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STATE OF ALASKA

**Testimony before the U.S. Senate
Committee on Energy and Natural Resources**

The Alaska National Interest Lands Conservation Act

December 3, 2015

Submitted by: Governor Bill Walker, Alaska

**Testimony on behalf of:
The State of Alaska**

I. Introduction

Alaska is a place of superlatives. We are the largest state in the union; the only Arctic state; the northernmost, westernmost, and easternmost state. We make unique contributions to the nation's interests, and we are proud of those contributions.

I was seven years old when Alaska became a state and achieved our dream of self-governance. The debate about whether the territory of Alaska should be granted entry into the union turned on one question: Could a State of Alaska have a viable, self-sustaining economy?

The answer was yes – through development of our resources. Implicit in the Alaska Statehood Compact is a directive to the State to develop its resources. The Compact prohibits Alaska from selling our subsurface mineral rights. Development rights can be leased, but ownership must stay with the State. The message from Washington, DC, was clear: we were to develop our resources to establish a viable economy and become self-supporting.

Alaska has fulfilled our part of the bargain. We have developed our resources for the maximum benefit of the people, and with great care to protect our environment. We have used our resource income to build roads and schools and to provide services the rest of the country takes for granted, such as running water and electricity. In recent years, we have been less reliant on federal aid than the majority of states.

The Obama Administration has wisely embraced an “all-of-the-above” energy strategy. Renewable energy, energy efficiency, natural gas, and oil are all part of it.

Alaska has a role to play in each of these areas: we are a testbed for renewable energy and microgrid technologies and a leader in energy efficiency technology and application. We are working hard to

develop our vast natural gas reserves. And we are committed to providing the nation with responsibly produced domestic oil.

We have the supply. We have the infrastructure. We have the expertise and the know-how. We need the access. But we now have an 800-mile pipeline that is three-quarters empty, because we cannot get access to our resources.

Responsible development of Alaska's oil is a win-win-win: It reduces our nation's dependence on unstable foreign regimes. It makes use of existing infrastructure to minimize the footprint of new development. It helps Alaska remain independent and self-sufficient, reducing our reliance on federal support.

In recent years, there is growing recognition that some things we thought were free are not necessarily so, such as clean air, fresh water, and the ability to absorb carbon dioxide. These are all things Alaska provides in abundance. For example:

- 66 percent of all National Park land in the nation is in Alaska.
- 86 percent of all Fish and Wildlife Service land is in Alaska.
- The nation's two largest national forests are in Alaska.
- Alaska's glaciers and waters hold an estimated 40 percent of the nation's surface water.
- 63 percent of Alaska is federally owned. Outside of Alaska and 11 western states, the average is 4 percent federal land ownership.

Alaska is making an outsize contribution to our national interests. This contribution should not come at the cost of our people and our future.

The Alaska National Interest Lands Conservation Act (ANILCA) promised a balance between conservation in the national interest and satisfaction of Alaska's economic and social needs. It is time to return to a better balance between the nation's and Alaska's interests.

II. Overview

In 1980, ANILCA added 100 million acres of federal conservation system units (CSUs) within the State by expanding existing units and creating new ones. The 200-plus page Act included numerous provisions intended to balance the nation's conservation interests with the economic and social needs of Alaska. The State has struggled to ensure the balancing provisions in ANILCA are consistently recognized in the multitude of federal land management plans, policies, and regulations that impact vast areas of federal land in the state.

This testimony identifies issues and offers suggestions for ensuring the balance promised in ANILCA is maintained as intended by Congress.

III. Implementation of ANILCA's Balancing Provisions at Risk

The purpose of ANILCA was to establish and maintain a balance between conservation and development of Alaska's lands. To that end, ANILCA protects Alaska's wilderness, scenic, and cultural values; preserves opportunities for rural Alaskans to maintain a subsistence way of life; and provides for some forms of development to meet the economic and social needs of Alaskans. The final Act is often described as "compromise legislation." As such, successful implementation requires effective cooperative federal and state relationships.

One challenge is that nationwide federal regulations and policies are currently being applied in Alaska without regard for ANILCA's balancing provisions, and without adequate consideration of the consultation and cooperation requirements in ANILCA. The result is upsetting the balance between conservation and development that ANILCA sought to establish.

Issues include:

- Federal interpretation of ANILCA's consultation and cooperation provisions has devolved from a meaningful exchange of information and ideas between federal and State agencies to unilateral notification and positional briefings by federal agencies.
- Many federal land managers are unfamiliar with Alaska and ANILCA's unique provisions that modify national management policies and practices.
- Federal agencies are implementing a multitude of new and revised national policies without taking ANILCA or Alaska's unique context into consideration.
- Federal management planning efforts that affect Alaska include:
 - The Arctic National Wildlife Refuge plan revision that resulted in wilderness and wild and scenic river recommendations that block oil and gas exploration and development in the coastal plain, an area explicitly designated under ANILCA for consideration of its oil development;
 - The Gates of the Arctic National Park and Preserve plan amendment that proposes to implement a national policy to manage lands that have wilderness characteristics as if they were designated as wilderness by Congress; and
 - Tongass and Chugach National Forest management plans currently undergoing revision ignore key provisions in ANILCA that prohibit new wilderness and wild and scenic river reviews in Alaska unless authorized by ANILCA or a further act of Congress.

- The Bureau of Land Management is revising three large management plans. These planning areas already include conservation designations under ANILCA. Yet the plans propose large administrative designations and other actions that conflict with ANILCA's provisions for use and access and reduce the availability of multiple use land that was factored into ANILCA's balance.
- ANILCA flowed from the Alaska Native Claims Settlement Act of 1971 and ensured access for traditional activities and subsistence use on federal lands. Over time, increasingly restrictive federal management has undermined this promise.
- Public Land Orders stemming from the Alaska Native Claims Settlement Act of 1971, many of which fulfilled their purpose when ANILCA designated over 100 million acres of conservation system units, remain in place. This further upsets the balance in ANILCA and interferes with the State's ability to complete its land selections under the Statehood Act.
- The federal land management agencies that manage ANILCA lands are each developing national policies that ignore the ANILCA provisions prohibiting new wilderness and wild and scenic river reviews in Alaska unless authorized by the Act or an act of Congress. The agencies are requiring agency-directed reviews and the application of protective measures until Congress takes action on any recommendations, or indefinitely, if no action is taken by Congress. In effect, the agencies are making new wilderness and wild and scenic river designations in Alaska by managing lands as if they had been granted such status.
- Despite ANILCA's assurances that the State's limited infrastructure and the needs of remote isolated communities would be appropriately considered, the Department of the Interior has repeatedly rejected three decades of impassioned but reasoned requests from the residents of King Cove for a one-lane gravel road across the Izembek National Wildlife Refuge to facilitate access to the all-weather airport at Cold Bay for emergency medical evacuations.

V. Improving Implementation of ANILCA

It is essential that the compromise provisions in ANILCA be recognized and considered in federal plans, policies, and regulations. Currently, depending on their experience and longevity in Alaska, federal employees have a mixed understanding of ANILCA, resulting in inconsistent interpretations of the law.

Suggestions for an improved cooperative working relationship include:

- Reinstitute the Alaska Land Use Council (ALUC). The Council was in place for 10 years, from 1980 to 1990. Its purpose was to facilitate cooperation and help resolve problems between the federal and State governments and Alaska Native corporations as ANILCA was

implemented. Bringing back the Council could help to bridge the gaps in State and federal agency efforts to fulfill the responsibilities in ANILCA.

- Provide comprehensive education on ANILCA to federal and State agency employees. The nonprofit Institute of the North provides training to federal and State employees, conservation groups, Native corporations, tribal representatives, and industry members. The program has been approved by the Department of the Interior. We recommend this program or equivalent training become a mainstay or requirement for all federal employees involved in Alaska land management.

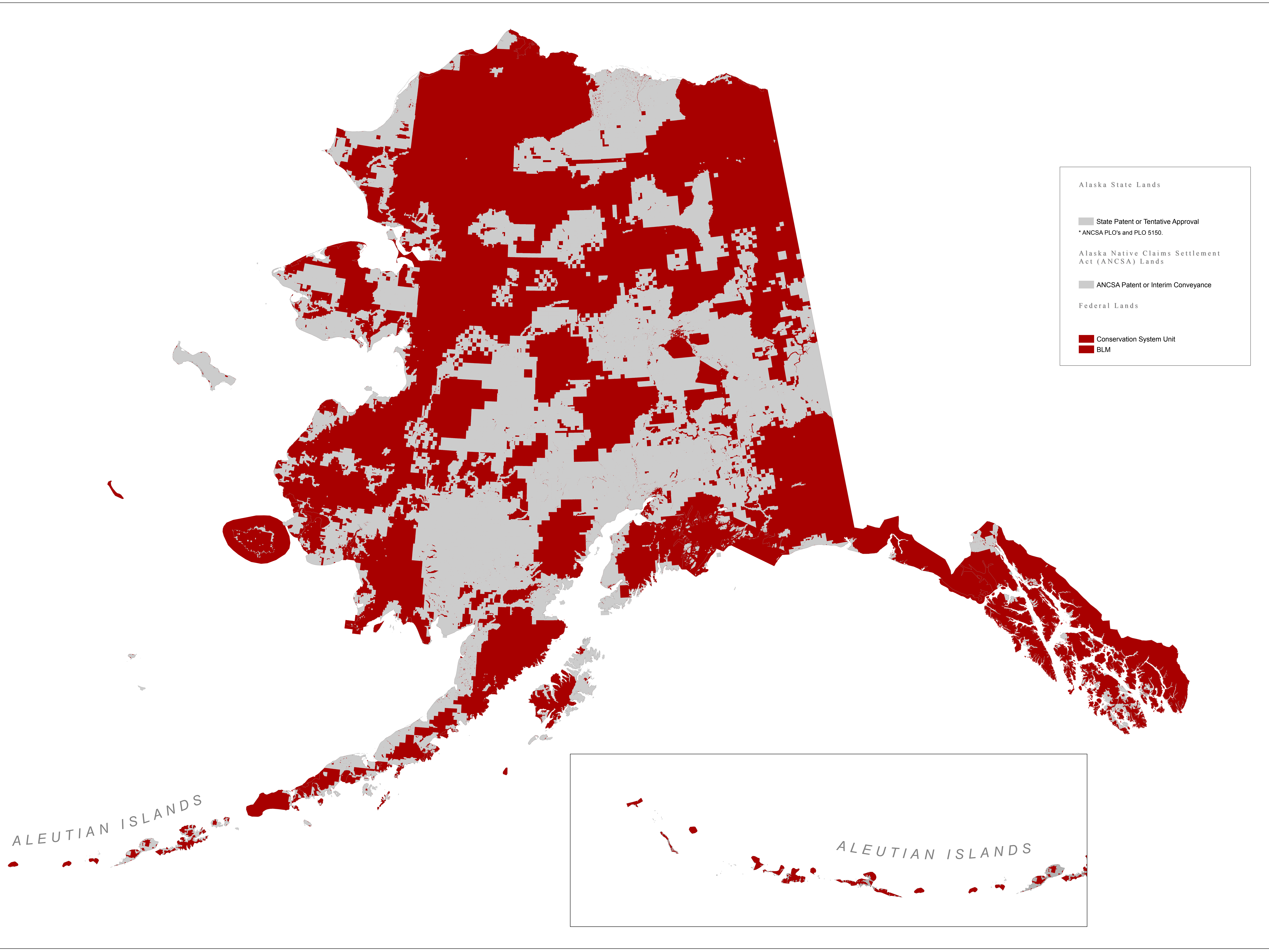
V. Summary

ANILCA promised a balance between conservation in the national interest and Alaska's economic and social needs, including consideration of access to federal onshore land for responsible oil development. Alaska is diligently working to develop its resources as directed by the Alaska Statehood Compact and in the interests of Alaskans and the nation. Failure to fulfill the promise of ANILCA is limiting the State's ability to fulfill its potential.

The federal government manages approximately 28 percent of the total land area of the nation, or more than 635 million acres. In Alaska, approximately 60 percent of the total land area of the state, over 224 million acres of land, is owned by the federal government and managed by four federal land management agencies: the National Park Service, U.S. Fish and Wildlife Service, Bureau of Land Management, and the U.S. Forest Service.

The U.S. Fish and Wildlife Service manages approximately 76 million acres of land in Alaska, which comprises 86 percent of all lands managed by the agency nationwide. The National Park Service manages approximately 52 million acres of land in Alaska, or 66 percent of all lands managed by the agency nationwide. Hence, broad nationwide land management policies disproportionately impact Alaska.

It is therefore essential that the balancing provisions in ANILCA be recognized and considered in federal plans, policies, and regulations, including consideration of the conditions and uses that are unique to Alaska. Educational opportunities and meaningful consultation are also essential elements in ensuring the successful implementation of ANILCA.



Alaska State Lands

- State Patent or Tentative Approval
*ANCSA PLO's and PLO 5150.

Alaska Native Claims Settlement Act (ANCSA) Lands

- ANCSA Patent or Interim Conveyance

Federal Lands

- Conservation System Unit
- BLM

ALEUTIAN ISLANDS



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