

The Chugach Story



Cover: Captain Cook's ships trading with the Chugach Natives for furs in Snug Corner Cove, Prince William Sound, 1778.

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by

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INTRODUCTION

This paper summarizes the history of the Chugach people, the Chugach region, and the efforts of Chugach Natives, Inc., (Chugach) to obtain the 373,000 acres of land to which it is entitled under the Alaska Native Claims Settlement Act as partial payment for the abrogation of the Chugach people's aboriginal rights.

This paper explains the frustration, expense and delay Chugach has suffered to date, and why ten years after the Settlement Act Chugach has not received one single acre of its land entitlement. The issues, of course, are complex, but the general concepts and problems are easily identified and are discussed in the following sections.

THE CHUGACH REGION

The Chugach Region extends on the west from the southern tip of the Kenai Peninsula eastward to the 141st meridian near the Malaspina Glacier between Icy Bay and Yakutat. The regional boundary rarely extends more than fifty miles inland. It follows roughly a line which approximates the crest of the Kenai and Chugach Mountain ranges. Prince William Sound lies at the heart of the region. The communities of Seward, Valdez, Cordova and Whittier lie within its borders, as do the villages of Port Graham, English Bay and Tatitlek. The Region consists of some 10 million acres.

A large portion of the Chugach Region is overlain by active glaciers and icefields with three of the major icefields of North America located there. The Harding, Sargent and Bagley icefields each spawn numerous glaciers, many of which still reach to the sea. Much of the remaining non-coastal land in the Chugach Region is precipitous and inaccessible, only recently having been exposed by the retreating glaciers. Only the narrow coastal fringe contains some level and moderately graded lands. The Prince William Sound area, of course, has numerous islands both large and small. As a result of the topography all the communities in the Chugach Region are situated directly on the coastline. Moreover, the larger communities of Seward, Valdez, Cordova and Whittier are located at the beginning of transportation routes to the interior of Alaska. This ensures them a portion of the coastal trade and commerce. Only Cordova, which was the terminus of the Copper River and Northwestern Railway when it was in operation, is not now at the end of a developed transportation link to the interior, although the construction of the Copper River Highway remains a strong possibility in the future.

The lands and waters of the Chugach Region abound in resources. In the past, coal, oil and gas, hardrock minerals and timber were all harvested or mined from the Region. Today, the region provides significant fishing and recreation opportunities and the opportunity to develop other natural resources compatibly with the presently used resources.

THE CHUGACH PEOPLE

The Chugach Region is the melting pot of Native Alaska. All three of the primary Alaska Native cultures — Eskimo, Indian and Aleut — have inhabited the region. The Aleut people migrated eastward from the Aleutian chain and Kodiak Island, and their culture has had a strong influence on the Chugach people. The Athabaskan people from Interior Alaska, and particularly the upper Copper River region, migrated down the Copper River to the North Gulf coast for trading purposes. And the Yupik Eskimo have had a strong influence on the Chugach dialect, known as Alutiiq.

Archeological diggings show that the Chugach people have survived and prospered for thousands of years. The oldest legends of the Chugach people date back to the time when the Sound was still largely covered by glaciers from the last ice age, and suitable locations for villages and campsites were few and far between.

Due in part to the harsh climate and the warlike nature of the Chugach people, the population was never as large as the Native population in other parts of Alaska. Fighting among themselves was not uncommon, nor was warring with the Tlingit people to the southeast and the Tanaina to the west in Cook Inlet. After the Russians came, the Chugach people were often enslaved and human life was worth very little. The introduction of white man's diseases (particularly smallpox), for which there were no cures, also contributed to the relatively small Native population of the region.

Traditionally, the Chugach people made use of virtually the entire coastal portion of this Region. Even today thousands of traditional Alutiiq place names along the coast survive.

In comparison to the coastal lands, the Chugach people made little use of the hinterlands of the region. The people's basic orientation was toward the sea for sustenance. Plants and game, however, were used to supplement their diet, and also to provide much of their clothing and tools. The mountainous terrain prevented efficient overland transportation. Perhaps because of this, the Chugach people perfected baidarkis and umiats as a means of over-water travel.

A BRIEF HISTORY OF THE REGION

As noted, the Chugach people have occupied the Region for many thousands of years. During most of this time, they lived a traditional, communal life as hunters, gatherers and warriors. In the late 18th century, the Russians occupied portions of the region and enslaved and subjugated the Chugach people for their purpose of

hunting sea otters. Following the sale of Alaska to the United States, the region saw some resource development activities with oil and gas production at Katalla, copper mining at Ellamar and Latouche and the establishment of small towns for settlers at Cordova, Seward and Valdez.

In 1907 the Chugach National Forest was created administratively by President Theodore Roosevelt during the era of great expansion of national forests throughout the United States. Creation of the Chugach National Forest effectively barred the Chugach people from acquiring Native allotments under the 1906 Allotment Act. It also precipitated the Forest Service's policy of burning old Native cabins to prevent "squatting." Furthermore, it made imminently clear to the Chugach people that they were no longer in control of the lands which were once theirs.

In the early 1960's, the State of Alaska made substantial land selections in the Chugach Region outside of the Chugach National Forest. These selections totaled over one million acres of the remaining coastline in the region and included most of the valuable timber land.

THE ACCIDENT OF ANCSA

On December 18, 1971, the Alaska Native Claims Settlement Act (ANCSA) became law. The Act created twelve Alaska Native regional corporations and over 200 individual village corporations. It also provided for the payment of money and the transfer of lands to Alaska Natives in compensation for the extinguishment of their aboriginal claims to the rest of Alaska.

Five village corporations eventually were recognized in the Chugach Region: Chenega, English Bay, Eyak, Port Graham and Tatitlek. Chenega and Eyak were only certified after overcoming challenges to their eligibility by the Forest Service and conservation organizations. Each village is entitled to receive between 69,120 acres and 150,000 acres based on their relative populations. In addition, the regional corporation, Chugach Natives, Inc., is entitled to receive 373,000 acres of land under the "land lost" formula in the Act, as well as smaller amounts under different provisions of the Act for specified purposes (for example, cemetery and historical sites.)

Pursuant to the Settlement Act, the Secretary of the Interior withdrew lands around each village certified under the Act. Each village corporation was then permitted to select lands first from these withdrawals. Thereafter, each regional corporation was authorized to make its selections on a whole township basis in every other township around the villages.

This system of land selection worked reasonably well for those regions which were large and reasonably unaffected by federal reservations and state selections. Unfortunately, in regions where there were significant federal withdrawals and state selections, this system did not work well. English Bay and Port Graham were located on state selected and tentatively-approved lands, and Chenega, Eyak and Tatitlek were located within the Chugach National Forest reserve. Under the Settlement Act, these villages were permitted to make their land selections from within these reserved areas on a somewhat restricted basis (i.e. 69,120 acres maximum), but The Chugach regional corporation was prohibited entirely from selecting its lands within these reserves.

The Settlement Act was supposed to provide a remedy for such eventualities. In such cases, the Act directed the Secretary of the Interior to withdraw three times a corporation's entitlement from the "nearest unreserved, vacant and unappropriated public lands." Furthermore, in making these so-called "deficiency" withdrawals, the Secretary was directed by the Act to "withdraw public lands of a character similar to those on which the village is located in order of their proximity to the center of the Native village."

In carrying out this mandate in the Chugach Region, Interior Secretary Morton was confronted with an impossible situation. Virtually all of the lands which were of a similar character to those on which the five Chugach villages were located were also either owned by the State of Alaska or situated in the Chugach National Forest. Congress had not vested the Secretary with the authority to withdraw these lands for the regional Corporation's selection consideration, nor had it authorized him to enter into other regions to search for qualified lands. Therefore, the best the Secretary could do within the limits of his existing authority was to withdraw the closest available unreserved public lands for Chugach's selection. This he did during 1972 and 1973.

The result was inevitable. Some 50% of the lands withdrawn for Chugach were glaciers and icefields. The vast majority of the remainder was extremely precipitous and utterly inaccessible. Only 10% of the lands withdrawn were useable under any stretch of the imagination. Nevertheless, within the time permitted, Chugach made the best land selections which it could from the lands withdrawn for its selection consideration. The acquisition of more appropriate lands would have required an act of Congress, and the new corporation lacked the resources and wherewithal to pursue such legislation.

While Chugach attempted to better its bleak situation administratively, two of the larger regional corporations facing similar inequities did pursue congressional redress. On January 2, 1976, the Cook Inlet Land Exchange and a provision for the Sealaska Corporation were enacted into law as amendments to the Settlement Act.

The Cook Inlet Land Exchange was the consummation of three-way negotiations among Cook Inlet Region, Inc. (CIRI), and the state and federal governments. Because the Cook Inlet Region included the state's major population center, most of the land had been either selected by the State of Alaska or withdrawn as federal reserves prior to enactment of the Settlement Act. Consequently, CIRI was unable to fulfill its acreage entitlement. Through the vehicle of the Cook Inlet Land Exchange the State relinquished certain of its lands for CIRI to select, and in return received additional selection rights from the federal government elsewhere. Although a source of contention at the time, the Cook Inlet Land Exchange has proven highly beneficial to all parties.

The Sealaska Corporation's situation was also similar to Chugach's. At least 90% of the land base of Southeast Alaska, where the corporation is located, is in one of two reserved areas of federal land — the Tongass National Forest or Glacier Bay National Monument. Therefore, Sealaska, like Chugach, was unable to select its land entitlement in a checkerboard pattern around its village corporation selections. The 1976 amendments to the Settlement Act recognized this problem and granted Sealaska Corporation the right to make its Section 14(h) (8) land selections of some 280,000 acres from within the former village withdrawals, with several additional restrictions attached, in spite of the ardent opposition of the Forest Service. This action has resulted in a great boon to the logging sector of the economy in southeast Alaska.

Chugach's situation is a combination of both the CIRI and Sealaska cases and a solution to Chugach's problem should make use of the best aspects of both of these earlier amendments, while also being tailored to the Chugach Region and its people, both Native and non-Native.

CHUGACH LAND STUDY GROUP

In 1978, Chugach, adopting the course followed by CIRI and Sealaska, sought a legislative solution to its situation. This effort resulted in Section 1430 of the Alaska National Interest Lands Conservation Act (ANILCA), which requires the Secretaries of Interior and Agriculture, the Alaska Land Use Council, Chugach, and the State of Alaska if it chose to participate, to conduct a one year study to identify lands which can be made available to Chugach.

The purposes of the study are to consolidate land ownership patterns, improve boundaries of, and identify new conservation systems, and to "obtain a fair and just land settlement for the Chugach people; and realization of the intent, purpose and promise of the Alaska Native Claims Settlement Act by the Chugach Natives Incorporated."

Lands identified are to be "to the maximum extent possible, lands of like kind and character to those traditionally used and occupied by the Chugach people and shall be to the maximum extent possible coastally accessible and economically viable."

The study group established a study procedure, schedule and a system for public involvement. A technical group, composed of representatives of the study group participants, was established to evaluate proposals, write reports and carry out other technical functions of the study group.

A system for evaluation of identified land was established. That system called for evaluation on the basis of the congressional criteria and upon other considerations which the study participants felt important.

The public has been involved through hearings, attendance and participation at each meeting of the Chugach Land Study Group (CLSG), presentation of proposals to the CLSG and direct correspondence with the study group.

The study is to be completed and the President is required to report to the Congress within one year of the date of enactment of ANILCA. He is also required to transmit with his report any legislation necessary to implement the study recommendation.

THE CHUGACH REGION STUDY: A STATUS REPORT

With the Department of the Interior, the Forest Service and the State of Alaska, Chugach approached the Chugach Region Study with great hope and optimism. Chugach believed that with the congressional mandate in place all parties would participate in the study in good faith, and through negotiation and compromise a settlement would be worked out.

Following preliminary studies, Chugach proposed five distinct option packages to the CLSG in June, 1981. Each option contained a mixture of land values including traditional and historic use, homeland, subsistence, recreation, wilderness, and economic values. The proportion of the lands with any specific type of value varied to in-region federal lands, was high in traditional use, homeland, and recreational use values while low in economic values. Option A, on the other hand, was heavily oriented toward out-of-state lands of high economic value and low homeland, subsistence, or traditional use values. Generally, options which contained fewer homeland and traditional values compensated by including more distant or out-of-region lands of higher economic value.

In mid-August, the two federal departments responded with a joint federal alternative. This proposal contained between 207,811 to 237,811 acres of lands in the Chugach region, far short of the corporation's entitlement of some 373,000 acres. The federal proposal also contained the oil and gas rights to some 800,000 acres of federal lands managed by the Bureau of Land Management. Unfortunately, most of this land was located under the Bering Glacier. Moreover, this offer contained between 70,000 and 100,000 acres of state land at Yakataga, for which the federal government accepted the responsibility of compensating the State with other federal lands. The federal proposal contained only 50,502 acres of land within the Chugach Forest notwithstanding the direction in ANILCA to consider the Forest as a major source of lands for settlement with the Chugach people.

Chugach responded by accepting this offer insofar as it went, with the exception of the 800,000 acres of oil and gas rights. Chugach rejected this portion of the offer because it had almost no value. Technology does not yet

permit drilling under active glaciers. In this regard, Chugach's view was substantiated by a letter from ARCO which concluded: "We believe that the area has low potential for the discovery of commercially valuable hydrocarbons."

On September 1, Chugach responded with a "sixth" alternative which built upon the federal proposal. Thereafter, Chugach sought to resolve, in open meetings of the study group, the issue of federal lands needed to compensate the State for its Cape Yakataga lands. The federal departments requested this not be done and assured Chugach they would work to solve this issue.

After several weeks of negotiations, the federal departments finally responded with two more alternatives on September 23. Contrary to earlier assurances, neither of these alternatives contained the State lands at Yakataga. Rather, the federal departments stated they were not willing to give to the State any of the various parcels of land the State required in order for an exchange to take place. An analysis of the proposals shows they are a substantial retreat from the federal departments earlier proposal. One federal proposal replaces the state lands at Cape Yakataga with Chugach Forest lands at Patton Bay and Macleod Harbor, while the other proposal includes the Patton Bay lands in addition to some 117,000 acres at Good News Bay in southwestern Alaska. The Good News Bay lands are worthless. A letter from Calista Corporation, in whose region the lands are located, states that Calista hired geologists and others to evaluate these lands and goes on to state: "... we have concluded that there are no resources of any economic value to CNI and for CNI to select any of this land would be to no avail and will not benefit the Native Corporations, including CNI." Notwithstanding the retreat by the federal departments, the Forest Service has maintained that this offer is the best that can be made.

At this point, the parties to the Chugach study are very far apart and it is unlikely a reasonable solution can be found unless all of the study group members act in good faith. Throughout this study, the State of Alaska has acted properly and sincerely. It faces difficult and conflicting choices and it has approached this problem with an even hand. The Department of Interior has shown a willingness to look hard for a solution and to be creative in its approach. Only occasionally has this department fallen into the bureaucratic mindset one normally finds in a federal agency. Chugach has been creative and flexible. It has been firm where that has been necessary, but it has also been realistic and openminded. Chugach has pledged itself to finding a solution whatever the obstacles. By comparison, the Forest Service has professed sincerity and commitment, but has practiced bureaucratic doublespeak. It has been unwilling to consider any solutions which involve more than an insignificant amount of Forest Service land. For instance, no federal proposal offered to Chugach to date has consisted of more than 19% of national forest lands.

Sadly, at this point, one decade after the passage of the Alaska Native Claims Settlement Act and almost one year after the beginning of the Chugach study, the Chugach Natives are still thwarted by the same elements and institutions which have prevented a realization of the promise of the Alaska Native Claims Settlement Act in the past. Neither the glaciers nor the Forest Service have moved toward a solution.

