

Background on ANILCA and Strategies that Alaskans Used to Combat the Lock-up of Public Lands in the State

C. C. Hawley and Vernon R. Wiggins¹

In 1971, legislation was pending in the U.S. Congress to grant a permit for the construction of the Trans-Alaska Pipeline. Before the permit could be issued, however, a long-standing issue had to be settled. Alaska Native interests had convinced Congress to condition issuance of the pipeline construction permit on settlement of Native claims.

In that same year, the Alaska Congressional delegation asked the Alaska Miners Association (AMA) for its opinion on appropriate settlement terms for the issue. The association made a critical decision that would influence its relation with the native community for decades to come. Several options had been posed; one supported a moderate financial settlement, but little land; another favored a substantial financial settlement but also with little or no land. A third settlement proposal, however, called for payments of nearly one billion dollars and a substantial land package. This settlement package also carried with it radically different concepts on management and land ownership. Instead of living in tribal enclaves under the eye of the Bureau of Indian Affairs, Alaska Natives would own lands

through village and regional corporations whose ultimate geographic roots were tribal. Individual natives would be the shareholders of the corporations.

Members of the AMA debated the issue statewide. A few favored no settlement, but when the dust cleared a clear majority of the AMA had endorsed a settlement involving extensive lands, a substantial financial settlement, and the new management options. Many other Alaskans responded as individuals and through their interest groups to these proposals; the delegation was bombarded from every corner with every conceivable settlement scheme. But to the credit of the delegation, they always asked, "Where do the miners stand?" Although the association then consisted of only a few hundred members, its opinion was worthy of special consideration. The miners had roots in both rural and urban Alaska; some had ties to the Native community by marriage and some, in fact, were Alaska Natives. Further, the AMA had a wider background on land issues than most other interest groups.

The settlement, the Alaska Native Claims Settlement Act (ANCSA), was

¹ *During the lands debate Hawley served as Executive Director of the Miners Association, also as a director of CMAL, and as one of two private appointees to the state's "d-2 steering council." He also served on the post-ANILCA Land-Use Council advisory committee. Wiggins left his position with Tryck Nyman & Hayes in 1977 to become Executive Director of CMAL. He subsequently served as Federal Co-Chair of the Alaska Land-Use Council and in key posts in the Department of Interior.*

signed into law in December 1971. It brought several consequences, some not reasonably anticipated. Positively, it tended to align mining and native interests, enhancing communication between the AMA and Alaska Natives on natural resource issues. But other interests had used the act as a springboard towards an issue that ultimately proved more divisive: The land conservation issue.

Section 17(d)(2) of ANCSA allowed the Secretary of the Interior to withdraw up to 80 million acres of unreserved public lands for study as possible future conservation units. These lands were withdrawn not only with respect to the mining and mineral leasing laws, but also from State and Regional Native Corporation selection. Alaskans, who read 80 million acres as a maximum, subsequently learned that the action of one Congress does not bind another. The final conservation settlement was nearly twice that. Of Alaska's private resource sector, only the oil industry received an immediate benefit as the pipeline construction permit was issued. In the long term, however, their interests were not well served as the second best Alaska oil prospect was placed off limits, where it remains without final resolution today.

Coincident in time with the unfolding events in Alaska, other public land issues emerged or gained momentum nationally. Western states were faced with the first significant withdrawals under the Wilderness Act of 1964. There was increased pressure to formalize the role of the Bureau of Land Management on the Public Domain. Recommendations of the Public Land Review Commission called for management rather than gradual disposal of

then unreserved public lands. The Commission also favored adoption of a leasing system in place of the General Mining Laws for mineral entry by discovery and location. But the Commission did recognize that mining had a special place in the public lands scheme. Because of the scarcity of rich mineral resources and their small geographic footprint, in most cases mining should still constitute highest and best use of public lands where a conflict existed.

There was an acknowledged caveat in these early debates that truly important scenic or scientifically valuable lands, the Yellowstones and Yosemite, should be set aside. But the traditional arguments of the miners, loggers, and ranchers, long protected by western Congressmen, ran into the new public lands advocates. These men and women preached that most public lands were instead to be regarded as some kind of commons most valuable for vicarious use by an increasingly urban population.

Initially, this sea change in public land philosophy was at first not perceived with alarm by many Westerners. It was more evident to primary user-groups. Miners, loggers, and ranchers understood the immediate, draconian effects of the new philosophy on their livelihoods and ultimately the long-term effects on national economic health. They began to fight back.

Meetings of the AMA during the early 1970's often had a workshop atmosphere, as miners endeavored to work with and educate new public land administrators. They also used their knowledge of the resources to advise State and emerging Native Corporations on lands to select for mineral value. Maps were drawn and knowledge of

long held “close to the vest” was imparted. Charles “Chuck” F. Herbert, then Commissioner of Natural Resources and an experienced mining engineer, used this information to make the state’s largest land selection in January 1972 during a selection window that existed in ANCSA. The action by the Department of Natural Resources took the federal bureaucrats by surprise. A substantial amount of the selection was dropped in an out-of-court settlement with the Department of Interior later that year, but the remaining selections were valuable.

In the years between 1972 and 1976, miners and other outdoor interests took advantage of the Federal-State Land Use Planning Commission (FLSLUP) created by ANCSA. The chief and most lasting function of the AMA was probably one of education. In one Commission-sponsored workshop on the federal mining law, miners made a strong case in favor of the location system. Again, miners furnished information about the state’s mineral resources, information that contributed to views forwarded by the Commission. President Nixon’s Secretary of the Interior, Rogers C. B. Morton, failed to gain Congressional support for the Commission’s now seemingly moderate proposal. Environmentalists aimed much higher and their far-reaching proposals established a new norm for legislation. Locking up millions of acres in Alaska was seen as a cheap environmental vote by many congressmen—Easterners, Southerners, liberals, moderates, and conservatives alike. It cost nothing politically and most Alaskans were unaware of the importance to their future. Many were too busy working on the pipeline!

In October 1976, AMA held its first statewide convention in Anchorage. The question of Alaska’s conservation lands, the so-called d(2) lands, was a major part of the convention. Continuing with the approach adopted in 1971, the association reached out to native leaders. Representatives of Bering Straits, Chugach, Calista, and Bristol Bay corporations and Emil Notti, for the Alaska Native Foundation, shared their views on mineral development on native lands.



Brochure from the AMA's first annual convention in 1976.

In anticipation of the next Congress, the AMA also invited environmental leaders to address the convention on *The Place of Mining in Alaska's Future*. Howard Banta, of the U.S. Forest Service, and Will Dare, of the Bureau of Mines, believed the future was positive. Jack Hession, the leader of the Alaska branch of the Sierra Club, accepted the challenge and expressed the view that there was little-or-no future for mining in Alaska. He proceeded, confidently, to outline H.R. 39, the environmentalists' hand-crafted conservation lands bill. The bill was to be introduced in January 1977. Hession was confident that the bill would pass Congress by late spring or summer of the same year. In effect, Jack used the opportunity to deliver mining's eulogy in Alaska. Tacit to Hession's discussion was the recognition of the potential effectiveness of the General Mining Laws, whereby a discovery by one individual could bring civilization to the wilderness, a thought abhorrent to the environmental community. The effectiveness of the mining law could be blunted by withdrawing large blocks of public lands from its use.

Miners were very aware of the dangers of ill-conceived withdrawals of public lands. They understood that, because of tremendous gains in productivity, modern mining is a small industry with little political clout. Although miners understood the issues and could foresee the larger effects on the state, they also knew that an effective lands organization must involve much more than mining.

Something had to be done. Chuck Hawley, then Chairman of the Anchorage Branch of the AMA, rented a meet-

ing room at the Hotel Captain Cook in November, 1976 and invited a wide spectrum of Alaska interests and leaders to discuss the issue, "What will Alaska's future be if H.R. 39 becomes law?" The consensus was that state, native, and private interests would be affected adversely and that immediate action was necessary. The discussion was essentially the first meeting of the organization that became Citizens for the Management of Alaska Lands (CMAL).

The concept of the CMAL structure drew upon that of one of the first broad public land organizations in the Western states. That organization, Outdoors Unlimited, was especially strong at that time in Wyoming, Utah and Colorado. Basically, it was a coalition of individuals and interest-groups who favored multiple-use of Forest Service and Public Domain (BLM) lands.

But Alaska's needs were different. It needed an organization with muscle, and one that could reach towards the broader interests of the state and native corporations, thus gaining political stature. An organization that reached only the traditional industries and western delegations would be politically impotent in Washington, D.C. Two important additions to the "umbrella" of an Outdoors Unlimited structure were Alaska Natives and organized labor. Within that structure, miners would have to stand aside, a bit out of the spotlight. It was a necessary risk if mining was to survive in Alaska. A sufficiently large group of Alaska Natives was also ready to support a development group. Despite having been courted for years by the national environmental community, there was a strong element within the Alaska Native community that abhorred the basic pat-

rimonial concept of a subsistence-ONLY future which the environmentalists seemed to hold for Alaska's first citizens. One of the new leaders, Carl Marrs, was elected the first president of CMAL. Labor also came to the table. Bob Johnson, a spellbinding orator for the cause came from the Teamsters. Southeast's Greg O'Claray, from the Inland Boatmans Union, helped cement CMAL's ties to the powerful Port of Seattle and maritime interests in the Pacific Northwest. The AFL sent a steely-eyed gentleman, Vern Carlson, a consummate negotiator. The list of supporters and initial organizers is a long one.

Two organizations and two individuals moved CMAL from a research and debating group to a potent advocate for Alaska's cause. The organizations were the Alaska Chapter of the Associated General Contractors and the Alaska Lumber and Pulp Company. The men were, respectively, their leaders, Richard Pittenger and Clarence Kramer. These men and their organizations bankrolled the initial organization, but they also put their hearts into the battle. They were soon joined by the Alaska Loggers Association (ALA) and the oil industry. These organizations, the miners, loggers, oilmen, and labor increased and maintained their financial support to the very last day of the battle. At the same time, CMAL remained an individual membership organization supported by thousands of concerned Alaskans. The fact that the AMA had active chapters throughout Alaska, especially strong-ones in Anchorage, Fairbanks and Southeast, aided in the growth of the new organization.

With increased financial support came a full-time staff, legal counsel, and

Washington representation. Fred Eastaugh, of the law firm Robertson, Monagle, Eastaugh and Bradley, brought his firm's legal talent to the table with counsel unequaled anywhere in the growing d(2) industry. Especially active were young attorneys for the firm, J. P. Tangen and Jim Clark. Tangen, who became statewide president of AMA in 1977, especially espoused the miner's cause, and Clark knew every aspect of the timber issues.

While CMAL never attained the financial status of the national environmental movement and its minority group within Alaska, it did become a major force in Washington, D.C. because it was a single purpose organization — it fought only one battle — and because of the dedication of the membership. Many individuals supported CMAL with their hard earned contributions of \$10, \$50, or \$500 monthly over three long years.

Although well-organized and financially supported, CMAL's leaders realized that they needed dynamic and full-time lobbying leadership in Washington, D.C. The needs of the organization were met with the engagement of Tony Motley. CMAL persuaded Motley to leave his Alaska cabinet post as Commissioner of Commerce and Economic Development in the Hammond administration and sign on as CMAL's full-time Washington representative. Motley was an ideal and unanimous choice. He brought a broad background as a military staff officer, successful real estate developer, and state administrator. He was an excellent leader who could hold his own in the never-never land of Washington politics.

With the hiring of Motley, what began as a concept of the Alaska Miners had become a true, statewide umbrella movement. CMAL eventually had more than 5,800 individual members and more than 200 corporate or association interests on its membership role. Although CMAL was no longer “the miners group,” it became the key base of operations for mining companies concerned about Alaska land issues, and it successfully enlisted the aid of the American Mining Congress.

During the spring of 1977, CMAL was woefully behind the power curve. It was playing catchup with a decade-long effort by environmentalists to subdivide Alaska. The backers of the key bill, H.R. 39, had planned a series of Congressional hearings in Chicago, Denver, San Francisco, and Seattle which they thought would sweep the bill through Congress by June 1977. In those early days, often only the miners were organized enough to counter the

efforts. Hawley coordinated efforts with his Cessna 206, organizing in Chicago, Denver, and Seattle. (San Francisco was conceded.) Chicago was flooded by college students brought in by the backers of H.R. 39. Only Ted Van Zelst of Geneva-Pacific and Belden Copper, then active in the Wrangell Mountains, countered the environmentalist message in Chicago. By the date of the hearings in Denver, opposition was organized and substantial. In Seattle it was a standoff, perhaps a victory for CMAL. By the time that the little airplane arrived in Washington, Motley had arrived and CMAL had office space at George Cheek’s Forest Products Association. Thanks to the efforts of miners, loggers, oilmen, and many Alaskans then living outside, the hearings in Washington were balanced. “The environmentalists went nuts,” says Motley. Their plot was being spoiled.

In Washington, the main efforts were coordinated through the Alaska Congressional delegation’s staff and through the Committee structure of the House of Representatives, where H.R. 39 was introduced. Perhaps the most effective strategy turned out to be Alaska itself, as presented through field trips for Committee members, their staff, and the media. Miners at Cache Creek and Kantishna discussed issues with Senator Howard Cannon (NV) and Representative Udall (AZ). Dave Heatwole finally had to show Representative Seiberling where the drill rigs were in the Brooks Range, otherwise they were nearly invisible. In Southeast, Gene Smith of U.S. Borax, and loggers held court to tell the truth about Alaska’s resources and about Alaskans’ abilities to produce these resources in an envi-



Chuck Hawley with Rep. Don Young

ronmentally responsible fashion. These Alaska-led field trips to every corner of the state, convinced most Congressmen that Alaskans were not 'blue-eyed Arabs' or were not poised to 'rip, rape and ruin' as Congressman John Seiberling (OH) was fond of saying in his floor speeches and public hearings. Perhaps the best message was that Alaska was truly a huge place of great beauty and complexity that deserved careful consideration instead of rushed legislation.

There was one missing link in the Alaska strategy — lack of political consensus. The state had four political leaders who went three separate directions. Senator Ted Stevens and Representative Don Young were in the trenches every day with CMAL for Alaskans. Senator Mike Gravel had the correct inclinations but often talked a better game in Alaska than he fought in Washington. Governor Hammond's concept of joint state-federal management of conservation lands in Alaska was creative and had merit but it was 'dead-on-arrival' in Washington, D.C. Congress would not yield its powers over the national public lands.

CMAL and its backers and founders fought the backers of H.R. 39 to a draw in the House committee structure. In fact, a failure to achieve passage of legislation was a loss for the environmentalists and a victory for CMAL and its supporters. But neither Alaskans, CMAL, the state, nor any industry group could combat the power of President Carter's imposition of the Antiquities Act upon Alaska when legislation failed to pass in 1978.

Given the Antiquities Act withdrawal, Alaska was forced in the next Congress to seek legislation to lift the withdrawal. It was a necessity, if only to

obtain the rest of its land entitlement under the Statehood Act and its future economic development. A parliamentary maneuver executed largely for political gain in the 1978 Senate killed any hope of real victory for Alaska. Beginning with the next Congress, Alaskans simply negotiated the size of the truck that would run over them. Without legislation, the state would never receive its land entitlement. After two more years of fruitless battle, ANILCA was signed into law by President Carter on December 2, 1980, less than 45 days before his last day in office.

Epilogue

History will determine whether ANILCA was good or bad for Alaska. There seems little argument, however, that the bill that died in 1978 was better Alaska legislation than the one passed two years later. History will also render the verdict on public land-use doctrine in the United States: Is man part of the equation or only an observer? Who are the victors in this struggle, already engaged for more than twenty years? The final chapter is yet to be written.

The battle as fought had real physical casualties. Clarence Kramer became President of CMAL but died in a plane crash in December 1978 along with other CMAL workers and supporters. Kramer and others were returning to Anchorage from a meeting in Juneau. Five of seven people on the plane perished, among them were Ann Stevens, wife of the Senator; Joe Rudd, an attorney in CMAL's cause; and volunteer Dick Sykes, pilot of the aircraft. Senator Stevens and Tony Motley were seriously injured but survived.