airport expansion, the community wanted this airport site near the center of town. This site was re-conveyed from BRC as a green space. The Manley Hot Springs Community Association, working with the MLT officer, re-designated this parcel for the construction of the new airport. An example of a 17(b) easement is a historical trail that was used in the winters by dog teams that carried the US mail and horse drawn carriages to transport people and supplies from Fairbanks. The Elliott Highway was built in 1959 but people still used this trail for recreational dog sledding and access to other private property. This trail was re-conveyed under 17(b) for its historical and current uses.

3.3. Managing natural resource extraction on Bean Ridge Corporation land

Traditional land uses of individual Alaska Natives continues to be challenged with development for precious metals and other minerals, such as gold and oil exploration by large international corporations in joint ventures with ANCSA corporations. Corporations are required to follow strict environmental regulations as stated by the Alaska State and US Federal Government regulations. Additional rules to ensure safeguards for subsistence resources have been added by Alaska Native regional and village corporations. It is recognized by many shareholders that land is the most valuable asset of a village corporation and adaptive management based on traditional knowledge (TK) is an important strategy in sustaining the land for future generations.

3.4. Transferring land to original shareholders

Soon after the signing of ANCSA it was understood that ownership of land by shareholders would provide a basis for continuing traditional on-the-land pursuits. The Bean Ridge Corporation board of directors investigated several ways to transfer land to their original shareholders. ANILCA provided for a 1.5 acre distribution but following the state corporate code made this process cost prohibitive. It required that each lot must be of equal value and legally surveyed. Shareholders also wanted such lots to be in remote locations and not in crowded subdivisions. A shareholder land lease program provided a solution to the state's regulatory constraints by allowing original shareholders to select up to 20 acres of BRC land almost anywhere they wanted. The only requirement was that the recipient acquire a metes and bounds legal description to clearly identify boundaries. This program has had some success but the requirement of a legal description has proven to be cumbersome for some shareholders

who have limited financial resources. One of the key reasons the BRC board of directors chose to implement a land lease program was to prevent the sale of corporate lands. It was envisioned that with the transfer of shares to direct descendents the land would be kept in families. This shareholder land lease program also encourages small private business development by having a large acreage provision.

Other village corporations of Alaska handled this situation differently. Some individual village corporations have distributed land held in common by the corporation to individual shareholders with different degrees of success. Under Alaska State law, any major distribution of assets requires a vote of approval by a majority of the shareholders. For example, Kootznoowoo Inc., the Native village corporation for Angoon, held a shareholder election to distribute 1.5 acre lots to its shareholders. As there were 720 original shareholders, 720 lots were transferred in fee simple title to shareholders. Soon after the transfer took place, many individual shareholders began selling their lots to outsiders, creating a checkerboard pattern of land ownership around the village of Angoon. In a process similar to BRC, the Afognak Native Corporation uses long-term leases as an alternative to allow land use by individual shareholders. Under that system, each individual shareholder can obtain a 99-year lease for a five-acre parcel of land that can be used for subsistence or commercial purposes.

3.5. Addressing the problem of trespass

Today's changing social and ecological environment in Alaska creates a critical need for adaptive management on many ANCSA lands. For example, people's use of all terrain vehicles (ATVs) is creating new trails where none previously existed. Trappers with trap lines for fur bearing animals are, in some cases, harvesting animals at unsustainable levels. Hunting season has become dangerous as more sport hunters than an area can support converge on corporation land. Bear baiting camps, set up in the spring, are particularly harmful as some bear hunters do not remove their bear bait stations when they leave. This creates a safety problem for non-hunters as it attracts bears to hiking trails and litters wilderness areas with buckets of grease. Moose hunters use of boats and aircraft result in a high density of harvesters in areas that are generally inaccessible to the public. The problem of non-local hunting has been especially challenging for BRC as it has lands that are located at the end of the Elliott Highway and easily reached from urban areas. Birch trees are recognized by the BRC board of directors as a valuable timber and birch sap resource. Because of its value, there is a need for BRC to manage use of birch as firewood. In spite of this concern, the lack of resources for enforcement and limited regulations have resulted in Native and non-Natives harvesting vast sections of birch trees on BRC lands.

One of the intractable problems is that it is difficult to exclude for community residents, who are non-shareholders, from the lands surrounding the community. Common land designated under 14(c) 3 and easements under 17(b) have alleviated

some of this problem through the re-conveyance of lands for community expansion and an extensive right of way system. However, it is recognized that a more workable solution will be necessary to maintain the ecosystem for future generations. In response to the problems of non-shareholder exploitation of lands surrounding the community the BRC passed a “resting the lands” policy until the issues can be resolved.

3.6. Sharing benefits from ANCSA’s commons

Sharing of natural resources from the commons is a unique provision in the Alaska Native Claims Settlement Act. Section 7(i) of ANCSA requires that seventy percent of profits from timber and subsurface resource development be divided among the twelve regional corporations as shown in Table 2. Section 7(j) requires that fifty percent of these revenues be shared with the village corporations and at-large shareholders.⁸ Section 7(i) provides a valuable source of revenue to Bean Ridge Corporation, and other village corporations, which is regularly passed onto shareholders. One of the successes of ANCSA, that reflects the traditional values of Alaska Natives, has been the sharing of benefits that are accrued from Native regional corporate lands by supporting the ‘have-nots.’ For example, timber sales of \$325 million have been redistributed in Southeast Alaska, with corporations of Southeast receiving \$140 million (See Table 2). Some village corporations have demonstrated the flexibility of the arrangement by negotiating not to redistribute 7(i) to their shareholders in special circumstances.

Table 2: Examples of 2008 7(i) Alaska Regional Corporation contributions to the Doyon region. 70% of revenues from timber and subsurface estate is shared among all 12 regional corporations. ANCSA section 7 (j) distributes 50% of these revenues to village corporations and at-large shareholders. Bean Ridge Corporation received \$49,182 or \$1171 per shareholder in May 2008.

Alaska Native Corporation	Contributions
Sealaska	\$410,442
ASRC	\$7,625,200
CIRI	\$248,993
NANA	\$2,191,261
Calista	\$110,638
Interest	\$28,208
Total	\$10,614,742

⁸ During the ANCSA enrollment process an eligible Alaska Native not residing in a village had a choice of enrolling to an ancestral village or enrolling at-large. Those enrolling at-large did not own village corporation stock and thus could only benefit from the 7(i) and 7(j) distributions through direct payments from regional corporations.

4. Implications for cultural sustainability

ANCSA corporations of Alaska have had a short history of just 37 years. During that time they have been successful in areas that were not identified, nor even imagined, by the settlement's architects. Corporations have served as vehicles to bring Alaska Natives together to work on issues of common concern. For example, aboriginal hunting and fishing rights were extinguished in ANCSA, but a provision of ANILCA provided a preference for rural resident harvest in the event of shortages of fish and game. This rural preference has been legally challenged in the Alaska State Supreme Court (Norris 2002). The court ruled that the rural preference provision was unconstitutional because it discriminated against urban hunters and fishers who were promised the ability to fish and hunt in the Alaska Constitution. In response to this ruling, the US Federal Government has taken over management of fish and game on all federal lands in Alaska to support this policy. Subsistence has been critical to Alaska Native people's cultural values and nutritional needs and ANCSA corporations have been at the forefront in representing Alaska Natives' right to hunt and fish for subsistence needs. While fish and game resources are now under "dual management" by the state and federal government agencies, many corporations have used their rights as land owners to close their lands to hunting by non-shareholders as a way of protecting their subsistence resources and way of life. In some cases ANCSA corporations have required the purchase of a permit for non-shareholder access.

Even though the goal of ANCSA was seen by some as a way to assimilate Alaska Natives into the capitalist economy the corporations have been successful in reinvigorating Alaska Native societies in inventive ways. There has been a renewal in confidence and pride that came with the passage of ANCSA and corporations have invested in supporting Alaska Native societies to ensure their cultural survival. Corporations have invested in museums, cultural centers, dance groups and cultural events where traditional knowledge and culture is shared as a commons resource. Cultural centers have provided traditional educational opportunities for Alaska Natives. Cultural practices have been shared with tourists which has created economic opportunity through the sale of art and admission tickets. Cultural specialists and Elders are now recognized as professionals and regularly hired as consultants and teachers for their knowledge. The corporate vehicles have brought new institutions and the Alaska Natives have shown genuine resilience in adapting to their existence. ANCSA and tribal leaders throughout Alaska have become successful at managing million dollar corporations. As well, there are now strong efforts and personal and community capacity building through numerous scholarship opportunities funded by Native corporations that encourage shareholders and their descendents to attend college and vocational programs.

A for-profit corporation was a foreign concept to many Alaska Natives at the time of the passage of ANCSA. This is the only instance throughout the world

in which an aboriginal land claim settlement process has utilized aboriginally owned corporations as the means by which to reconvey lands. The engagement of Alaska Natives in the western corporate world has created a whole new dimension of traditional knowledge for Alaska Native peoples. A new specialized knowledge in organizational, environmental and financial management, which is guided by traditional Native values, is routinely shared between regional and village corporations' leadership and others involved with administration and implementation. The special role of Elders and establishment of Elders' councils is another example of how traditional values have shaped the operations of corporate business. While there are instances of corporate confidentiality in business investments, making it impossible to share some information, people have found ways to share their experiences. As well, many successful joint ventures and mergers between corporations have occurred and ANCSA corporations have contributed many billions of dollars annually to Alaska's economy. ANCSA corporations are firmly established in Alaska and will continue to manage their lands and natural resources not only for shareholders but as contributing citizens with an interest in the economy and educational systems in Alaska, a contribution that often goes unnoticed by the general public.

Conflicts between local shareholders and non shareholders do occur. For example, the issue of trespass created a division between Bean Ridge Corporation and some non-shareholders whose land uses are viewed as unsustainable by the shareholders. To address the problem, Bean Ridge Corporation lands were declared closed by the BRC board of directors until a plan is developed to manage non-shareholder access to land in order to avoid further land-use degradation. While the policy of "resting the lands" is supporting sustainable land-use practices it has also created challenges for residents of Manley Hot Springs that will need to be resolved.

In addition to corporations, most Alaska Native communities have concurrently renewed, and in some cases established, formal tribal governments to provide a means for "government-to-government" negotiations with US federal agencies. These tribal entities are largely funded from federal sources, and with city governments, these tribal organizations create a third locus of authority involved in governance at the local level. Bean Ridge Corporation, the tribal government represented by the Manley Village Council of Manley Hot Springs, and the Manley Hot Springs Community Association must now work together to co-manage shared commons. It will be their social responsibility to build institutions that promote governance for the shareholders, tribal members and the local and regional peoples. Clearly, this objective brings new challenges and difficulties, but the establishment of tripartite groups in some communities is a promising model for continuing the values of respect according to traditional practices that ensure the continued success of ANCSA. Since tribes of Alaska did not receive land, a new system of adaptive co-management between the tribe and village corporations will be essential.

5. Conclusion

ANCSA created a host of new legal entities and rules that have directly affected the day-to-day lives of Alaska Natives as well as the State of Alaska. The establishment of for-profit corporations, as the primary vehicle for recognizing Native land rights and compensation for lost lands, was a novel approach that has been criticized by many. These new institutions came with many administrative responsibilities requiring skills and use of corporate and legal language that were foreign to most Alaska Natives. Maintaining shareholder records, accounting for and overseeing investment of corporate assets, addressing issues of trespass, interacting with local municipalities, dispensing of corporate funds and lands to shareholders, and running of board meetings were new challenges for those who took responsibility for ANCSA village corporations. In spite of these difficulties and basic deficiencies in the settlement, such as the absence of explicit rights of Alaska Natives to manage fish and wildlife, Alaska Natives have been successful in using the settlement to advance Native interest in developing economic opportunities while maintaining traditional values.

This analysis found that one of the key elements of the success of ANCSA has been the on-going process of modifying its terms of the settlement as new conditions and learning emerge. This process has involved an adaptive governance approach of experimentation with policies, reflections on their performance, and the continual adjustment of programs, policies, and ANCSA itself (Kofinas 2009). Another significant effect of ANCSA and its corporations is new corporate identities leading to new individual identities, with people asking, "Where are you enrolled?" However, cultural heritage has been strengthened with educational programs, dance groups, heritage centers and renewed cultural self-respect supported by Native corporations. In many cases Native corporations have also had a central role in encouraging sustainability of land and harvested resources. At the same time, there is an inherent tension creating the need for participation by stakeholders to ensure that the for-profit objects of these organizations does not overtake other interests.

Our analysis of Alaska Native Claims Settlement and the Bean Ridge Corporation demonstrates that while formal institutions do have a considerable role in shaping the opportunities and challenges when seeking sustainability, informal institutions, including traditional norms and values, also have the great potential to generate innovative solutions for overcome formal institutional shortfalls. We have provided a telling example of how aboriginal people can maintain cultural traditions through a diversity of strategies. While some suggested ANCSA's would undermine Native culture and lead to the ultimate failure of Native corporations, in many cases Native corporations have not only persisted, but also excelled. Today we find Alaska Native corporations to be power political players, supporting the evolution of traditional culture and contributing to Alaska society.

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