Changing Ownership and Management of Alaska Lands

INTRODUCTION

In 1958, most of the nation’s unreserved federal lands were in Alaska: nearly 300 million acres whose fate had yet to be decided. Those public domain lands covered an area larger than the states of Texas and California combined—an area where you could put several European countries and still have room for Japan.

Today there are about 80 million acres of public domain—federal lands not reserved for any special purpose—left in Alaska. Ultimately, that figure will be reduced to 45 million. Most of the formerly unreserved lands now either belong to the state government and the Native corporations or are part of the national conservation systems—chiefly national wildlife refuges, parks, and forests. Between 1958 and 1980, Alaska changed from a territory with 60 percent of America’s public domain to a state with 75 percent of the country’s national parks and 90 percent of its wildlife refuges.

The dividing up of the public domain took place slowly and painfully during the first 20 years after Alaska became a state. Many interest groups and individuals saw great opportunities in these huge acreages, which made up the largest undeveloped areas left in the United States. The lands were known to have rich deposits of some resources and were suspected to contain others. They also included vast expanses of scenic wilderness and habitats of many kinds of wildlife.

The chief claimants on the public domain were the new state government, which needed lands as an economic base; Alaska Natives, who had aboriginal claims to land; industrial groups, which wanted Alaska lands left open for exploration and development; and environmental organizations, which wanted big areas added to the national conservation systems.

Congress divided up Alaska’s public domain in three laws passed between 1958 and 1980: the 1958 Alaska Statehood Act, which granted the new state government 104 million acres; the 1971 Alaska Native Claims Settlement Act, which awarded Alaska Natives 44 million acres; and the 1980 Alaska National Interest Lands Conservation Act, which added 104 million acres to national parks, wildlife refuges, and other parts of the conservation systems in Alaska.

Although the statehood act and the claims settlement act were both passed long before the Alaska lands act, land transfers to the state government and the Native corporations were slow until after 1980. This slow transfer of lands had several causes, but a chief one—especially for state lands—was that the Department of the Interior withheld much of the public domain from state and Native selection while Congress debated which lands to add to the national conservation systems.

There was technically enough public domain in Alaska to cover state and Native land grants and to add to the conservation systems, but not all lands were equally desirable: resources are not spread evenly around the state.

The best lands for settlement and development are generally at elevations below 1,000 feet. Nearly one-third of Alaska lands are above 2,000 feet, and almost 10 percent are covered with glaciers. Large
areas along the coast are marshland. Known or suspected petroleum fields are mostly on the North Slope, with a few favorable areas elsewhere in the state. Half of Alaska is treeless, and most commercial-grade timber is concentrated along the southeastern and southcentral coasts. There are many mineralized areas in Alaska, but for a number of reasons—including the state’s cold climate and geographic isolation—mineral deposits must be extremely large or valuable to make their development profitable. About a dozen deposits that might eventually be profitable to develop are known in Alaska today.

Those areas with resources that are or might be marketable often are the same ones that have important animal habitats or beautiful scenery.

The state government primarily wanted lands with potential for petroleum or other resource development; by acquiring such lands, the state hoped to secure its economic future. Native corporations, which were established to handle money and lands awarded Alaska Natives, also wanted lands that could be developed for the economic benefit of Alaska Natives, as well as some of the lands where Native peoples had historically lived and hunted and fished.

Environmental organizations wanted wilderness areas of Alaska to stay wilderness—which meant putting them in the protected national conservation systems. It also meant designating large areas of national parks, refuges, and forests as “wilderness”—a classification that prohibits virtually all uses that change the face of the land. Miners, other industrial groups, and the State of Alaska wanted Alaska lands left open for future exploration and development.

And so over 20 years, there were many battles over who would get which lands. At base the bitterest fights came down to this: were certain Alaska lands most valuable for their beauty and wildlife habitats, or for their minerals and other resources?

Through the three big land acts, all the parties got some of what they wanted; none were entirely satisfied. The state government in 1985 has 75 percent of its lands and has selected some of the rest. The Native corporations likewise have about three-quarters of their lands and have essentially chosen the rest.

The state has some resource lands—the most valuable to date being those over the giant Prudhoe Bay oil field. The Native corporations have some lands with potential for timber, coal, and other resource development. They also have lands around Native villages, including some within areas added to the national conservation systems in 1980.

Environmentalists saw enormous additions to the conservation systems—additions that doubled the size of the national park system and tripled the wildlife refuge system in the United States. About a
dozen of the largest known mineral deposits were excluded from the new conservation additions, but other mineralized areas were not.

In the following pages of this *Review*, we look broadly at changing ownership and use of Alaska lands today. We first describe the backgrounds of the three federal laws that largely determined ownership of the former public domain in Alaska. Next, we look at how far land transfers called for under those laws have progressed—at how much of their lands the state government and the Native corporations have in 1985. We also talk about who owns the rest of the lands in the state. We then look at allowable uses of public lands in Alaska.

The second half of the *Review* discusses issues of land ownership and management that are yet to be resolved. These include, among others, the authority of the Interior Department to exchange lands in national conservation units; access to mineral deposits in or near conservation lands; the need for surveys of many large and thousands of small parcels of land; reconveyances of land by Native corporations to municipalities and individuals; and a number of disputes about submerged lands onshore and offshore. Finally, we draw some conclusions about changing land status in Alaska.

## CHANGING LAND OWNERSHIP RESULTING FROM FEDERAL LAWS

### Before Statehood

In 1958, about 80 percent of Alaska’s 375 million acres were open public domain, 10 percent were in the national conservation systems, and most of the remaining 10 percent were in other kinds of federal reserves. The first graph in Figure 1 shows this land status just before Alaska became a state.

The United States bought Alaska from Russia in 1867. From then until Alaska became a state in 1959,
very little land in the vast territory went out of federal ownership, and most remained unreserved public domain—federal land not withdrawn for any particular purpose and open to homesteading, mining, and other uses under the public land laws.

Perhaps half a million acres were privately owned in Alaska in 1958. The federal government had, up to that time, designated about 35 million acres in Alaska for inclusion in the national conservation system—mostly for national forests along the southeast and southcentral coasts. Another roughly 30 million acres were in other kinds of federal reserves, the largest being the 23-million-acre national petroleum reserve on the North Slope. That left more than 300 million acres in open public domain and in temporary federal reserves that later reverted to public domain.¹

**Alaska Statehood Act**

Lands granted the state government under the Alaska Statehood Act shifted land ownership as shown in graph 2 of Figure 1: federal public domain, 53 percent; state government, 27 percent; national conservation systems, 10 percent; other federal reserves, nearly 10 percent; private lands, less than 1 percent.

The first big reduction in the public domain came in 1958, when Congress passed the Alaska Statehood Act. That act gave the new state government rights to select 104 million acres from unreserved federal lands in Alaska. This large land grant was intended to give the State of Alaska an economic base. Other federal laws brought the state’s entitlement to more than 150 million acres. The act also gave the state government ownership of the beds of most navigable rivers and lakes in Alaska. This ownership of submerged lands is also important, but as we discuss later, in 1985 the state and the federal government have not yet agreed on which of Alaska’s thousands of water bodies are navigable. Finally, the statehood act awarded the state government ownership of submerged lands up to 3 miles off its coasts. These lands are a very valuable asset, with the best prospects for future petroleum discoveries judged to be in these territorial waters or farther out on the federal Outer Continental Shelf. But the federal and state governments also disagree about where the 3-mile boundary lies; we talk about that controversy later in the Review.

The state began its land selections in the 1960s, but those selections had not progressed far when the Department of the Interior stopped all land transfers to the state, and almost all other federal land transfers in Alaska, pending settlement of the land claims of Alaska Natives.

**Land Freeze**

In the late 1960s, unresolved Native land claims covered the state. The Interior Department stopped almost all federal land transfers—including transfers to the state government—and development of the giant Prudhoe Bay field was blocked.

The federal government had long recognized that Alaska’s Native peoples had legitimate claims to land, but it had never said what land that might be. And Alaska Natives themselves, although they had always maintained their rights to land, did not really organize and press those claims until the state government began choosing its lands. ² At that point, the Natives saw that they stood to lose their chance for any lands they claimed that the state also wanted.

By the end of the 1960s, various Native groups had claimed all the land in Alaska, and the Interior Department had stopped virtually all transfers of federal land under what came to be known as the “land freeze.” At just about the same time, a group of oil companies discovered the Prudhoe Bay oil field on the North Slope. Tests showed that this field had 9 billion barrels of recoverable oil—making it the largest ever found in North America. It lay under lands the federal government had already approved for state ownership.

The oil companies proposed to build a pipeline across Alaska to carry the oil to a port on the southern coast. Much of the land the pipeline would cross was under claim by Alaska Natives.

The state government had two strong reasons for wanting Native claims settled—to end the freeze on land transfers and to clear the way for the pipeline to be built. Development of the Prudhoe Bay field promised to bring the state substantial income since it owned the lands at Prudhoe Bay. The oil companies were also eager to see Native claims settled.

**Alaska Native Claims Settlement Act**

The 44 million acres awarded Alaska Natives in settlement of their land claims changed the picture of land ownership in Alaska as shown in graph 3 of Figure 1: state government, 27 percent; federal public domain, owned by the federal government without state approval.

¹These temporary federal withdrawals were mostly for proposed large power projects that were not built.

²The exceptions to this generalization were the Tlingit-Haida Indians of southeast Alaska, who had a 30-year court case over their claims to land in the Tongass National Forest. The Court of Claims decided in 1959 that the Tlingit-Haida people should be compensated for lands appropriated by the federal government. Ultimately they were awarded $7.5 million.
domain, 40 percent; national conservation systems, 13 percent; Alaska Natives, almost 12 percent; other private land, less than 1 percent.

Support from various interests that stood to gain by resolution of Native claims helped produce the 1971 Alaska Native Claims Settlement Act, which awarded Alaska Natives $1 billion and 40 million acres. Native lands were to come largely from designated areas of federal land, mostly around villages. Villages on existing reserves were also given the choice of taking title to those lands; several did so, and that brought Native entitlements under the settlement to about 44 million acres.

Twelve regional and more than 200 village corporations were established to manage the money and lands awarded Alaska Natives. Those corporations began choosing their lands in the early 1970s.

But far from clearing the way for resumed land transfers to the state, the settlement act added yet another complication that hampered state—and to some extent Native—land selections for years to come. The settlement act contained a provision that directed the Secretary of the Interior to withdraw large areas of the public domain from selection and from other kinds of claims while Congress decided whether to include certain lands in the national conservation systems. Ultimately, the Interior Department withdrew 140 million acres under this provision; these came to be known as “d-2” lands, after the section in the settlement act that called for their withdrawal.

That particular provision was inserted in the settlement act because conservationists and others were afraid that once the Native claims were settled and land transfers began again, there would be a rush of claims on the remaining public domain. Environmental groups and others wanted some of those areas put instead into the national conservation systems.

The fight in Congress over which lands should be put into the conservation systems went on until 1980. The state government, industrial groups, and others argued that putting large areas of essentially unexplored lands into classifications that prohibited or sharply limited development would restrict the state’s economic growth and cost the nation valuable resources. Environmental groups and others argued that the large wilderness areas of Alaska offered the nation its last chance to keep undisturbed lands for the enjoyment of future generations.

Alaska National Interest Lands Conservation Act

Passage of the Alaska lands act altered land ownership in Alaska as shown in graph 4 of Figure 1: national conservation systems, 41 percent; federal public domain, 12 percent; other federal reserves, 7 percent; state government, 27 percent; Alaska Natives, nearly 12 percent; other private lands, less than 1 percent.

In 1980, Congress decided to add 104 million acres to national conservation systems in Alaska, mostly to national parks and wildlife refuges. Those 1980 additions, together with conservation lands established before 1980, brought to 154 million acres total national conservation lands in Alaska. Acreage added to parks doubled the national park system throughout the United States and tripled the wildlife refuge system. Alaska now has 75 percent of America’s national parks and 90 percent of its wildlife refuges.

The Alaska lands act also designated 56 million acres in conservation units as “wilderness.” Wilderness lands are the nation’s most protected, with almost all uses that change the character of the land prohibited. More than 70 percent of all federal lands classified as wilderness are now in Alaska.

Summary of Changes

Over 20 years, Alaska shifted from a territory with most of the country’s remaining unreserved lands to a state with most of the U.S.’s national parks, wildlife refuges, and designated wilderness areas.

Between 1958 and 1980, the federal government agreed to give up ownership of about 40 percent of Alaska lands; it kept 60 percent. When all land transfers to the state government and Native corporations are complete, federal public domain will make up about 12 percent of acreage in Alaska—down from 80 percent in 1958. Since 1980, national conservation lands have covered more than 40 percent of Alaska, as compared with 10 percent in 1958.

When Alaska became a state, it had 60 percent of the nation’s unreserved federal lands; ultimately, it will have about 10 percent. As the public domain lands declined, the conservation system grew. Alaska today has a very large share of the nation’s protected lands: 75 percent of national parks, 90 percent of wildlife refuges, 12 percent of national forests, and about three-quarters of the lands designated as wilderness.

LAND OWNERSHIP IN ALASKA

Current State and Native Lands

The state government and the Native corporations have not yet received all the lands they are entitled to under the laws we just discussed. For a number of reasons outlined later in this Review, the De-
partment of the Interior was slow in transferring these lands until the past few years, when transfers have been speeded up. In 1985, the state government and the Native corporations each have about 75 percent of the lands they will ultimately receive.

Map 1 shows lands owned by the State of Alaska and the Native corporations as of early 1985. Although these configurations are continually changing as the two receive more of their lands, this map does show the general locations of most state government and Native lands.

State Lands

The state government owns lands throughout Alaska, with most of its holdings concentrated in large blocks in southcentral, southwestern, and interior regions. It also owns substantial acreage at and near Prudhoe Bay on the North Slope; ownership of these lands has brought the state government billions of dollars in royalties and other income from development of the Prudhoe Bay oil field.

State holdings include lands with a number of known or suspected resources, including coal, petroleum, timber, and minerals. It has chosen lands that could be used—and in some cases are being used—for homesteads or farms. Some state lands are set aside for parks and wildlife sanctuaries. As discussed more later, the state government is currently classifying all of its lands into a wide range of resource, settlement, and other categories. In a few instances, the State of Alaska owns lands within national conservation units created in 1980. Among the largest of these state holdings are in the Wrangell-St. Elias National Park and Preserve in the southeast corner of mainland Alaska. The state government plans to sell some of its lands within this national park to private owners—a plan the National Park Service opposes.

Native Lands

Native corporation lands are in smaller, more scattered blocks than are state government lands. Most lands the federal government opened for Native selection are around or near the roughly 200 villages in Alaska.

The corporations chose particular lands for a variety of reasons. Native holdings include a mix of traditional subsistence lands and lands with resources that are or may become marketable, including timber, minerals, coal, and possibly petroleum. In a number of cases, corporations have inholdings on national conservation lands—particularly wildlife refuges—because some Native villages are in areas added to the conservation system in 1980. Among the most publicized of such inholdings are those near Kaktovik in the Arctic National Wildlife Refuge, where a Native corporation is exploring for oil.

The white areas on Map 1 (pages 8 and 9) are mostly federal lands—national conservation lands and the remaining public domain. Ultimately, about 35 million acres of that public domain will be transferred to the state government and the Native corporations, to complete their entitlements.

National Conservation Lands

National parks, wildlife refuges, and forests cover about 154 million acres in Alaska. More than 56 million acres of these conservation units are also classified as wilderness—the most protected category of federal land.

Map 2 (pages 16 and 17) shows national conservation units and wilderness areas in Alaska. Other federal land holdings are listed in Table 1.

Alaska’s sixteen national wildlife refuges cover 75 million acres. The maritime refuge includes many small islands and other outcroppings along the coastline; this refuge is for the protection of sea birds and other marine life. Several other refuges in coastal areas and around river deltas are for the protection of waterfowl and sea birds. Big refuges also exist for the protection of caribou, moose, bears, and other large mammals. About 25 percent of the lands in Alaska refuges are classified as wilderness. The refuge most publicized in Alaska in recent years has been the Arctic National Wildlife Refuge, in the northeastern corner of the North Slope, where analysts believe there may be commercial quantities of oil in a caribou calving area. (We discuss this issue more later.)

The national park system covers 50 million acres in Alaska and includes parks, preserves, and monuments. Monuments are relatively small—small as compared with other conservation units in Alaska—and are for the protection of places with special archeological or other historical features. Parks and preserves are intended to protect areas of exceptional beauty; the difference between the two classifications is that sport hunting is allowed in preserves but not in parks. In deciding which areas to add to the park system in Alaska, Congress designated some as preserves because of traditional use by sport hunters.  

Several of Alaska’s largest parks are in mountainous country—in the Brooks Range to the north; the Alaska Range in the Interior (which includes Mt. McKinley, North America’s highest mountain); the

3Alaskans have argued that other park areas now closed to sport hunting were also traditionally used. Alaska’s Congressional delegation has introduced a bill that would open additional areas of the park system in Alaska to sport hunting, but Congress has not approved that bill.
southeast corner of mainland Alaska, where several mountain ranges come together and there are many glaciers; and the area around Lake Clark on the west side of Cook Inlet. Other parks include areas with tidewater glaciers and coastal fiords. More than 60 percent of lands in the park system in Alaska are classified as wilderness.

National forests cover 23 million acres in southeastern Alaska and along the southcentral coast. These lands include much of the commercial timber in Alaska. Logging is a central use of national forests, but these forests also include substantial areas closed to logging—two national forest monuments and about 6 million acres designated as wilderness.

Finally, the systems include about 2 million acres of national conservation and recreation area lands northeast of Fairbanks. These lands are under the control of the Bureau of Land Management; they are managed less restrictively than park or refuge lands but more restrictively than public domain. The lands are in a mineralized area where there are a number of existing claims. This year the bureau is scheduled to issue management plans that will govern future mining and other activities on these lands.

Changing Land Status—Land Freeze to the Present

The biggest land owners in Alaska are, of course, the federal and state governments and the Native corporations. But there are also other land owners in the state; Table 1 shows all the land owners in Alaska in 1985. This table also compares current land ownership with that in 1965, just before the Interior Department stopped most federal land transfers in Alaska.

Federal Lands

The amount of federal land in Alaska dropped from about 360 million acres in 1965 to 260 million acres by 1985; that 100 million acres was transferred to the state and Native corporations.

Public Domain. Almost all land the federal government gave up over the past 20 years came from unreserved public domain in Alaska, as did the acreage added to the national conservation system. Unreserved public domain in Alaska declined from nearly 275 million acres in 1965 to about 80 million acres by 1985. When land transfers to the state and the Natives are complete, there will be about 45 million acres of remaining public domain in the state.

National Conservation Systems. The national conservation systems in Alaska grew from 50 million acres at the time of the land freeze to 154 million acres in 1985. The big gainers were wildlife refuges, which were increased from 22 million to 75 million acres, and the national park system, which was increased from 7.5 million to 52 million acres. Of those 52 million acres now in the national park system in Alaska, about 19 million are classified as preserves.

National forests in Alaska grew less dramatically, increasing from 21 million acres in 1965 to 23 million acres in 1985. Also created by the 1980 Alaska lands act were 2 million acres in national conservation and recreation areas.

Other Federal Lands. The biggest federal reserve in Alaska outside the conservation systems is the national petroleum reserve on the North Slope. It covers 23 million acres; its size has not changed since it was established in 1923. Other federal lands in the state include military reserves and holdings of various other agencies. Such holdings declined from about 10 million acres in 1965 to less than 5 million in 1985.

Native reserves covered about 4 million acres in Alaska at the time of the land freeze. All reserves except the Metlakatla Reserve on Annette Island were revoked by the 1971 Alaska Native Claims Settlement Act. (The Metlakatla Reserve was treated differently because the Tsimshian Indians, who had emigrated from British Columbia, were granted that reserve in a Congressional act in 1891.)

State Lands

When the land freeze went into effect, the state had received less than 14 million acres of its entitlement. By 1985, it had received more than 80 million acres. The state will ultimately receive, under the statehood act and other laws, more than 105 million acres.

State parks covered about 1 million acres in the late 1960s and 3.2 million acres by 1985. Game refuges and sanctuaries had been established on about 300 thousand state acres in 1965; by 1985, they covered 2 million acres. State forests, a category that did not exist in the 1960s, had been established on almost 2 million acres by 1985. It is not possible to say right now how much land the state might ultimately put into these classifications. (See later discussion of state classification system.)

Municipal Lands

In recent years, municipalities have received more than 400 thousand acres of state land under the municipal entitlement program. That program allows municipalities to select up to 10 percent of the unreserved state lands within their boundaries. Existing local governments will ultimately receive about 770 thousand acres under this program, and any new municipalities created will be entitled to additional land. Municipalities undoubt-
Map 1. State Government and Native Corporation Lands, 1985

Key:
- State Lands
- Native Lands

This map courtesy of U.S. Bureau of Land Management and Alaska Department of Natural Resources
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<td></td>
<td>+0.4%&lt;sup&gt;m&lt;/sup&gt;</td>
<td></td>
</tr>
<tr>
<td>All Private Lands</td>
<td>0.515</td>
<td>34.6</td>
<td>+45.35</td>
<td>+8,800</td>
<td>+12.1%</td>
<td></td>
</tr>
<tr>
<td>Total, Alaska Lands</td>
<td>375</td>
<td>375</td>
<td>375</td>
<td>100%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**“Ultimate” here means when land transfers from the federal government to the state and the Native corporations are complete.**

**a** All Native reserves in Alaska except for the Metlakatla Reserve on Annette Island were revoked by the 1971 Alaska Native Claims Settlement Act.

**b** CHAs = Critical Habitat Areas.

**c** The 1965 and 1985 figures include not only lands to which the state government had patent but also those which the federal government had “tentatively approved” for state ownership; this tentative approval in effect gives the state legal rights to lands which have not yet been surveyed and therefore cannot be patented. See Table 5.

**d** These are lands the state government is transferring to borough and city governments under the Municipal Entitlement Act, which allows municipal governments to select some of the state land within their boundaries. The existing boroughs and cities outside boroughs will ultimately receive 774,000 acres; new boroughs formed in the future could be entitled to more land.

**e** The claims settlement act requires Native village corporations to reconvey some of their lands within communities to local governments for various public purposes; in places where there are no organized local governments, the state takes the land in trust. Originally, corporations were each required to transfer 1,280 acres under this provision, but that requirement was recently changed to allow the corporations and local governments to decide acreages through negotiation. Almost no land has actually been conveyed to local governments so far, and it is not possible to say right now how many acres the village corporations will ultimately convey for local governments.

**f** Municipal governments do own some additional lands, acquired through purchases or other means, but figures on such lands are not readily available.

**g** The University of Alaska owns 150,000 acres that it received from the federal government because it is a land-grant college. This land is considered separate from state land; it is managed by the university and is not subject to the state’s land-use plans.

**h** The Native Allotment Act of 1906 allowed Alaska Natives to apply for title to up to 160 acres; the act was revoked by the 1971 Alaska Native Claims Settlement Act, but the thousands of applications pending at that time were considered valid existing rights and are still being processed by the BLM. Figures cited here are rough estimates, based on approved and pending applications and average size of allotments approved in 1988. As of October 1984, 1,029 allotments had been approved; we multiplied that figure by 127 acres—the average size allotment approved in 1984—to reach an estimate of 131,000 acres conveyed under the program from 1906 through 1984. As of early 1985, the BLM had under consideration 9,400 applications; to arrive at a rough estimate of how much land could be transferred if all these applications were approved, we multiplied 9,400 by 127 acres. It is impossible right now to say just how many acres will ultimately be transferred to Alaska Natives under the allotment program; there have been over the years a number of changes in standards for approving allotment applications, which have resulted in reconsideration of applications that were once rejected. There are also pending court suits that could substantially increase the number of allotments ultimately approved, including one case involving 536 allotment petitions.

**i** The Native Townsite Act of 1926 allowed Native communities to apply for title to their townsite lands, although very little land was actually transferred under this act through 1971—when it was revoked by the claims settlement act. However, the Department of the Interior took the position that applications pending in 1971 were valid existing rights, and village corporations were not able to apply for lands that had been applied for under the townsite act. The BLM continues to process townsite applications. Several Native groups have gone to court to try to have lands under townsite application opened for selection by village corporations. The outcome of these court suits will largely determine how much more land will ultimately be conveyed under the townsite act.

**j** The 1985 figures include not only lands that have been patented to the village and regional corporations, but also lands that have been “interim conveyed”; these are lands to which the corporations have been awarded ownership but which are not yet patented because they have not been completely surveyed. See Table 5.

**k** The figure cited here is a very rough estimate of acreage that the state sold or otherwise disposed of under its various public land disposal programs from statehood through 1984. More exact figures are difficult to get. The land disposal program is complex and has changed a number of times over the years. It’s not possible to say right now how much land the state might ultimately offer for private ownership.

**l** Estimates.

**m** How much private, non-Native land there will be in Alaska in the future is impossible to say right now; it depends on future public land disposal programs and other factors.
edly owned some land in Alaska in the 1960s, but these figures are hard to get. In any case, municipal holdings at that time were much smaller than they are now.

Another future source of municipal land will be Native village corporations, which are required under the settlement act to transfer some land to municipalities for various public purposes. Little land has actually been transferred to date, however. And we cannot say how much land village corporations will ultimately transfer to local governments because each city and corporation will individually negotiate acreage to be transferred. (A discussion of this reconveyance issue is included later in the Review.)

Finally, municipalities also own lands they have bought or otherwise acquired, but figures on such acreages are hard to get; these holdings are relatively small.

University of Alaska

The University of Alaska owns about 150 thousand acres in various areas of the state—an entitlement it received from the federal government because it is a land-grant college. The state government managed these lands until 1984, when the university itself took over management.

Private Lands

Most of the 35 million acres of private land in Alaska in 1985 belongs to the Native corporations. Individuals own less than 2 million acres.

Table 1 divides private lands in Alaska into two broad categories: lands that Alaska Natives own under federal laws and other privately owned lands.

Native Lands. Before the 1971 claims settlement act was passed, Alaska Natives could get title to land under two federal laws. The Native Allotment Act of 1906 allowed Alaska Natives to apply for title to up to 160 acres. The Native Townsite Act of 1926 allowed Native villages to acquire ownership of lands they stood on; individual Natives could also get title to lands within these Native townsites. By the late 1960s, Alaska Natives had acquired very little land under these programs. Individual Natives at that time owned about 15 thousand acres under the allotment act, and villages had ownership of only about 500 acres under the townsite act.

The claims settlement act revoked both these laws, but the federal government recognized as valid those applications pending in 1971. Processing of those applications has continued through 1985 and will continue for some years.

By 1985, Alaska Natives owned an estimated 130 thousand acres under the allotment act, and several thousand applications were yet to be processed. As a result of court cases and federal decisions, the standards for approving or disapproving allotment applications have been changed a number of times; some court cases are still pending. The Bureau of Land Management, which processes those applications, cannot say right now how much land might ultimately be transferred under the allotment program. But it estimates that, depending on what the courts decide and other factors, Alaska Natives could receive title to as much as 1.2 million acres under the allotment program.

Very little land has actually been transferred to Native villages under the townsite act since the late 1960s. It is impossible to say right now how much more, if any, land will ultimately be transferred under that act. Land transfers under this program have been stymied because, in a number of cases, lands that villages had applied for before 1971 are lands that Native corporations established under the claims settlement act also want. Because the federal government considered as valid applications that were pending at the time the settlement act was passed, Native village corporations were not allowed to select lands that were under townsite application. The lands in question are generally right in the villages and are therefore very desirable. Several Native corporations have gone to court to try to get these lands opened for their selection. The outcome of pending court cases will largely determine how much more land will be conveyed under the townsite act.

The big category of Native land is, of course, land that is being transferred to Native regional and village corporations under the claims settlement act. In 1985, corporations had received about 33 million acres, or 75 percent of the entitlement of 44 million acres.

Other Private Lands

Other private lands covered about 500 thousand acres in Alaska in the late 1960s. Today, private lands—separate from those Alaska Natives have acquired under federal laws—may total around 1.3 million acres. Exact figures are not available. The state government estimates that it has sold or otherwise disposed of about 350 thousand acres of its lands since Alaska became a state. Lands individuals have acquired in other ways total around a million acres.

We cannot say right now how much land private individuals might ultimately own in Alaska; that figure depends on how much land the state and federal governments decide to dispose of in the future, how much land Native corporations sell, and other factors.

Ultimate Versus Current Land Status

Figure 2 shows how current land ownership in
Alaska will shift, when land transfers to the state and Native corporations are complete. Basically, about 35 million more acres will be transferred from the federal public domain to the state government and the Native corporations. This figure represents “ultimate” land ownership only in the sense that it shows who will own what when the big land transfers ordered by Congress have been completed. It does not, of course, take into account future land sales and other factors.

LAND MANAGEMENT AND USE IN ALASKA

What difference does it actually make, that land ownership in Alaska today is much different than it was twenty years ago?

One obvious change affecting land use in the state is that there is now a great deal more private land—the millions of acres owned by Native corpora-
tions. Until the claims settlement act was passed in 1971, more than 99 percent of lands in the state were public, belonging to either the federal or the state governments. The 44 million acres that will ultimately be transferred to the Native corporations are scattered throughout the state, as shown in Map 1. A number of corporations are now taking resource inventories or doing exploratory work on their lands. We don’t know how much land the corporations might open to specific uses. But these are private lands—the corporations can restrict their uses largely as they choose. Alaskans who used these lands when they were public must now adjust to the fact that they are private.

How Native lands are managed will also affect and be affected by federal and state management of adjacent lands. In a number of places, Native corporations own lands within national wildlife refuges and parks. Some development of private lands in national conservation systems is controlled by federal regulations, particularly restrictions on methods of access. But developments that would not be allowed, say, on federal land in national parks or refuges will undoubtedly take place on private lands in or adjacent to conservation units in Alaska. So both public and private land owners in the state will have to adjust to the changed pattern of ownership.

On public lands in Alaska, the two big changes affecting management and use in recent years have been that the state government actually gained ownership of most of its land entitlement, and that the federal government shifted most of its remaining unreserved lands into the national conservation systems. The state government has a management system different from the old federal management of public domain, and management of national conservation lands is much more restrictive than that of any other federal lands.

The full effects of changing management of public lands in Alaska are not yet apparent. Federal and state agencies are now drawing up land-use and management plans for virtually all public land in Alaska. There are certain uses that are prohibited under law on various categories of public lands—petroleum leasing in national parks, for instance. But in many cases, management agencies have a considerable amount of discretion in controlling use. The 1980 Alaska lands act includes a number of provisions that allow federal agencies more leeway in managing national con-

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4 The most publicized attempt of the federal and state governments to draw up a joint management plan for Alaska lands was the Bristol Bay management study, which resulted in a plan that the governor refused to sign. More information on this plan is available from the Alaska Land Use Council.
servation lands in Alaska than in other states. These provisions were included partly because the lands act added such large areas to the conservation systems—huge parks and wildlife refuges—on a scale unknown in the rest of the country. So Congress made some concessions to traditional uses of these new conservation lands.

Within the next few years, plans for public lands in the state will be completed—but there will be a lot of controversy along the way. Already, environmental organizations, industrial groups, and individual Alaskans have protested aspects of proposed federal management plans for national parks and other areas. The state government is in the early stages of land-use planning, but there will undoubtedly also be debate over state plans. Below, we describe in general the state and federal land management systems, but before we describe those systems, we want to point out that it is not only ownership that determines land use. Particularly in the case of resource development, market forces are also crucial.

In an area with, for instance, a nickel deposit, the owner would decide whether to open the land for nickel mining. But actual establishment of a nickel mine would depend largely on the price of nickel and the costs of getting it out of the ground and transporting it to market. Alaska’s harsh climate, geographic isolation, huge size, and related factors have historically made the costs of doing business here high. To make development of a nickel deposit—or any other resource—profitable, the price of the resource would have to be high enough to offset high production costs. An important part of those high production costs are transportation costs—many of Alaska’s resources are in remote locations, far from existing transportation systems.

So simply the availability of a piece of land does not guarantee its development. Historically, resources have been taken out of Alaska only when their value became high enough to offset the costs and difficulties of development in the state.5

Another important point to remember is that federal and state laws protecting air and water quality, governing activities in coastal areas, and in general regulating uses that affect the environment will also influence future land use, regardless of ownership.

State Land Management

The state government considers most of its lands potentially open to most uses.

The Alaska Department of Natural Resources is now classifying all state land—with the exception of lands in special categories discussed below—under a system that designates primary uses but which also specifies that other uses are not prohibited. There are many land classifications, including recreation land, oil and gas land, settlement land, agriculture land, mineral land, and others.6 So, for example, a tract of state land might be classified as most suitable for recreation, but it would still be open to other uses.

Only about 12 million acres of state land have been classified so far, but the Department of Natural Resources hopes to tentatively classify all state land outside municipalities by the end of 1985. These classifications are part of land-use plans the state government is writing for all its lands.

There are also special categories of state lands, which are established by the state legislature. These are state parks, forests, game refuges, sanctuaries, and critical habitat areas. Amounts of land in these categories are shown in Table 1; altogether they cover less than 10 percent of current state holdings. The most protected of these are state parks, which are closed to mining, petroleum leasing, and other uses that change the face of the land. The state forest system was established a few years ago, to include areas that will be managed specifically for logging; other uses are still allowed. Finally, there are game refuges, sanctuaries, and critical habitat areas for the special protection of wildlife and their habitats. Various activities can be allowed on these lands, but they must be approved by the Alaska Department of Fish and Game and found to be compatible with wildlife protection.

For all lands open to various uses, there are controlling state regulations that say when, where, and how uses will take place.

Federal Land Management

Federal management plans and congressional decisions about additions to the wilderness system will strongly influence future use of national conservation lands in Alaska.

National conservation lands will make up nearly 70 percent of federal lands in Alaska when transfers to the state government and the Native corporations are complete.

Tables A.1-A.3 in the appendix show which uses are allowed and prohibited in parks, wildlife refuges, and forests under federal law. But for uses that are not legally prohibited, federal management agencies have—as we noted earlier—some discretion in controlling land use. Those agencies are now drawing up

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6See State Land Classification and Land Disposal Bank, Report to the Legislature for Calendar Year 1984, Alaska Department of Natural Resources, for more information on the state classification system.
plans for all conservation lands in Alaska. Also, the National Park Service and the U.S. Fish and Wildlife Service are currently looking at all park and refuge lands in Alaska that have not yet been designated as wilderness—to make recommendations to Congress on whether more park and refuge land should be classified as wilderness.

Another substantial area of federal land—about 80 million acres in 1985 but which will ultimately be reduced to 45 million acres—is the remaining public domain. These lands are mostly small tracts scattered among other public and private holdings. While they are open to more uses than are conservation lands, they are managed more restrictively than public domain lands were 20 years ago. Public domain in Alaska can still be opened for most uses—as shown in Table A.4 in the appendix—but now it must specifically be opened for, say, mining claims, whereas in earlier years no such special openings were required. The Bureau of Land Management is writing management plans for public domain lands in the state.

The final remaining large area of federal land in Alaska is the national petroleum reserve on the North Slope, a 23-million-acre reserve set aside for oil and gas development in 1923. The federal government has several times carried out exploration programs in the reserve, but it is only in the 1980s that lands in the reserve have actually been offered for petroleum leasing. A number of public uses are allowed in the reserve, but it is closed to mining claims. Table A.5 in the appendix outlines allowable uses in the reserve.

The Interior Department has management plans for the reserve.

The rest of federal land in Alaska is under the control of various agencies, mostly the military, and is subject to various restrictions on use. These holdings are small, as compared with other federal holdings in Alaska.

### Potential Uses of Federal and State Lands

By “potential uses” of public lands, we mean uses that are not prohibited under law. Whether lands are actually put to some specific use depends on many things, including demand for and value of resources on the lands and regulations governing use.

Tables 2 and 3 show, given the restrictions on uses of various categories of public lands, proportions of state and federal lands potentially open to a number of uses.

Almost all state lands in 1985 are potentially open to sport and subsistence hunting and fishing, recreational uses, and to access with motorized vehicles. Specific areas can be closed to any of these uses under state regulation; for example, the Alaska Board of Fish and Game—which oversee the Department of Fish and Game—can and do close areas to protect depleted wildlife stocks and for other reasons.

More than 95 percent of state government lands could potentially be opened to petroleum leasing; the Alaska Department of Natural Resources has to spe-
Map 2. National Conservation Lands in Alaska

Key:

- National Park System
- National Wildlife Refuge System
- National Forest System
- Wilderness Areas

Note: This map does not show approximately 2 million acres of national conservation area and national recreation area lands northeast of Fairbanks and numerous small parts of the Alaska Maritime Wildlife Refuge. Also not shown are Native, state, and private inholdings within conservation units. The national park system includes parks, preserves, and monuments. The forest system includes forests and monuments.


<table>
<thead>
<tr>
<th>Total Federal Acreage</th>
<th>Percent of Federal Lands Open</th>
</tr>
</thead>
<tbody>
<tr>
<td>255 million</td>
<td>100%</td>
</tr>
<tr>
<td>Acreage open to:</td>
<td></td>
</tr>
<tr>
<td>Sport Fishing</td>
<td>255 million</td>
</tr>
<tr>
<td>Sport Hunting</td>
<td>223 million</td>
</tr>
<tr>
<td>Subsistence Hunting</td>
<td>245 million</td>
</tr>
<tr>
<td>&amp; Fishing</td>
<td></td>
</tr>
<tr>
<td>New Mining Claims</td>
<td>62 million</td>
</tr>
<tr>
<td>Petroleum Leasing</td>
<td>141 million</td>
</tr>
<tr>
<td>Settlement Programs</td>
<td>40 thousand</td>
</tr>
<tr>
<td>Comm. Timber Harvest</td>
<td>i</td>
</tr>
<tr>
<td>Recreation</td>
<td>255 million</td>
</tr>
<tr>
<td>Motorized Access</td>
<td>255 million</td>
</tr>
</tbody>
</table>

\*Lands in this table are classified as "potentially open" to a particular use if that use is not prohibited by law; see qualifications for various lands in following notes. Federal agencies require permits or other special authorizations for some uses.

\*These figures include only federal lands in the public domain, in the national conservation system, and in the national petroleum reserve. Excluded are military reserves and other small federal land holdings used for a variety of purposes.

\*All federal lands are open to sport fishing, with area, season, bag limits, and other regulations established by the Alaska Department of Fish and Game.

\*National parks in Alaska are closed to sport hunting.

\*National parks that existed before 1980 and some areas of parks created under the 1980 Alaska lands act are closed to subsistence hunting and fishing.

\*National parks, preserves, wildlife refuges, all wilderness lands, and the petroleum reserve are closed to new mining claims. Claims filed on federal lands before they were closed to new entry are considered valid existing rights.

\*National parks, preserves, and wilderness areas are closed to petroleum leasing. Wildlife refuges can be opened to leasing if the U.S. Fish and Wildlife Service finds leasing to be compatible with wildlife protection.

\*These are the federal homestead, trade and manufacturing site, and headquarters site programs. Lands now open under these programs will be closed in October 1986, under terms of the 1976 Federal Land Policy and Management Act—which calls for an end to existing federal settlement programs 10 years after passage of the act.

\*A significant share of federal land in Alaska could technically be opened to commercial logging, but in fact most commercial grade timber in Alaska is within the 23 million acres of the Tongass and Chugach National Forests.

Specifically open areas before any leasing occurs. About 90 percent of state lands are open to new mining claims. State parks and areas under special mineral closing orders are not open to mining claims.

The Department of Natural Resources has so far classified about 1 percent of state government holdings as suitable for the state's homestead, agriculture, and other land disposal programs. Only a portion of these lands are actually put up for sale in any given year. Table 4 shows how much land will likely go on sale in 1986. The notes to Table 2 provide more information about qualifications on uses of state government land.

Table 3 shows the proportions of federal land potentially open to various uses in 1985. Almost all federal land is potentially open to sport fishing, recreational uses, and to access with motorized vehicles; again, any of these areas can be closed to specific uses by regulation.

More than 95 percent of federal land in Alaska is potentially open to subsistence hunting and fishing; national parks that existed before 1980 and some areas of the newer parks are closed to these uses. National parks are closed to sport hunting, leaving about 87 percent of federal lands in the state potentially open.

About one-quarter of federal lands in Alaska could be opened to new mining claims; national parks, wildlife refuges, wilderness areas, and the petroleum reserve are closed by law to new entry. More than half of federal lands in Alaska could be opened to petroleum leasing, but it is very unlikely that much would be opened. A large share of lands that could legally be opened are national wildlife refuges. Refuges can be opened if the U.S. Fish and Wildlife Service finds leasing to be compatible with protection of wildlife. Management plans that the Fish and Wildlife Service is currently drawing up for Alaska refuges will specify areas where leasing might be permissible. National parks, preserves, and wilderness areas are closed to petroleum leasing.

About 40 thousand acres of federal public domain are now open for homestead and other federal settlement programs; these lands and any others opened during the rest of this year will be closed to new entry in October 1986, when all the traditional federal settlement programs will end. The notes to Table 3 provide important qualifiers, and appendix tables A.1-A.5 provide more detail on potential uses of individual categories of federal lands.

Selected Uses, Federal and State Lands, 1985

Table 4 shows a few uses of state and federal lands in Alaska in 1985. It does not, of course, include all uses; we merely intend it to show a sampling of uses of public lands.

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**TABLE 3**

Federal Lands Potentially Open\* to Various Uses, 1985

<table>
<thead>
<tr>
<th>Acreage open to:</th>
<th>Percent of Federal Lands Open</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sport Fishing</td>
<td>255 million</td>
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<td>Motorized Access</td>
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</tbody>
</table>
TABLE 4
Selected Uses, Federal and State Lands, Alaska, 1985

<table>
<thead>
<tr>
<th></th>
<th>Federal</th>
<th>State</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mining Claims(^a)</td>
<td>62,600</td>
<td>+/- 50,000(^b)</td>
</tr>
<tr>
<td>Areas under petroleum lease(^c)</td>
<td>5.5 million acres</td>
<td>2.7 million acres</td>
</tr>
<tr>
<td>Timber harvests(^d)</td>
<td>250 million board feet</td>
<td>28 million board feet</td>
</tr>
<tr>
<td>Areas open for settlement</td>
<td>40 thousand acres(^e)</td>
<td>35 thousand acres(^f)</td>
</tr>
</tbody>
</table>

- \(^a\)Figures on how many of these claims are currently producing metallic minerals are hard to get. The Alaska Office of Mineral Development reported that in 1983, 169 thousand ounces of gold, 22 thousand pounds of antimony, 33 thousand ounces of silver, 215 thousand pounds of tin, and some undisclosed quantity of platinum were produced in Alaska.
- \(^b\)This is an estimate as of early 1985; most state lands are open to new mining claims and the number of claims is growing rapidly.
- \(^c\)Includes only onshore lands.
- \(^d\)Harvest figures are for 1984. Almost all the timber harvested from federal lands in Alaska that year was from the Tongass National Forest in southeast Alaska.
- \(^e\)See note h, Table 3. Of the 40 thousand acres open under federal settlement programs, about 6 thousand acres had actually been filed on as of early 1985.
- \(^f\)This is an estimate of total acreage the State of Alaska will offer for sale under its homestead, homestead-agriculture, and subdivision land disposal programs in 1985.

Mining Claims. There are more than 60 thousand mining claims on federal lands in Alaska today. These include existing claims on lands that were added to the national conservation system under the Alaska lands act. The federal government considers these valid existing rights, and claimholders are guaranteed access to their claims—but access is controlled by regulation. Also included in total mining claims are claims on lands that will be transferred to the state government and to Native corporations. By some counts, half of all claims on federal lands are in areas that will be transferred to the state and the Natives.

The federal government will exclude from transfers to the state any lands on which there are valid mining claims. Claims on lands to be transferred to the Native corporations are less secure. On most—but not all—land going to Native corporations, the federal government will exclude only patented mining claims. (Patenting a claim is a long and expensive process; only a few mining claims in Alaska are patented. In most instances, claimholders do not have to patent their claims to hold them.) Areas covered by unpatented claims will be conveyed to the corporations, and their future status is unclear. The Bureau of Land Management says that unpatented mining claims on most lands conveyed to the Native corporations will no longer be under its jurisdiction. What agreements the corporations and the claimholders may reach remain to be seen, but it seems likely that there will be controversy over these claims.\(^7\)

On state lands, there are now an estimated 50 thousand claims. That figure is growing quickly since most state lands are open to new claims.

Petroleum Leases. About 5.5 million acres of onshore federal land in Alaska are under petroleum lease in 1985, including 1.4 million acres in the National Petroleum Reserve on the North Slope, 14 thousand acres in the Kenai National Moose Refuge, and public domain acreage recently opened under provisions of the Alaska lands act. The lands act requires the Bureau of Land Management and other Interior agencies to broadly examine federal lands in Alaska—except those where leasing is prohibited by law—to see if they are suitable for leasing. In areas that are outside known oil and gas provinces, federal law allows noncompetitive leasing. Since 1980, the Bureau of Land Management has opened about 8 million acres of public domain for noncompetitive leasing; leases have been issued on about half that acreage. Leases in the petroleum reserve were issued under competitive bid.

About 2.7 million acres of onshore state land are currently under petroleum lease—the best known and most valuable of which are at Prudhoe Bay and in surrounding areas. Unlike the federal government, the state government has since 1978 required that all lease sales be competitive.

Timber Harvests. Around 250 million board feet of timber were harvested from federal lands in Alaska in 1984, almost entirely from the Tongass National Forest in southeast Alaska. A very small amount was logged from the Chugach National Forest in south-central Alaska. On state lands in 1984, about 28 million board feet were harvested. The timber industry was depressed that year, which makes these harvest figures lower than they would have been if demand for Alaska timber had been stronger.

\(^7\)Lands transferred under the major land provisions of the claim settlement act will not exclude unpatented mining claims. Lands transferred under the smaller, special categories will exclude such claims. The Bureau of Land Management can provide more information on the status of mining claims on specific Native corporation lands.
Areas Open for Settlement. Since 1982, the federal government has opened about 40 thousand acres for entry under its homestead, trade and manufacturing site, and headquarters site programs. None of this acreage is directly on roads, and most is far from road systems. As of early 1985, about 6 thousand of the open acres had actually been filed on. All these traditional federal settlement programs will end in October 1986 under terms of the 1976 Federal Land Policy and Management Act. After that, there will be some provisions for leasing federal land for private purposes, but nothing on the order of the old settlement programs.

The Alaska Department of Natural Resources estimates that it will put up for sale about 35 thousand acres in 1985, mainly under its homestead and subdivision land disposal programs.

ISSUES AND OUTLOOK

Up to this point, we have looked at the major federal laws affecting land ownership and use in Alaska, talked about land transfers, and discussed how public lands could and are being used in the state today. The changes in land status that began in Alaska more than twenty years ago and which will not be complete for some time have not happened without complications and controversies. Below, we look broadly at some of the issues and conflicts that have attended these changes and their prospects for resolution.

Land Transfers

*Land transfers to the state government and the Native corporations were slow until 1980, when a number of obstacles to land transfers were removed.*

The federal government began transferring land to the state government in the 1960s and to the Native corporations in the 1970s. Those land transfers are not yet complete and won't be for some years.

Transfers to the state government were stopped during the land freeze of 1966-1971 and were very limited during the 1970s, when the Native corporations were selecting their lands and most of the remaining unreserved federal lands in Alaska had been withdrawn while Congress decided which to add to the national conservation systems.

The Native corporations received little of their land in the 1970s, for a number of reasons, the biggest one being a long legal dispute over the extent and placement of public easements across Native lands. The Interior Department originally proposed extensive and "floating" easements over Native lands, to accommodate a range of possible future transportation corridors and other developments. The corporations went to court to fight that easement plan. In 1978, the federal government and the Native corporations agreed on a much more restricted system of easements, to be based on known and immediately foreseeable uses. (That agreement allowed land transfers to go forward, but as we discuss later, there remain many questions about actual locations of easements and their future management.)

What really speeded up transfers of land to the state and the Native corporations was passage of the Alaska National Interest Lands Conservation Act in 1980. That act not only resolved uncertainties about what lands were to be added to the national conservation system but also included a number of provisions for smoothing land transfers to the state and the corporations.

Table 5 shows how much land the state government and the Native corporations had selected and received as of early 1985. The federal government allowed both to select more lands than they will ultimately receive because some selections won't be approved. The state and the corporations can also each select lands already selected by the other—in the hope that if the original applicant doesn't get the land, the top-filer will. These overselections and topfilings help to insure that the state and the corporations will receive their full entitlements, but they have also added complications to the transfer process. The state government has until 1994 to complete its selections. Native selections are, with some exceptions, mostly complete.

By the start of 1985, the state had received 30 million acres, or about 75 percent of its total land grant. The Native corporations had received just over 33 million acres, which also amounted to about 75 percent of their entitlement.

Lack of Surveys

*Lack of surveys on state government and Native corporation lands has raised questions about land title and confusion about boundaries of inholdings.*

Only a small share of lands transferred to the state and the Native corporations has been patented—about one-quarter of state government lands and 10 percent of Native lands, as Table 5 shows. Most state land is in a category called "tentatively approved," and almost all Native land is under "interim conveyance." What these lands lack, and must have before they can be patented, are the precise boundary descriptions provided by surveys.

Ordinarily, land owners must have patent to their lands to have full ownership rights. But at the time the statehood act was passed in 1958, and even by the time the claims settlement act was passed in 1971, most of the huge area of Alaska had never been surveyed. If the state government and the Native cor-
<table>
<thead>
<tr>
<th>Entitlement</th>
<th>Selections</th>
<th>Lands Transferred</th>
<th>I.C./T.A., (^{b}) Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>State of Alaska</td>
<td>105</td>
<td>110.7(^{c})</td>
<td>23.1</td>
</tr>
<tr>
<td>Native Corps.</td>
<td>44(^{d})</td>
<td>66.6(^{d})</td>
<td>3.3</td>
</tr>
<tr>
<td>Village Corps.</td>
<td>26(^{c})</td>
<td>c</td>
<td>3.2(^{b})</td>
</tr>
<tr>
<td>Regional Corps.</td>
<td>18</td>
<td>c</td>
<td>0.1</td>
</tr>
</tbody>
</table>

\(^{a}\) As of the start of the year.

\(^{b}\) I.C.—interim conveyed; T.A.—tentatively approved. Lands "interim conveyed" to the Native corporations and "tentatively approved" to the state are lands that have been legally transferred to Native and state ownership, but which have not yet been patented because they have not been fully surveyed.

\(^{c}\) The federal government allows the state to select more lands than it will ultimately receive. The state is continuing to select lands and can do so until 1994.

\(^{d}\) The figures include nearly four million acres in former Native reserve lands that are being conveyed to villages that chose to take title to those lands and forego other benefits under the claims act.

\(^{e}\) The corporations were allowed to select more land than they are entitled to, but this figure is somewhat more acreage than they have actually selected. In some cases, corporations have selected the same piece of land more than once, under different provisions of the claims settlement act, in the hope that if the selection is rejected under one provision it will be accepted under another. It is difficult to sort out these duplications in village and regional selections. The Native corporations have essentially completed their selections.

\(^{f}\) Most of the land thus far patented to villages is former reserve land. See note \(D\) above.

Corporations had received lands only after they had been surveyed, they would still be waiting for most of their lands. To give the state and the corporations control of their lands before they had been fully surveyed, the federal government established "tentative approvals" and "interim conveyances." Documents that transfer unsurveyed lands to the state and the corporations contain general but not precise boundary descriptions. The Bureau of Land Management will ultimately survey all these lands. (See later discussion of survey requirements.)

In the beginning, it was not clear just what ownership rights came with tentatively approved and interim-conveyed lands. But Congress has since declared that these lands carry the same ownership rights as do patented lands—they can be sold, developed, leased, or used as the state and the corporations choose in most cases.

Still, there are problems created by lack of surveys. One of these problems emerged almost immed-

ately after the state government began selling some of its lands to the public. Alaskans who bought state land and subsequently tried to resell it, or to borrow money to build houses on it, discovered that banks and other lenders questioned their land titles—because the state, when it sold the land, had not held patent on it but rather "tentative approval." Tentative approval as a proxy for patent was a concept unheard of in other states.

The Alaska Department of Natural Resources has, over the years, tried to convince banks and other financial institutions that the state in fact has title to these unsurveyed lands. The department reports that in recent years banks and other lenders have become more accustomed to the idea that the state does own—and can sell—tentatively approved land. Native corporations have also faced similar problems because they lack patent to most of their lands. Only when all state and Native land is surveyed and patented will all these title questions be settled.

Another problem the state government and the other major land owners in Alaska face on unsurveyed lands is that the exact locations of inholdings are not known. Inholdings are valid existing rights to lands within larger tracts. There are thousands of inholdings on state, Native corporation, and federal land in Alaska. These can include mining claims, Native allotment parcels, lands acquired under federal settlement programs, and others. The general locations of most of these inholdings are known, but only surveys will establish their precise boundaries.

Survey Requirements and Time

The Bureau of Land Management estimates that the survey work it is now aware of will cost yearly $600 million and take more than 40 years to finish. Additional work added in the future will increase that cost and time.

The Bureau of Land Management (BLM) is responsible for surveying all state government and Native corporation lands—including inholdings on those lands—and also some federal lands in Alaska. The bureau has been working on those surveys for more than 20 years. Table 6 shows how much land the BLM had yet to survey as of 1984 and how much money and time are needed to finish that work.

The BLM has yet to survey the exterior boundaries of 16 million acres of Native regional and village corporation land; it estimates that work will take 20 years and cost $32 million. The boundaries of about 54 million acres of state government lands are yet to be surveyed. The BLM estimates those surveys will cost $180 million and take 30 years. Also on the BLM's work list are surveys of the outside boundaries of 84 million acres of national conservation lands in
TABLE 6
Estimates of Lands to be Surveyed

<table>
<thead>
<tr>
<th>Land Type</th>
<th>Amount Yet to be Surveyed</th>
<th>Estimated Cost ($) &amp; Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Village &amp; regional corporation lands</td>
<td>15.9 million acres</td>
<td>$31.8 million, 20 years</td>
</tr>
<tr>
<td>Fragmented parcels(^{a})</td>
<td>No estimate</td>
<td>$40.0 million</td>
</tr>
<tr>
<td>Cemetery &amp; historical sites</td>
<td>2,596 parcels</td>
<td>$8.7 million</td>
</tr>
<tr>
<td>State lands</td>
<td>64.0 million acres</td>
<td>$180.0 million, 30 years</td>
</tr>
<tr>
<td>Nat'l. conservation lands</td>
<td>83.5 million acres</td>
<td>$83.5 million</td>
</tr>
<tr>
<td>Mineral segregations(^{b})</td>
<td>31,500 parcels/630,000 acres</td>
<td>$94.5 million</td>
</tr>
<tr>
<td>Native allotments</td>
<td>14,000 parcels/747 parcels</td>
<td>$112.4 million</td>
</tr>
<tr>
<td>Municipal exclusions(^{c})</td>
<td>No estimate</td>
<td>$40.0 million</td>
</tr>
<tr>
<td>Land exchanges &amp; reconveyances</td>
<td>No estimate</td>
<td>No estimate</td>
</tr>
<tr>
<td>Other(^{d})</td>
<td>57,000 acres/567 parcels</td>
<td>$3.4 million</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$596 million</strong></td>
</tr>
</tbody>
</table>

\(^{a}\)These are small, scattered parcels separated from larger Native holdings.

\(^{b}\)This is a rough estimate of the number of claims on federal land that will be transferred to the state and the Native corporations. These are mostly on lands that will be transferred to the state. See text discussion of the status of mining claims on lands transferred to Native corporations.

\(^{c}\)These are community grant lands, mostly in southeast Alaska.

\(^{d}\)These include federal installations, primary places of residence, and quit claim deeds on Native corporation lands; and federal homesteads, trade and manufacturing sites, homesites, and headquarters sites on national conservation lands.


Alaska—at a projected cost of $84 million.

But even as time consuming and costly as these surveys of big parcels are, it is the thousands of small parcels within the larger areas that are the most expensive to survey and which will take the most time. The BLM estimates that surveying as many as 14 thousand Native allotment parcels on state, Native corporation, and federal land will cost more than $112 million. Surveying valid existing mining claims on state and Native lands will cost $95 million. Also to be surveyed are about 2,500 Native cemetery and historical sites and a number of small tracts of land fragmented from large Native corporation holdings—that survey work will cost an estimated $50 million.

There are also many more inholdings that the BLM must survey but cannot yet estimate costs and time for. These include lands the Native village corporations will reconvey to municipalities under terms of the claims settlement act and any lands exchanged among the federal and state governments and Native corporations. (See later discussions of reconveyances and land exchanges.)

Exact land status in Alaska, with precise descriptions of who owns what, won’t be known until all these surveys are complete—at least forty years from now and probably longer.

Reconveyances by Village Corporations

How much and which land village corporations will turn over to individuals and municipalities will probably not be settled until after the turn of the century.

The Alaska Native Claims Settlement Act requires village corporations that received lands under the act to reconvey some of those lands within villages to individuals and municipalities. That provision was included in the act because village corporations were required to select virtually all public domain lands in and around villages—and a large share of land that villages and individual homes, businesses, and other structures stood on was public domain. Very little land in rural Alaska was in private or municipal ownership at the time the claims act was passed. Some villages had townsites set aside under provisions of the Native Townsite Act of 1926, and in turn some individuals had received title to lands within townsites. But—as the figures in Table 1 show—townsite acreage amounted to only about 500 acres in the late 1960s.

Congress recognized that individual residents and local governments in villages needed title to land—the individuals for their homes and businesses and the local governments for public needs.

These reconveyances promise to take many years and to involve numerous conflicts. Identifying thousands of homeowners and others with individual claims to reconveyed land will be a long process—a process complicated and lengthened by the fact that all these individual parcels will have to be surveyed.

Reconveyances to municipalities have already become controversial for a number of reasons. The claims act provides only a broad description of the kinds of lands to be turned over to municipal governments—these are to include any improved lands that are not conveyed to individuals and as much more land as is needed for community expansion and foreseeable future community needs. Originally, each
corporation was to turn over at least 1,280 acres to a local municipality, but Congress later amended that so each corporation and community can negotiate the acreage. In about 90 Native villages, there are no organized local governments yet, so the state government takes lands in trust for future local governments.

Corporations, of course, have an interest in minimizing the acreage they turn over to municipalities—for the obvious reason that lands are corporation assets but also because lands deeded to municipalities are not necessarily under Native control. The non-Native population of many rural villages is growing, and in some communities, non-Natives already control local governments.

Municipalities—and communities where municipalities will likely be established in the future—hope to get lands for a variety of purposes that corporations may or may not see as necessary public purposes.

Negotiations over reconveyances are underway in many villages. The Alaska Native Foundation estimated in early 1985 that about 17 percent of villages and village corporations had reached either tentative or final agreement about reconveying nearly 28,000 acres. Actual transfer of most of those lands is some time in the future.

The claims act says that land grants to village corporations hinge on these reconveyances to individuals and municipalities—which in turn depend not only on a long identification and negotiation process but also on all of the corporation lands and reconveyed acreage being surveyed. It seems possible that it could be well into the next century before all these lands have been surveyed and reconveyed.

Easements Across Native Lands

It may be ten years before public easements across Native corporation lands are actually marked on the ground. How they will be managed is not yet certain.

The claims settlement act requires that easements be reserved across Native corporation lands to provide access to adjoining public lands. Throughout most of the 1970s, the Interior Department and the Native corporations disagreed about how many and what size easements were necessary. But after the courts ruled in 1978 that the system of easements originally proposed by Interior was too extensive, the corporations and the federal government reached an agreement: easements would be designated based on known and immediately foreseeable uses.

To determine where to reserve easements, the Bureau of Land Management asks the public where existing trails or other access routes are in given areas, and where there might be needs for additional easements. The bureau draws up proposed easements for a tract of land and gives the public and the Native corporations the chance to object to any easements that have been included or left out. Finally, the bureau decides which easements to reserve, describes them briefly on conveyance documents, and marks their general location on maps.

So for all lands that have been and will be transferred to the Native corporations, there are reserved easements. The issue for the 1980s is how those easements will be managed.

In 1985, the bureau estimates that there are perhaps 1,500 to 1,800 easements on Native lands; this is an estimate because to date the bureau has neither kept a running tally of easements nor marked them on the ground. Precise legal descriptions of their locations do not exist. The bureau is now beginning an inventory of easements, which it hopes to finish by 1986. After that, the various federal land management agencies in Alaska will sort out who will manage which easements. The Interior Department’s general policy is that easements providing access to a specific agency’s holdings will be managed by that agency—so the National Park Service would manage easements providing access to national parks; the U.S. Fish and Wildlife Service would manage easements leading to wildlife refuges, and the Bureau of Land Management would manage easements providing access to public domain. The state government will manage easements leading to state lands.

The Bureau of Land Management estimates that it will be ten years before all easements are marked on the ground. In the meantime, there will be much confusion over where those easements are. Alaskans who want to know where they are easements across a given area of land can get in touch with the BLM and get a general description of their locations. But no one, including the Native corporations, knows exactly where the easements are today.

Trespass on Native Lands

Many Alaskans don’t know just which lands belong to the Native corporations. They are too big to fence, and reliable maps showing their boundaries won’t be available for some time.

Tens of millions of acres that until recently were public lands have gone into private, Native corporation ownership. Controlling intentional or unintentional trespass on their lands will be difficult for the corporations. It is not yet clear to what extent the federal government will deal with trespass from pub-

8The Alaska Native Foundation was updating those figures as of mid-1985.
lic easements. The fact that these easements are not yet marked on the ground and won’t be for some time will exacerbate the problem.

Land Exchanges

The most controversial issue in land exchanges in Alaska today is the extent of the authority of the Department of the Interior to exchange lands in national conservation units.

The Alaska Native Claims Settlement Act allows the Interior Department and other federal departments to negotiate land trades with the state government, Native corporations, and municipalities in Alaska. These land exchanges can be to consolidate land holdings, improve land management, aid development, or for any other public purpose.

A number of land exchanges have been negotiated under terms of the act. Those that have attracted the most attention have involved national conservation lands. Environmental organizations have several times opposed trades in which the Interior Department proposed to give up wildlife refuge or other conservation lands—particularly lands designated as wilderness—in exchange for lands owned by Native corporations. Most often the corporations have wanted particular lands with potential for petroleum or mineral development or to provide access to resource lands. Environmental organizations opposed to such trades have maintained that the Secretary of the Interior does not have the authority to trade away national conservation lands; they say that only Congress can do so.

In an ongoing case, a group of environmental organizations went to court to have declared invalid a land trade in which the Interior Department agreed to give Native corporations ownership of St. Matthew Island in the Bering Sea, which had been a national wildlife refuge also designated as a wilderness area. The Native corporations agreed to give up other lands the Interior Department wanted to add to the national refuge system. The Native corporations, in turn, leased part of the island to oil companies for use as a staging area for Outer Continental Shelf (OCS) operations in the nearby Navarin Basin.

But the island is a seasonal home for marine mammals and for thousands of seabirds. The National Audubon Society and others said that staging area activities, including construction of an airstrip, would drive the wildlife away.

In late 1984, a federal district court ruled that the land trade was invalid and that the Secretary of the Interior had exceeded his authority in authorizing the trade. The Native corporations have appealed that decision.

In another trade, the U.S. Fish and Wildlife Ser-
vice in 1983 agreed to give the village corporation at Kaktovik subsurface rights to some lands on the coastal plain in the Arctic National Wildlife Refuge in exchange for additions to the refuge in other areas. The corporation has an ongoing oil exploration program on the lands. Environmental organizations were opposed to the Kaktovik trade. They want oil development kept out of the coastal plain because it is a caribou calving area. The oil industry believes there may be substantial petroleum reserves in the area.

Controversy over whether oil development should be allowed in this part of the refuge has gone on for years. In the 1980 Alaska lands act, Congress hedged on making a decision: it called for a limited oil exploration program and a study of fish and wildlife in the area, including an assessment of potential effects of petroleum development on local wildlife. The results of both the exploration program and the wildlife assessment are to go to Congress in 1986. The Fish and Wildlife Service has said that if Congress opts for oil development on the coastal plain, it might consider more land trades to put that area of the refuge in private ownership.

A recently proposed land trade involves land in the Cape Krusenstern National Monument in northwest Alaska. The Interior Department proposes to give up some acreage in the northern part of the monument to the NANA regional corporation in exchange for inholdings the corporation has in another part of the monument. NANA wants that particular land because it lies along the proposed route for an access road to the corporation’s lead-zinc deposit at Red Dog, north of Kotzebue. (See discussion of this deposit in the next section.)

In this case, the proposed trade is supported by some environmental groups and opposed by others. Alaska’s Congressional delegation has introduced a bill that would give legislative approval to this trade, and it appears likely to be approved.

As yet unresolved in these and other land trades is the extent of authority the Secretary of the Interior and other administrative officials have to trade conservation system lands without Congressional approval. More such trades will undoubtedly be proposed in the coming years, particularly if rising mineral prices make development of Alaska’s known deposits more attractive. And undoubtedly there will be more fights over those trades.

Access to Mineral Deposits

How much the proximity of national conservation lands to mineral deposits will hinder their development is not clear right now. Low mineral prices in recent years have dampened development prospects.

One of the bitterest controversies during the
1970s' debate over which and how much Alaska land to add to the national conservation systems was over mineral deposits. Alaska has a number of known, world-class mineral deposits, and analysts believe there are more yet to be found. Those who opposed adding large areas to the conservation systems said that establishment of vast new parks and refuges would stop or at least hinder exploration for and development of minerals. Conservationists and others favoring new conservation lands said that preserving the natural beauty of parts of Alaska outweighed other considerations.

In the end, when Congress passed the 1980 Alaska lands act, it excluded most of the major known deposits from conservation areas, but in some cases, the deposits are surrounded by or are near conservation lands. There have been moves toward development of a handful of these deposits, although in general declining mineral prices have slowed exploration and development in Alaska in recent years.

At the start of the 1980s, the deposit that seemed to have the best potential for fairly quick development was the huge molybdenum deposit at Quartz Hill near Ketchikan. The Misty Fiords National Monument surrounds the deposit, which Congress excluded from the monument when it passed the 1980 Alaska lands act. U.S. Borax, which holds claims at Quartz Hill, is guaranteed access to tidewater.

During the exploration phase, there was a long-running dispute between the company, the U.S. Forest Service—which manages the monument—and environmental organizations, over which was the least damaging route for an access road to tidewater. There is continuing disagreement over where tailings from the site should be dumped.

But controversy over the possible environmental effects of mine development have lessened in recent months because the mine developer is now in no hurry to start production. Molybdenum prices have taken a sharp drop in recent years—from almost $12 per pound in 1979 to about $4 per pound today. The company had earlier hoped to start production in 1988; it now says production may start in four to nine years, depending on the price of molybdenum.

The Forest Service has done a draft environmental impact statement for the project; this draft went through months of review. The agency hopes to revise the draft—including another look at acceptable areas for dumping the mine tailings—and have a final version by the end of 1985.

Another deposit in southeast Alaska, on Admiralty Island, has also been much publicized. This is a rich deposit of zinc, lead, gold, and silver at Greens Creek on the island. The deposit falls within the Admiralty Island National Monument. The Forest Service recently proposed to exclude the deposit and surrounding land from the monument and add acreage from a different area of the island. Environmental organizations oppose that plan, maintaining that the Forest Service does not have the authority to make such a major change in the monument boundaries. The mining company exploring the deposit hopes to begin work on a mine at the site by 1987. Environmental groups have said they will go to court to stop the Forest Service from changing the monument boundaries. The deposit could be developed even if it remains within the national monument, but that development would be under strict rules governing work in monuments.

The deposit that has recently received most attention in Alaska is the world-class lead-zinc deposit at Red Dog north of Kotzebue. The NANA regional corporation owns the deposit and plans to develop it, although there are questions about the feasibility of development at today's zinc prices.

If the price of zinc increases enough to make production profitable, the development would require a port on the Chukchi Sea and a 50-mile access road. The deposit itself is not within a conservation unit, but the access road would cross what is now part of the Cape Krusenstern National Monument.

NANA and the Interior Department have agreed on a land trade to shift lands the road would cross to NANA, in exchange for NANA's giving up inholdings in another part of the monument. Congress is considering a bill that would give legislative approval to the trade. Some environmental organizations oppose giving up the monument land, preferring that the road be routed around the monument.

It remains to be seen whether Congress will approve the trade; if it does, the prospects for development of the mine would be enhanced but not guaranteed. There still would remain the need for higher zinc prices and for financing of the road and port project. NANA and its development partner have asked the state government to put up low-interest loans to pay for the necessary transportation system.

To what extent the existence of large conservation areas will impede any future mineral development cannot be foreseen. From what has happened so far in the cases described above, it seems likely that environmental organizations will continue to oppose developments in or affecting national conservation lands. But it also looks as if federal management agencies will be willing to consider ways of accommodating developments if the value of the minerals is high enough.
Native Lands After 1991

One of the biggest worries of Native leaders today is what will happen after 1991, when, under existing provisions of the claims settlement act, restrictions on sale or other alienation of stock in Native corporations will be lifted.

Individual Natives who were alive when the act was passed in 1971 share in the land settlement by virtue of owning stock in Native corporations. Congress decided that stock in those corporations could not be sold or seized for most kinds of debt until 20 years after the settlement act was passed. And while non-Natives can currently inherit stock, they have no voting rights until after 1991.

Native leaders fear that if enough Natives sell their stock, or lose it through other means, corporations could go under the control of non-Natives—and with control of the corporations goes ownership of the lands.

The 1980 Alaska lands act does contain provisions that allow corporations to restrict sale of stock after 1991 if two-thirds of the stockholders vote to amend corporation by-laws. But Native groups do not believe these provisions are adequate, and the Alaska Federation of Natives is asking Congress to make a number of changes in the settlement act.

Among these is amending the law so that restrictions on sale of stock and on voting privileges of non-Native stockholders remain in place after 1991—but with corporations given the option of changing their by-laws to allow sale of stock if they choose. Also, the Native federation wants Congress to change the law so that in the future, non-Natives could not inherit stock, as they can now.

Native leaders are also worried about loss of Native lands through taxation or bad debts.\(^9\) Developed Native lands are taxable now, but undeveloped lands are exempt from taxation for 20 years after they are conveyed to the corporations. The Alaska lands act allows corporations to put undeveloped lands in an Alaska land bank. Under current law, lands in this bank could not be developed, but they would be shielded from taxation and from seizure for corporate debts.

Native groups want Congress to change the law so that all settlement lands, developed or not, would receive the protections of the land bank. The Native federation also hopes Congress will allow Native corporations to transfer their lands to nonprofit Native organizations if they choose. Such transfers to Native organizations would be another means of keeping settlement lands in Native ownership.

These and other changes that Native groups want are major, and they would alter a basic premise of the 1971 settlement act—which was that corporations established under the act would, after a certain period, be much like any other American corporation, subject to the same risks and opportunities. Many Native leaders today say that lands awarded Alaska Natives in settlement of their aboriginal land claims should not be at such risk of loss—that their ownership should be protected for future generations. When Congress will consider these proposals and what changes it will make in the law are impossible to predict.

Submerged Lands

Who owns lands under water in Alaska is a complicated and controversial question that will not be fully answered for years. The state and federal governments and the Native corporations all have important stakes in several big disputes about ownership of submerged lands in Alaska and off its coast. The main disputes are (1) where is the boundary between offshore, state-owned waters and the federal Outer Continental Shelf? (2) how many of Alaska’s thousands of rivers and lakes are navigable? and (3) how much submerged land should be charged against the land entitlements of the state and the Native corporations?

Another related question that is becoming more pressing in Alaska as more land goes into private ownership is this: to what extent can private individuals or corporations who own submerged lands under lakes or rivers control public use of just the water?

Offshore Boundary Dispute. The State of Alaska could gain $1 billion in revenues if the courts decide in the state’s favor in a dispute with the federal government over state-federal offshore boundaries in the Beaufort Sea. The state could collect substantially more in the future if offshore boundary and other disputes are resolved in its favor.

The 1958 Alaska Statehood Act, in addition to granting the new state 104 million acres onshore, also gave it ownership of submerged lands up to 3 miles offshore. These offshore state lands total around 40 million acres. Beyond these state waters are the federal OCS lands.

The state and the federal government disagree about how to determine the boundary between state and federal waters. The methods of determining the boundary are complicated, but the important difference is that the state method puts some areas in state-owned waters that the federal method puts in the federal OCS. These areas of disputed lands are important
because Alaska’s offshore waters are believed to have large reserves of oil and gas.

Of particular dispute is the boundary between state and federal waters in the Beaufort Sea, where analysts believe there may be billions of barrels of oil. Past federal lease sales have included tracts that the state claims, and the state has taken the federal government to court over the issue.

Pending a court decision about who owns the disputed tracts, the federal government has put in escrow the revenues it has received from them. The state stands to gain about $1 billion if the courts decide in its favor. The federal government has also agreed to give the state some say in future decisions about including tracts that the state claims in federal OCS sales.

A second dispute between Alaska and the other coastal states on one side and the federal government on the other involves what share of federal royalties states should get from federal OCS leases adjacent to state waters. Federal law says that coastal states are entitled to a share of these revenues because drilling in OCS lands next to state lands can drain reserves from the adjacent state lands. The states and the federal government have not agreed on what the state share should be. The federal government has offered the states 16.6 percent of those revenues; the states have asked for 37.5 percent. Negotiations are continuing.

Just how much might be at stake for Alaska in this dispute is uncertain right now because exploration of the Alaska OCS is just beginning, and there have as yet been no commercial finds. The pace and extent of development of the Alaska OCS depend not only on size of discoveries but also on the future price of oil and other factors that cannot be predicted. But if the Alaska OCS is in fact found to be rich in oil, and that oil is developed relatively soon, the State of Alaska could stand to gain billions of dollars in shared revenues over the next decades.

What is Navigable? The state benefits in important ways when lakes or rivers are declared navigable. The land under navigable waterways is not charged against the state’s land grant; it is in addition. Land under navigable waters on federal and Native corporation land belongs to the state; the state manages those lands and owns any minerals therein.

In addition to onshore and offshore land grants, the Alaska Statehood Act also gave the state government—with some exceptions—ownership of the beds of navigable rivers and lakes in Alaska. This could amount to a lot of land. Lakes and rivers cover an estimated 13 million acres, or 3 percent of land, in Alaska. How many of these water bodies are in fact navigable is what the state and the federal government disagree about.

The federal Bureau of Land Management makes the initial determination about which waterways in Alaska are navigable, but the courts have the final say if the state challenges those determinations—as it has in a number of cases. The issue of navigability is a very complex one that has been before courts throughout the United States. And there are still no hard and fast standards for determining navigability as a result of past court decisions.

Broadly speaking, waters are considered navigable if they are wide and deep enough to be used by commercial boats. It is chiefly on the issues of what constitutes “commerce” and what size commercial boats are that the state and federal governments disagree.

The federal government uses very specific criteria for determining navigability: lakes and rivers must have been used or have been capable of being used for commerce by 18-to-24-foot wooden flat-bottomed boats at the time Alaska became a state in 1959. And it has a narrow definition of what constitutes commerce, limited to a few activities.

The state government, on the other hand, takes the position that commercial travel includes a much broader range of activities in a much greater variety of boats and other vehicles. The state says that boats carrying mail or miners traveling by boat to their claims and a host of other activities constitute commercial travel. It maintains that use by smaller boats, including inflatables, rafts, and others, renders a waterway navigable. The state also takes the position that, because lakes and rivers in Alaska are frozen a large share of the year, use of a frozen waterway by snowmachines, dog sleds, and other vehicles makes the waterway navigable. Finally, because many places in Alaska can be reached only by air, the state says that waterbodies should be considered navigable if planes on floats or skis land on them.

The state has won some points in the battle over navigability. The Interior Department’s Board of Land Appeals, to which those dissatisfied with BLM’s decisions can appeal, tentatively ruled in 1983 that the Matanuska River north of Anchorage was navigable in part because guide companies offer trips on the river in inflatable rafts to paying customers. But a final decision in this case has been held up until the U.S. District Court rules on a lawsuit brought by the state over navigability of the Gulkana River. The state claims the river is navigable, in part because commercial guides use it for raft trips and other travel. The decision in this case, which is expected to be made in 1985, will be important in determining how liberal or conservative the Interior Department will be in the future in assessing navigability.

The state recently lost a case in which it had maintained that a lake was navigable because it was
heavily used by floatplanes; the court said that use by floatplanes was irrelevant to the determination of navigability.

The Native corporations also have an important stake in decisions about navigability. One of the main worries of the corporations has been that if they took conveyance of lands with waterbodies that were later declared to be navigable, they would not only lose ownership of the minerals under those waters but also some acreage that had been charged against their entitlements. The Interior Department recently decided that any acreage the Native corporations lose when lakes or rivers on their lands are declared navigable will be replaced. This means that land transfers to Native corporations will not really be final until all the disputes over navigability have been settled.

The BLM has so far made initial decisions about navigability on the 33 million acres already transferred to the Native corporations and the 80 million acres transferred to the state. That agency estimates that if the courts uphold its standards for determining navigability, it could complete determinations on remaining state and Native lands within 5 years. If the courts favor the state's broader criteria, deciding which of Alaska's lakes and rivers are navigable will take much longer.

**Submerged Lands Charged Against State and Native Entitlements.** *The state and the Native corporations might be able to select hundreds of thousands more acres if certain submerged lands are not charged against their land grants.*

There has also been an ongoing dispute between the state and the Native corporations on one side and the federal government on the other about submerged lands under *non-navigable* waters. Until 1983, the Interior Department charged such submerged lands against the state and Native entitlements. The corporations and the state maintained that much of this land under non-navigable waters—large areas of marshland, for instance—would not be useful to them.

In 1983, the Interior Department changed its policy and said it would not charge the state or Native corporations for acreage under certain non-navigable waters: lakes more than 50 acres and rivers wider than 200 feet. This means that large areas under waters that are finally determined to be non-navigable will not be charged against state and Native entitlements.

This ruling will have the effect of allowing the state and the Natives to select more land since those specific lands under water will not count against their entitlements. Estimates of how much additional land they will actually be able to select vary substantially. In large part, the acreage involved will depend on how many waterbodies are finally declared navigable. The Alaska Department of Natural Resources estimates that the state might be able to select anywhere from 180 thousand to 2 million additional acres, and the Native corporations anywhere from 120 thousand to 1.4 million extra acres.

Environmental organizations oppose this new policy, however, and have gone to court to try to have it reversed. They fear that additional land selections—particularly selections of Native corporations—could come out of national conservation lands.

A decision in this case is sometime in the future. Alaska's congressional delegation has also proposed a legislative settlement of the issue, but Congress is not likely to consider such legislation this year.

**Public Access to Waters. Who controls use of streams and other waters crossing private lands?**

An issue related to those discussed above has to do with public use of waterways in Alaska, regardless of who owns the land under the waters. The question is this: Does ownership of the bed of, say, a stream give the owner rights to control public use of the *water* over his land? The State of Alaska takes the position that regardless of who owns the bed of the water, public use of and access to that water is guaranteed. This would mean, for example, that no private owner could put a fence across a stream to stop canoeists from floating down it. The state distinguishes such use from actual trespass on private land; a canoeist could not, for instance, walk across private land to get to a stream.

Some Native corporations and other private land owners believe, on the contrary, that owners can in fact restrict use of water running over their lands.

As more lands go into private ownership in Alaska, disputes over access to waterways are becoming more frequent. The state is now preparing a court case that will test this issue.

**CONCLUSIONS**

For more than 20 years after Alaska became a state, Alaskans and others interested in Alaska lands concentrated on the big battles for ownership of the public domain. At base, most of the battles were between those who wanted to keep the lands the way they were and those who wanted them available for development. And implicit in the ownership fights was the assumption that once Congress had decided ownership of the former public domain lands, the future management and use of those lands would also be largely decided.

But now, 5 years after Congress shifted most of the remaining public domain lands into the national conservation systems, it is apparent that there are many land management and use issues that won't
be resolved for a long time to come. Ownership of lands certainly makes a difference in their management and use, but so do other factors—including the latitude given land management agencies, the value of and demand for resources on the land, and state and federal environmental protection laws. The old struggles over the best use of Alaska lands—preservation or development—go on in various ways.

Among the things that will strongly influence future use of public lands in Alaska are the management plans state and federal agencies are now drawing up for virtually all public lands in the state. A few are already out in draft form. Some public lands—particularly national conservation lands—are closed by law to specific uses. But in many instances, management agencies have leeway in deciding which uses will be allowed, where, and under what controls. The management plans will deal with all aspects of land use. For example, the plans for national wildlife refuges will say what acreage might be opened to petroleum leasing, make recommendations on what areas should be added to the wilderness system, specify how the Fish and Wildlife Service will regulate access to private property within the refuges, and much more. Already these management plans have raised controversy, and there will be more in the immediate future as the plans are completed.

Another area in which the lines of management are not yet drawn hard and fast is in land exchanges. In several well-publicized instances, federal agencies have agreed to exchange lands within national conservation units for Native corporation lands elsewhere. Environmental organizations have opposed these trades on the grounds that only Congress has the authority to make such decisions about conservation lands. In one case, the legality of a land trade involving national monument lands is being examined by the courts. In another, Congress is considering whether to approve a similar trade already agreed to by the Interior Department. Court and congressional decisions in these and other cases will help define the limits of future land trades.

To what extent federal agencies will try to accommodate or hamper mineral development on or near conservation lands also remains to be seen. About a dozen known world-class mineral deposits were excluded from the new conservation units created in 1980; federal agencies regulate any access across conservation lands to deposits. There has been controversy during exploratory work on several of those deposits, with environmental groups charging that federal agencies have not been strict enough in protecting conservation lands, and industry charging that they have been too strict.

But no production is actually underway at any of these sites right now. Aside from what federal management agencies do or don’t do, Alaska’s mineral deposits won’t be developed until mineral prices rise high enough to outweigh the high costs and difficulties of mining in Alaska. Mineral prices have fallen in recent years, dampening prospects for mineral development. Many battles over mining in or near conservation lands are therefore in the future, if prices rise high enough to make mining in the state more profitable. It seems likely that if Alaska’s large mineral deposits become valuable enough, they will be developed—under as yet undetermined levels of government regulation.

There are also still unresolved questions about submerged lands that will influence future land management and use in Alaska. These include disputes over which lakes and rivers in Alaska are navigable and therefore belong to the state government, and whether the state and the Native corporations will be allowed to select additional lands to replace some submerged lands—marshlands, for instance—that they say are not useful to them. Many cases involving these submerged land issues are now before the courts.

Native corporations too face many land management decisions, and some of these involve the same question raised so often about public land management in Alaska: to preserve or to develop? Many corporations are inventorying their lands for timber, coal, minerals, and other resources. Some have already started to develop their resources. Corporations in southeast Alaska have been logging on their lands for several years. But some Native stockholders want their lands left as they have historically been.

Another crucial question Native land managers face is how to keep their lands in Native ownership after 1991, when for the first time stockholders will be able to sell their stock. Native groups are asking Congress for changes in the claims settlement act that would prohibit sale of stock to non-Natives and provide other safeguards of Native ownership. What Congress will do is uncertain, but whatever it decides will have major effects on future Native land management.

Resolution of the land management questions discussed above will affect all major land owners in Alaska as well as environmental organizations and industries that have interests in Alaska lands. But it is individuals who have been and will be most directly affected by the changing land ownership and management in the state.

There are thousands of pieces of private property and mining claims on Native corporation, national conservation, and state lands in Alaska. The Bureau of Land Management is surveying all these private inholdings, but it will be well into the next
century before that job is done. Until then, the precise boundaries of these parcels won’t be known. In some cases, government agencies have and will continue to challenge the validity of private property claims. The status of mining claims on most Native corporation land is uncertain. Government agencies regulate access to private property within public lands, particularly conservation lands. There are means by which the federal government can condemn private property in conservation units.

Individual hunters, fishermen, boaters, hikers, and others have already seen changed regulation of public land use and are likely to see more when various land management disputes are settled. More than 40 million acres that until recently were public lands are now private Native corporation lands. Maps showing the exact locations of all Native lands won’t be available for some time. There are public easements across Native lands, but these easements are not marked on the ground and probably won’t be for another decade.

In addition to all the complications individuals and agencies face because of changing land ownership and management in Alaska, there are also broad federal and state laws that regulate land use, regardless of ownership and management. These include, among many others, laws that protect air and water quality, that regulate work affecting wetlands and navigable waters, and that restrict activities in fish streams. Independent of land ownership, these laws will certainly influence future land use in Alaska.

The land management disputes and uncertainties described in this Review will not soon be settled. Alaskans and other Americans with strong beliefs about the best uses of lands in the state will continue to press their cases—in the courts, with Congress, in the state legislature, with government management agencies, and before the public. 10


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APPENDIX: ALLOWABLE USES OF SPECIFIC FEDERAL LANDS IN ALASKA

TABLE A.1

| National Parks and Preserves in Alaska, Allowable Land Uses, 1965 and 1985 |
|------------------------|------------------------|------------------------|
|                        | 1965                   | 1985                   |
| Total acreage          | 7.5 million acres      | 52 million²            |
| Sport fishing          | all open               | 32 million             |
| Sport hunting          | closed                 | all open               |
| Subsistence H and Fb   | closed                 | closed                 |
| New mining claims²     | all open               | 9.7 million closed     |
| New petro leasing      | closed                 | all open               |
| Settlement             | closed                 | closed                 |
| Timber harvest         | closed                 | closed                 |
| Recreation             | all open               | closed                 |
| Motor access³          | all open               | closed                 |

- Of the 52 million acres of parks and preserves, more than 32 million acres are designated as wilderness; in general, most uses that are prohibited in wilderness areas are already prohibited in the park system, so it is not necessary to separate wilderness areas here.
- The original Glacier Bay, Katmai, and Mt. McKinley National Parks were closed to subsistence hunting and fishing; those same areas, plus the 1980 additions to Katmai and Glacier Bay Parks and the new Kenai Fiords are now closed to subsistence hunting and fishing. Within parks open to subsistence hunting and fishing, such uses may be restricted to specific areas.
- National parks in Alaska were open for mineral location and mining until passage of the Mining in Parks Act in 1976, which closed the parks to new entry.
- In general, all parks and preserves in Alaska, including areas designated as wilderness, are open to some motorized vehicles but closed to others. Snowmachines and motorboats are essentially allowed throughout the parks and preserves; off-road vehicles are not. Planes can be flown into parks and preserves for recreational uses but not for use in subsistence hunting. Helicopters are prohibited except under special permit from the park superintendent.
### TABLE A.2

<table>
<thead>
<tr>
<th></th>
<th>1965</th>
<th>Nonwilderness</th>
<th>1985</th>
<th>Wilderness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total acreage</td>
<td>22.2 million</td>
<td>56.4 million</td>
<td>75.4 million</td>
<td>19 million</td>
</tr>
<tr>
<td>Sport fishing</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
</tr>
<tr>
<td>Sport hunting</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
</tr>
<tr>
<td>Subsistence H and F</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
</tr>
<tr>
<td>New mining claims</td>
<td>3.1 million open</td>
<td>closed</td>
<td>closed</td>
<td>closed</td>
</tr>
<tr>
<td>New petro leasing</td>
<td>all potentially open</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
</tr>
<tr>
<td>Settlement</td>
<td>all closed</td>
<td>potentially open</td>
<td>closed</td>
<td>closed</td>
</tr>
<tr>
<td>Timber harvest</td>
<td>all potentially open</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
</tr>
<tr>
<td>Recreation</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
</tr>
<tr>
<td>Motor access</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
</tr>
</tbody>
</table>

*Historically, most wildlife refuges in the United States have been closed to hard-rock mining; of the eighteen refuges that existed in Alaska before 1980, all but two were closed to mining. The 1980 Alaska Lands Act closed newly created refuges to mining.

*Wildlife refuges can be opened to oil and gas leasing if the FWS judges such leasing to be compatible with wildlife protection. Some acreage in the Kenai National Moose Refuge in southcentral Alaska has been under petroleum lease for a number of years. That is the only refuge with petroleum leases in Alaska today, but the FWS is preparing comprehensive plans for all Alaska refuges that will specify whether oil or gas leasing would be acceptable (compatible) in other refuges. Areas designated as wilderness—19 million acres of the 75 million refuge acres—are closed to petroleum leasing. A maximum of 36 million acres in refuges could be opened to oil and gas leasing, but the actual figure is likely to be much smaller. In addition, 19 million acres of the coastal plain of the Arctic National Wildlife Refuge are under a special oil and gas exploration program authorized in the Alaska lands act. Leasing and development there would have to be approved by Congress.

*Refuges (except areas designated as wilderness) can be opened for timber harvest if such harvest is for the benefit of the wildlife. For example, the Kenai National Moose Range has been opened in the past to harvest older trees to allow growth of young, shrubby vegetation that moose feed on.

*Fixed-wing aircraft, motorboats, and snowmobiles are allowed in most areas of Alaska’s wildlife refuges, including areas designated as wilderness, where these vehicles have been traditionally used. Certain areas of individual refuges have historically been closed to specific motorized vehicles, and these areas remain closed. Use of off-road vehicles and helicopters is generally prohibited in the refuges unless specially permitted by the refuge manager.

### TABLE A.3

<table>
<thead>
<tr>
<th></th>
<th>1965</th>
<th>Nonwilderness</th>
<th>1985</th>
<th>Wilderness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total acreage</td>
<td>21 million acres</td>
<td>17.4 million</td>
<td>23 million</td>
<td>5.6 million</td>
</tr>
<tr>
<td>Sport fishing</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
</tr>
<tr>
<td>Sport hunting</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
</tr>
<tr>
<td>Subsistence H and F</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
</tr>
<tr>
<td>New mining claims</td>
<td>all open</td>
<td>open</td>
<td>all open</td>
<td>all open</td>
</tr>
<tr>
<td>New petro leasing</td>
<td>all potentially open</td>
<td>all potentially open</td>
<td>closed</td>
<td>closed</td>
</tr>
<tr>
<td>Settlement</td>
<td>all closed</td>
<td>all potentially open</td>
<td>closed</td>
<td>closed</td>
</tr>
<tr>
<td>Comm. timber harvest</td>
<td>all open</td>
<td>15 million open</td>
<td>all open</td>
<td>all open</td>
</tr>
<tr>
<td>Recreation</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
</tr>
<tr>
<td>Motor access</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
<td>all open</td>
</tr>
</tbody>
</table>

*aIncludes areas within forests designated as monuments.

*bNational forest lands can be opened to petroleum leasing, but there are no lands currently under petroleum lease in either the Tongass or the Chugach National Forests.

*cWilderness areas of the national forests are closed to commercial timber harvest. Also closed are about 2.6 million acres in the Tongass National Forest under a special designation that emphasizes uses other than logging.

*dGenerally, motor vehicles can use any part of the national forests, including wilderness areas. The Alaska Lands Act specifically allows reasonable access through wilderness areas for inholders and for subsistence and recreational users, with traditional means of access—including planes, snowmobiles, and motorboats. Restrictions on use of off-road vehicles and other vehicles are in effect in certain areas.
### TABLE A.4

**Federal Public Domain in Alaska, Allowable Land Uses, 1965 and 1985**

<table>
<thead>
<tr>
<th>1965</th>
<th>1985</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Acreage</td>
<td>274 million acres</td>
</tr>
<tr>
<td>Sport fishing</td>
<td>all open</td>
</tr>
<tr>
<td>Sport hunting</td>
<td>all open</td>
</tr>
<tr>
<td>Subsist, hunt &amp; fish</td>
<td>all open</td>
</tr>
<tr>
<td>New mining claims</td>
<td>all open</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>New petroleum</td>
<td>all open</td>
</tr>
<tr>
<td>leasing</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Settlement</td>
<td>all open</td>
</tr>
<tr>
<td>Commercial timber</td>
<td>N/A</td>
</tr>
<tr>
<td>harvest</td>
<td>all open</td>
</tr>
<tr>
<td>Recreation</td>
<td>all open</td>
</tr>
<tr>
<td>Motorized access</td>
<td>all open</td>
</tr>
</tbody>
</table>

*Technically, public domain lands could be opened for commercial timber harvest, but in fact almost all commercial timber on federal lands in Alaska is within the Tongass and Chugach national forests.*

### TABLE A.5

**National Petroleum Reserve in Alaska, Allowable Land Uses, 1965 and 1985**

<table>
<thead>
<tr>
<th>1965</th>
<th>1985</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Acreage</td>
<td>21 million acres</td>
</tr>
<tr>
<td>Sport fish</td>
<td>all open</td>
</tr>
<tr>
<td>Sport hunting</td>
<td>all open</td>
</tr>
<tr>
<td>Subsist, hunt &amp; fish</td>
<td>all open</td>
</tr>
<tr>
<td>New mining claims</td>
<td>all open</td>
</tr>
<tr>
<td>New petrol, leasing</td>
<td>all closed</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Settlement</td>
<td>all closed</td>
</tr>
<tr>
<td>Timber harvest</td>
<td>N/A</td>
</tr>
<tr>
<td>Recreation</td>
<td>all open</td>
</tr>
<tr>
<td>Motor, access</td>
<td>all open</td>
</tr>
</tbody>
</table>

*The 1923 executive order that created this national reserve closed it to hard-rock mining; it would require special Congressional action to open the reserve to mineral entry. Residents of North Slope villages within the reserve can obtain permits from the BLM to take coal for personal use from the exposed beds of coal.*

*The reserve is managed primarily for oil and gas development, but acreage in the reserve was not opened for leasing until 1982. Before that, the federal government carried out several exploration programs to determine its potential.*

*Since its creation, the reserve has been closed to federal settlement programs, including the Native allotment program. The 1980 Alaska lands act specially approved some Native allotments within the reserve; acreage included in these allotments is slight.*

*dThe reserve is closed to cross-country travel in the summer, when vehicles can damage the tundra. Areas of special protection for wildlife may also be closed to aircraft or other vehicles at various times.*