



Deacon Deaphon and Jim Sykes at Deacon's Landing, Alaska. Summer 1981. Elizabeth Andrews, photographer. Alice J. Lynch Collection, Accession # 98-18-3, Archives, Alaska and Polar Regions Collections, Rasmuson Library, University of Alaska Fairbanks.

## ESSAY

# OBSERVATIONS ON RESEARCHING AND MANAGING ALASKA NATIVE ORAL HISTORY: A CASE STUDY.

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**Abstract:** Cultural, legal, practical, and/or ethical considerations challenge the management of virtually every oral history collection—regardless of geographical, topical, or ethnic affiliations. The oral histories of Alaska Natives are no exception, and as public interest in such materials increases so will associated access and use requests. Every individual and organization that performs oral history research (or manages the resulting records) should be educated about this subject, yet it has received little attention in the anthropological literature on Alaska. This essay examines the problem in the specific context of oral history records compiled during research based on historical place and cemetery site applications filed pursuant to Section 14(h)(1) of the Alaska Native Claims Settlement Act.

**Keywords:** Land Claims, Federal Collections, Public Domain Issues

### INTRODUCTION

Alaska differs from all other states in our nation in several ways but particularly with respect to its Native peoples, who are broadly separated into three groups: Eskimos, Aleuts, and Indians. The Federal government has further sub-divided Alaska Natives into 229 separate “tribes.” Most people are unaware that many Alaska Natives followed a seasonal subsistence round as recently as 1940. This means that individual families often did not have a “permanent” residence and only combined with other families into groups during a small portion of the year. Throughout most of the year, families moved independently between seasonal camps according to available subsistence resources—procured through hunting, fishing, gathering, and trapping. In this “subsistence” lifestyle, they lived not in modern framed houses but in semi-subterranean sod dwellings, cabins, tents, or other temporary shelters. Travel from point to point was not by planes, trains, or automobiles but by foot, dog team, or non-motorized boats. Partly because Native groups were so recently (and widely) dispersed across the remote and immense Alaskan landscape, in some areas Western educational and religious systems did not arrive until after 1920. Perhaps more telling yet, televisions did not appear in many Native villages until after 1980.

In Alaska, as elsewhere, the impact of non-Native influences on the transfer of information and knowledge has been severe for indigenous peoples who for centuries passed on knowledge by word of mouth. In contrast to Western civilization, the ability to share knowledge and information via written words is a recent introduction to Alaska Native cultures. In our Western literate society we could cease writing altogether, right now, and still be able to access major elements of our history and culture through previous literary works. However, Native cultures in transition from exclusively oral traditions to literacy risk losing that historical thread, because *their* books and archives live in their elders’ heads. When *every* elder has potential for significant contributions of historical facts and cultural practices, *any* elder’s death could constitute an irretrievable loss of cultural, historical and idiosyncratic knowledge. This is one obvious reason why such knowledge should be documented and preserved.

These comments provide necessary context to the unusual problems the Bureau of Indian Affairs (BIA) must address relative to the oral history collection this essay concerns. In the pages that follow, I describe how, why and by whom this collection was assembled, and evaluate key aspects of the associated research. I also

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<sup>1</sup>The information and views presented are the personal opinions of the author.

elucidate some of the most significant factors that have complicated the efficient management of this collection, and others that may threaten its future integrity and usability. It is hoped that this critical, cautionary treatise allows others to learn from mistakes made and problems encountered by the BIA during its extended oral history research effort among and concerning Alaska Native peoples.

## BACKGROUND<sup>2</sup>

The BIA administers a nationally unique research program in Alaska to satisfy its mandate under Section 14(h)(1) of the 1971 Alaska Native Claims Settlement Act (or “ANCSA” [Public Law 92-203; 43 USC 1601 et seq.]). In addition to a cash settlement, the ANCSA legislation granted Alaska Natives fee simple title to 40 million acres of land and extinguished aboriginal title to any additional lands (Arnold 1978:146). One small part of this legislation, Section 14(h)(1), allowed Alaska Natives to receive a portion of their acreage entitlements in the form of historical places and cemetery sites. Whereas “cemetery sites” is a self-explanatory term, “historical places” include a wide range of cultural sites, such as abandoned Native villages and camps, rock art sites, and sites with legendary significance.

Eleven of the thirteen Alaska Native regional corporations created by ANCSA elected to take land entitlements provided under Section 14(h)(1).<sup>3</sup> The implementing regulations (i.e., 43 Code of Federal Regulations [CFR] 2653) made the BIA responsible for conducting 14(h)(1) site investigations, leading the agency to create its Anchorage-based “ANCSA Office” in 1978. Reports generated by these investigations are used by the BIA to determine if the selected sites are eligible for conveyance to the Native corporations as historical places or cemetery sites.

From its inception through April 1983, responsibility for implementing the 14(h)(1) program was shared between two organizations: the BIA ANCSA Office and a now defunct division of the National Park Service (NPS)—the Anthropology and Historic Preservation branch of the Cooperative Park Studies Unit (AHP-CPSU [popularly known by the shorter acronym CPSU])—then based at the University of Alaska Fairbanks (UAF).

During this period, BIA ANCSA developed the annual 14(h)(1) fieldwork plans, provided housing and meals, ran the field camps, and controlled the logistics of site investigations. The on-site responsibilities of BIA ANCSA personnel were essentially limited to the surveying of site boundaries. In contrast, CPSU personnel served as technical consultants to the BIA. Its researchers (most of whom were anthropologists, archeologists, or historians) verified the physical existence of sites, mapped and recorded all surface cultural remains, compiled data addressing site significance, and submitted individual site reports to the BIA for its use in determining site eligibility under the criteria of ANCSA Section 14(h)(1).<sup>4</sup> CPSU researchers also had primary responsibility for conducting oral history research, but their reliance on BIA for any necessary logistical support while in the field (among other reasons) often resulted in interviews being performed by joint CPSU-BIA teams. In any case, the division of research responsibilities just described is more clear-cut on paper than it was in reality. Which organization or individual had what authority—in the field—was a common subject of dispute. Thus, the role any given person actually filled tended to be less dependent on employment affiliation than on crew dynamics, individual experience or personality characteristics, and/or field “leadership” factors.

By 1980, the NPS was considering transferring the role then being filled by CPSU to another Federal entity (i.e., the U.S. Department of the Interior [DOI] “Heritage Conservation and Recreation Service”). Precisely why this action was being entertained is somewhat mysterious; but there is evidence that some NPS managers questioned the value of CPSU to the agency, and it had also become obvious to NPS that implementation of the ANCSA 14(h)(1) program was a very complicated undertaking. Another factor that must have been involved is that—unlike the BIA ANCSA Office—the original purpose for creation of the Anthropology and Historic Preservation branch of the (UAF) CPSU was not to perform ANCSA Sec. 14(h)(1) work (see Libbey 1984; Williss 1985 [Chapter 5]). In any event, the NPS ultimately disbanded AHP-CPSU and transferred its 14(h)(1) program responsibilities to the BIA in April 1983. This ongoing program has been administered solely by the BIA since that date.

<sup>2</sup>Some information in this section is drawn from Pratt (1992), or Pratt and Slaughter (1989).

<sup>3</sup>Arctic Slope Regional Corporation voluntarily opted out of this process. In contrast, the “Thirteenth Corporation” (comprised of Alaska Natives living outside the state) was not eligible to make ANCSA 14(h)(1) selections.

<sup>4</sup>Disagreements about what constituted an eligible ANCSA 14(h)(1) site, and how much weight BIA should give to CPSU recommendations on that subject, were frequent. One reason for such disagreements was that BIA felt CPSU operated from an academic perspective that every 14(h)(1) site that was positively located should be certified eligible by the BIA; as such, CPSU researchers’ recommendations about site significance often were not taken seriously. On the other hand, CPSU considered BIA staff incompetent to perform the type of research and evaluations necessary to satisfy its mandate under ANCSA Sec. 14(h)(1).

As discussed below, deficiencies in the regulations that drive the ANCSA 14(h)(1) program have complicated its implementation. But most of the problems the BIA has encountered during its management of the program are linked to a far more subtle factor: that is, the anomalous nature of this program as compared to all others administered by the BIA, in Alaska and nationwide. The ANCSA 14(h)(1) program is the only one in the entire BIA universe whose beneficiaries are not Native tribes or individuals. Instead, its beneficiaries are Native regional corporations...an entity so unique that it seldom registers a blip on the BIA radar screen. The regional corporations are further obscured from visibility by virtue of the fact that their *shareholders* also happen to be the principal constituents of the BIA: i.e., individual Alaska Natives and/or members of Native tribes. As if the vague identities of the 14(h)(1) program's primary beneficiaries were not enough, the collection of records generated by its implementation is unlike any other held and managed by the BIA (again, both in Alaska and nationwide). Thus, in the long history of BIA operations across the United States no obvious precedents existed that could have guided the administration of this program. Consequently, the whole enterprise has been a huge and difficult learning process, and many missteps have occurred along the way. Readers should bear this point in mind when considering the observations presented in this essay regarding problems with field research and records management work on the ANCSA 14(h)(1) program.

### THE ANCSA 14(h)(1) COLLECTION

More than 2200 14(h)(1) site investigations have been completed to date, an effort that has produced an extensive archeological data collection. In addition, the 14(h)(1) collection includes an estimated 40,000-50,000 photographs, and a large variety of associated records. However, arguably the most valuable (and problematic) data are found in the 14(h)(1) oral history collection. It contains nearly 2000 taped interviews with over 1000 different individuals, 99% of whom were Native elders.<sup>5</sup> If these tapes were completely transcribed, the vast body of Alaska Native knowledge they contain would fill an estimated 50,000 pages. Additional oral history information is contained in notes on about 600 interviews that were not recorded, and annotated on topographical field maps that were used during many interview sessions.

The primary purpose of these interviews was to collect site-specific information, such as the Native site name, how and when the site was used, and by whom? But they yielded information on a wide range of related subjects including religious and ceremonial life, health and disease, culture change, folklore, technology, subsistence resources and activities, site types, land use patterns, kinship, social organization, language, values, and ethnogeography. Many of these subjects are poorly represented in the literature, if they are represented at all (Pratt and Slaughter 1989). Unfortunately, the collection is difficult to use because it lacks a comprehensive index and many of the oral history tapes have not yet been fully translated, transcribed or indexed.

Since most of the elders interviewed are no longer living these recordings often represent the only "permanent" records of their knowledge and life experiences. Thus, they provide the only means by which past elders can instruct future generations about their Native heritage (e.g., see Drozda 1995:117-119). It is important to note that many elders who shared their knowledge with ANCSA researchers described "traditional" Native life and customs not only through the stories of their ancestors, but also through first-person experiences. For example, elders gave detailed accounts of traditional ceremonies in which they had participated that now have been obsolete for half a century or more. Additionally, because many interviews were conducted in the Native language of the participating elder, these recordings can also be used to fight the continuing loss of Native American languages and dialects.<sup>6</sup>

The 14(h)(1) collection (particularly the oral history component) is rich in data about customary and traditional land use, occupancy, and subsistence practices. These data are fundamental to establishing and/or validating Native claims concerning subsistence harvesting sites and activities; and, used properly, they could facilitate sincere efforts to expand Native involvement in the management of natural and subsistence resources (cf. Nadasdy 1999). Less obviously—and consistent with increased interest in biodiversity and climate change—such data can also be profitably used to map historical trends in the population dynamics of marine mammals, caribou, and numerous species of birds and fish in support of national and international research on the health of arctic ecosystems (e.g., see ARCUS 1997:49-50;

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<sup>5</sup>A minimum of 200 additional taped interviews related to ANCSA 14(h)(1) claims were produced between ca. 1974-1993 by Alaska Native regional corporations, and are not part of the BIA ANCSA collection. To date, efforts to obtain more detailed information about these recordings have been largely unsuccessful. It appears that the subject corporations have retained most (if not all) of the original tapes; but—despite offers of assistance toward this end—the majority evidently have not been copied, inventoried, or processed to any significant degree.

<sup>6</sup>The recent work by Amos and Amos (2003) is an excellent case in point, in that the authors extracted much of the older vocabulary—and many of the place names—presented in the dictionary from ANCSA oral history tapes.

CAFF 2001:100; 2004). In the process of searching through the collection to extract information of this nature, serious and objective researchers could not help but learn much about Alaska Native relationships to the environment and associated spirituality. Significantly, within the United States, first-person "traditional ecological knowledge" of the sort documented in ANCSA oral history records is comparatively rare outside of Alaska; but it is not unique within the larger circumpolar region (e.g., see Crate 2002; Nagy 1994).

Clearly, this collection has enormous potential for contributions to Native cultural heritage programs across the State of Alaska. It also contains a wealth of information about the history and establishment of various religious missions, schools, riverboat operations, trading enterprises, the reindeer herding industry, and other by-products of Euro-American contact with Alaska Natives. Thus, the collection is not only a record of Alaska Native cultural history but of the history of Alaska and the United States as a whole. Unless and until it is fully inventoried and indexed, however, the data it contains will remain largely unusable to all but the most diligent researchers; and even they will not be able to navigate through the collection without direct assistance from ANCSA program staff.

### **ORAL HISTORY RESEARCH IN THE CONTEXT OF FIELD LOGISTICS**

As suggested by Drozda (1995:110-115), the unique nature of the ANCSA 14(h)(1) program has contributed significantly to the difficulties encountered in its implementation. For instance, the high cost of conducting work in remote areas of Alaska had major impacts on the quality of oral history research performed by any given ANCSA field crew. To clarify this point, the following discussion intersperses details about one field project supervised by the author with information of more general relevance to ANCSA fieldwork as a whole.

In the summer of 1985 I directed a field crew conducting 14(h)(1) site investigations in the lower Yukon River region of southwest Alaska. Based at the village of St. Marys, this crew was in the field for a continuous period of 105 days. However, when Sundays (on which work was not authorized) and "weather days" (when high winds, fog, etc., precluded work away from camp) are eliminated, the crew actually had about 80 days in which to complete its assigned 85 site surveys. The actual locations of the targeted sites were not positively known and often could only be confirmed with the aid of Native elders; and the sites were scattered over an area of about

7,900 square miles (i.e., an area roughly the size of New Jersey). The lack of any road system in the region meant that time-efficient access to every one of these sites required a contract helicopter.

The project area contained 12 Native villages, and oral history research needed to be conducted in each of them. A total of 100 oral history tapes were produced by this crew, 27 of which were recorded "on-site" (i.e., at abandoned villages, camps or cemeteries). Production of these 100 tapes involved the participation of 69 different elders, 25 interpreters, and 11 interviewers. Records indicate Native elders and interpreters were paid for a combined total of 529 hours of work, amounting to about 5 hours per day of Native participation in the fieldwork. One might think that having 94 individual Natives participate in this effort was a positive thing, suggestive of broad involvement and a healthy diversity of viewpoints. But, in fact, the large number of participants hints at a lack of efficiency in the oral history process. That is, the number of elders involved versus the number of tapes produced indicates most elders were interviewed just once, precluding the opportunity for real rapport to be established between the elders and interviewers. Similarly, the large number of interpreters used assured uneven quality in the translations obtained.

In most years, oral history research on this program was hindered by the fact that employees were not dispatched to Native villages prior to the field season to identify the most knowledgeable elders for specific sites and project areas. Because the field season (i.e., May through September) is also the busiest season for subsistence activities, this meant ANCSA researchers often arrived in villages to conduct oral history work only to find many Native elders, as well as potential interpreters, away at fish camps or otherwise unavailable. Sometimes elders were found who only had limited time to talk, leading to rushed discussions among distracted participants who were literally "watching the clock." Additionally, the large number of site investigations planned for each field operation restricted the amount of time crews could devote to oral history work. The high cost of logistics was a further constraint.

Some of the major expenses involved in conducting field projects in the Alaskan bush may not be apparent to most readers: that is, costs additional to supplying and maintaining field equipment and covering wages, room and board, and airfare to and from the field for each employee. I will again use the 1985 lower Yukon River project as an example, focusing solely on the project's helicopter contract. The contract terms obligated the BIA

to pay all of the following costs: (1) a daily “availability rate” for each day the helicopter was mechanically able to fly, during normal work hours [and including Sundays]; (2) a fixed rate per flight hour [of which over 400 were flown on this contract]; (3) all required fuel; and (4) lodging and subsistence costs for the helicopter pilot and a part-time mechanic. Existing records indicate this particular helicopter contract cost the BIA about \$175,000.00. Bear in mind that this expense applied to a single ANCSA 14(h)(1) field project, and to only one component of that operation. Throughout the 1980s four ANCSA field projects were normally undertaken annually: each spanned three to four months and was staffed with a crew of 7-10 people, and most required contract helicopters. Since many of the related expenses were additional to normal BIA personnel and operating costs, it is no surprise that project managers tended to “pinch pennies” when they could; and costs tied to oral history work were not immune. Consequently, it was not at all uncommon for ANCSA researchers to be restricted from scheduling on-site interviews, and/or for the oral history research component of some projects to be severely curtailed.

Constraints on oral history work sometimes reached absurd levels due to conflicting opinions about its importance relative to other field tasks, and/or serious misconceptions about the amount of time required to adequately perform that work. For example, in July 1981 a BIA camp manager unexpectedly granted the author and three other CPSU researchers *one day* to gather oral history information about *twenty-one sites* that had been located and surveyed by that point in the field season. Although aware that the stated objective could not possibly be achieved, we jumped at the chance to engage in oral history work and did what we could. Another point must be made about this event. In the context of that specific field project, the “gift” of an entire workday for the sole purpose of conducting oral history research was not so much a nod to its importance in documenting site histories as it was a conciliatory gesture to CPSU staff on the part of the BIA camp manager. That is, to that stage of the project the CPSU crew had been allowed almost no opportunity for input into field planning and related logistical decisions. The camp manager’s decision that day marked an important watershed: i.e., more than one month into the field season, he had finally recognized that CPSU staff participation in key operational matters was vital to the success of the field project.

The experience just described was not necessarily typical of the BIA-CPSU era. Some of those two-party field crews worked fairly smoothly and cooperatively from start to finish, whereas others were characterized by discord throughout their given field projects. For successful work relationships to develop, BIA and CPSU field personnel had to be committed (first and foremost) to the success of the projects they worked on. But also, and nearly as important, employees of each group had to overcome negative indoctrination they received about the other. Thus, in 1980 the author and all other newly-hired “BIA Field Investigators” were warned by BIA management that CPSU staff (sometimes derisively referred to as “academics”) would try to assert control over most aspects of the fieldwork, including oral history research. We were firmly advised that BIA was the lead agency on the 14(h)(1) program and, accordingly, were instructed to resist any CPSU efforts to direct or restrict our involvement in the work. Hired as a “Research Associate” by CPSU the following year (1981), I soon realized that CPSU generally considered its BIA counterparts to be paranoid incompetents, whose participation in the 14(h)(1) work made an already difficult job nearly intolerable. There were elements of truth on both sides of this indoctrination; fortunately, however, most BIA and CPSU field personnel succeeded in rising above the polarizing distrust and resentment that seemed to exist between their respective home offices. As a result, although tension and issues of “turf” among crews were never far from the surface, the day-to-day operations of most field projects tended to run fairly smoothly.

#### **ISSUES IN THE MANAGEMENT OF ANCSA 14(h)(1) ORAL HISTORY RECORDS**

The question of who properly controls access to and use of the ANCSA 14(h)(1) data—especially that derived from oral history research—has a contentious history, one result being that these data have been relatively inaccessible to researchers and the general public. This situation developed through a combination of factors.

For many years the BIA relied almost exclusively on ANCSA regulations to craft 14(h)(1) program policies and, unfortunately, those regulations do not address data management (see 43 CFR 2653). The ANCSA legislation, by itself, does not require 14(h)(1) data to be used beyond report preparation. It also does not require completed site reports to be published or widely disseminated,<sup>7</sup>

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<sup>7</sup>Copies of all final reports are maintained by the BIA ANCSA Office and the Alaska State Office of the Bureau of Land Management (BLM) in Anchorage. Also, one report copy is submitted to the applicant regional Native corporation, and one is sent to the Alaska office of the Federal agency having jurisdiction over the lands on which the site is located. Besides the BLM and NPS, Alaska-based agencies that receive 14(h)(1) reports include the Fish and Wildlife Service (Anchorage) and the Forest Service (Juneau). The Alaska State Historic Preservation Officer (SHPO [Anchorage]) receives abbreviated, computerized site records. Otherwise, these reports typically are not distributed further (Pratt 1992:75).

nor does it stipulate actions to provide for long-term data preservation. Not until late 1990 did the BIA acknowledge the need to apply Federal laws concerning the management of archeological and ethnographic collections to the 14(h)(1) program. Other factors were involved, but the agency's failure to address such laws and regulations earlier was due mainly to its (and other DOI parties') original, narrow perception of the program as simply one part of a massive land transfer process—a "conveyance action" presumed to be disconnected from historic preservation, or cultural heritage/resources management. By logical extension, this led the BIA to place control of the program in the hands of "Realty Specialists" (as opposed to individuals trained in the social sciences); this situation prevailed from 1978 to 1996.<sup>8</sup>

Additionally, the BIA has major trust responsibilities to its Native clients. More specifically, the agency is responsible for managing "Indian trust assets": i.e., particular lands, natural resources, monies or other assets held in trust at a particular time by the Federal government for Native American tribes or individuals. These responsibilities apparently do not extend to Alaska Native regional corporations, the direct beneficiaries of ANCSA Sec. 14(h)(1), because ANCSA 14(h)(1) records do not involve "trust" lands or other "trust assets." Nevertheless, it is likely that 'trust' considerations factored into the development of a BIA policy whereby the release of 14(h)(1) data to a requesting party was forbidden without the written consent of the applicant Native corporations—most of which consistently denied data access and use requests. Until January 1989, BIA ANCSA management also stubbornly used this policy to withhold 14(h)(1) site data from the Alaska SHPO. Although Native regional corporations endorsed it, the fact that this stance was contrary to Federal and State historic preservation/cultural resources management laws helped fuel an increasingly negative opinion of the BIA (and the ANCSA 14(h)(1) program) in the Alaskan anthropological community. Despite repeated objections from both within and outside the agency, this highly restrictive approach for handling data access and use matters was in effect at the BIA from about 1978 to 1990. Its most significant legacy is that it fostered a belief among most regional corporations that they own and control all of the data generated by the 14(h)(1) program. The BIA finally obtained a legal opinion on this matter from the

DOI Solicitor's Office in September 1990; it concluded 14(h)(1) data should be treated no differently from data collected by other Federal agencies working on public lands with public funds. On paper, this opinion significantly increased rights to access and use of the data, but it also produced a rash of objections from the Native regional corporations (see Pratt 1992:76-77).<sup>9</sup>

The question of ownership and control of these data (particularly oral history data) is further clouded by the fact that other Native entities besides the regional corporations have voiced opinions on the issue...mostly based on nascent perspectives on the concepts of cultural or intellectual property rights.<sup>10</sup> Many of the participants in this debate are unfamiliar with, or unwilling to acknowledge, the principal parts of its foundation: i.e., the specific purpose and requirements of ANCSA Sec. 14(h)(1); the process by which these data were collected; and the framework of Federal laws within which these data must be managed. Not surprisingly, these various Native parties do not necessarily agree with one another on how requests for access to and use of this information should be handled (even assuming the related decisions could be entirely under Native control). Villagers may disagree with positions taken by their regional corporations, or tribal officials; and some regions are beset by political strife between the regional corporation, local tribes, and other Native organizations. Even individual members of the same family sometimes disagree on this issue. Factionalism of this sort is a practical reality—one that the passage of ANCSA surely exacerbated (e.g., see Dauenhauer and Dauenhauer 1994:98-103)—and it can create impediments to public use and dissemination of information about Alaska Native history and traditions. At the most basic (philosophical) level, it also begs the question of which Native entity is the right one to consult with on any given issue. But, more cynically, if knowledge truly is power then so is the control of knowledge; and some parties are clearly less concerned about the preservation and future usability of this collection than they are about controlling the knowledge it contains. This is especially ironic given that most of the parties that have exhibited such attitudes are ignorant of the collection's content.

In any event, a number of difficult issues must be resolved before the BIA can develop a comprehensive

<sup>8</sup>Historically, BIA decisions about how the program should be organized, conducted and managed rested largely on its interpretations of the language contained in the implementing regulations (i.e., 43 CFR 2653), much of which is vague and open to debate. This problem was compounded by the absence of references in those regulations to other relevant Federal laws—most notably the National Historic Preservation Act of 1966 (16 USC 470 et seq.), on which the ANCSA 14(h)(1) site eligibility criteria are based.

<sup>9</sup>It should be explicitly stated that site location information is, and consistently has been, kept confidential.

<sup>10</sup>The subject of cultural and intellectual property rights is beyond the scope of this essay. See Brown (1998) for a thorough review of these concepts and their associated effects on the treatment of indigenous knowledge in the public domain.

policy for access to and use of the 14(h)(1) oral history materials. For instance, until all of the interview tapes have been topically indexed there is no reasonable way to determine how many of them contain information of a “sensitive” nature that must be restricted, for either legal or ethical reasons. It could be a major mistake if the BIA simply made these tapes available to anyone who requested access, because we really do not know their contents. Even when the content of a given tape is known, however, the process of deciding whether any of the information it contains is ‘sensitive’ is typically—and unavoidably—highly subjective. The end result is that requests for access to and use of these materials must be evaluated and decided by the BIA on a case-by-case basis.

Efficient processing (e.g., including transcriptions, translations, indexes) of the collection is further complicated by the fact that its creation involved more than 150 separate interviewers, the vast majority of whom (whether affiliated with BIA or CPSU) were sent to the field with no prior experience in oral history research—and without written guidelines (e.g., see Tobias 2000) or explicit methodologies on which their work could be anchored.<sup>11</sup> Some interviewers received virtually no training or instruction on how to do ethnographic research; others (including the author [in 1980]) were subjected to a short “training course” by an Alaska State Trooper in what can most accurately be characterized as “interrogation techniques;” and still others were evidently deemed qualified for this work simply by virtue of holding academic degrees. Insufficient training or experience in oral history research was manifested by poorly organized interviews, the common use of low-grade tapes or audio equipment, and inattention to technical details (e.g., recording levels) during interview sessions. Thus, although many excellent recordings were ultimately produced, a lack of consistency in the conduct and quality of these interviews is pervasive (cf. Drozda 1995:110-117).

Some ANCSA researchers undertook oral history research with trepidation...cognizant of their lack of expertise with the process, their lack of rapport with local villagers, and the consequent potential for failure. But others approached this enterprise carelessly, as if inter-

viewing Native elders was a fun and simple task...as opposed to “work.” (After all, how hard is it to pop a tape into a recorder, turn it on, then sit back and listen to an elder talk about the good old days?) The corollary to this latter mindset was that anyone could do oral history research; consequently, virtually everyone participated in this activity—and with predictably mixed results. Thus, many interviews are disorganized, confusing, and sorely lacking in basic contextual information.<sup>12</sup>

Yet another problem associated with early ANCSA recordings is that some CPSU researchers—at the direction of CPSU management—made canned statements at the start of interviews asserting that information provided by the interviewees would not be published, and their names would be kept private.<sup>13</sup> Presumably, a “policy” of this sort would have been committed to writing; but no such document has been located to date, so the actual genesis and purpose of these statements is not clear. According to some former CPSU employees, however, they may have been meant to protect elders from potential legal proceedings arising from particularly controversial ANCSA 14(h)(1) claims. Even if that is true, the existence of such statements on ANCSA oral history tapes is troubling on several levels.

First, efforts to “protect” elders’ identities are contrary to Alaska Native cultural traditions concerning the transmission of knowledge. Native elders typically talked only about what they knew from personal experience, and they took great pride in ensuring the accuracy of their accounts. In this sense, failing to identify by name the elders who provided specific oral history accounts may be interpreted as acts of disrespect: i.e., equated with ignoring or devaluing the elders’ recognized status and authority as tradition bearers and local cultural historians. (On an operational level, this practice also reinforced BIA management’s basic distrust of CPSU. That is, the failure of CPSU researchers to explicitly identify the sources of oral history accounts they used to argue the merits of 14(h)(1) sites sometimes caused BIA to question the veracity of that information.)

Second, elders’ concerns about passing on and preserving their knowledge have been magnified by the pro-

<sup>11</sup>Interestingly, an 18-page long, procedural manuscript drafted in 1978 or 1979 by the first Director of the BIA ANCSA Office (Naughton n.d.) included 8 pages of thoughtful guidance on conducting oral history interviews; but it apparently was never incorporated into a formal training manual. It should also be noted that, up to about 1985, many ANCSA researchers entered the field with little or no knowledge of the Native cultures and histories of the regions in which they would be working (cf. Drozda 1995). In 1987 the BIA produced an ANCSA 14(h)(1) field manual that addressed many of these shortcomings.

<sup>12</sup>In fairness, however, it should be noted that even experienced, well-prepared and respectful interviewers could not guarantee good results. Put another way, “all the experience and training in the world cannot prevent a bad interview” (Drozda 1995:113).

<sup>13</sup>Not all CPSU researchers recorded such statements; some were never told to do so and others simply ignored their supervisors’ instructions. Similarly, some CPSU managers may not have been concerned about matters of this sort. In any case, because it was specifically tied to CPSU, this particular problem is temporally restricted to ANCSA 14(h)(1) oral history recordings produced prior to 1983.



## RELEASE AND CONSENT

cess of culture change, which has greatly affected information exchange within Alaska Native communities and groups. The standard venue for such exchange was traditional teaching and storytelling, which was the elders' domain. Natives who grew up in times characterized by close contact between elders and younger generations know how important such contact is to retaining their cultures, languages and beliefs. Many elders who lamented that young people were growing increasingly ignorant of their Native heritage shared their cultural and historical knowledge with ANCSA researchers in the ardent hope that doing so would preserve their teachings for younger, and future, generations.<sup>14</sup> To treat the information these elders (openly, willingly, and purposefully) provided as "confidential" would essentially lock it up, thereby preventing their wishes from being realized.

Third, CPSU researchers almost certainly had no legal authority to impose blanket restrictions on the information collected during oral history interviews; and it is equally doubtful that CPSU ever sought legal advice on the matter. Procedural inconsistencies within CPSU, both in field and office settings, testify to the evident lack of critical attention given to this subject. For instance, a number of the organization's "Occasional Paper" publications (see Libbey 1984) drew heavily on ANCSA 14(h)(1) oral history information (e.g., Andrews 1977; Koutsky 1981; Lynch 1982; Sackett 1979). Ironically, these publications were being produced coincident with CPSU field researchers asserting, on tape, that oral history information provided by Native interviewees would not be published in any form.

In fact, since it was gathered as part of a publicly-funded project (mandated by Federal law) and produced by Federal employees<sup>15</sup> within the scope of their employment the information is in the public domain; and, evidently, none of it can be restricted except in ways explicitly specified in relevant Federal laws (e.g., Archaeological Resources Protection Act [16 USC 470aa-mm], Privacy Act [5 USC 522a], Freedom of Information Act [5 USC 552]). It should also be noted that works produced by the Federal government cannot be copyrighted.

The preceding remarks logically lead to the topics of release forms and informed consent, neither of which can be discussed in isolation from cross-cultural communication problems encountered between ANCSA researchers and many Native elders (see Drozda 1995). Language barriers posed serious problems to effective communication. Many ANCSA 14(h)(1) oral history interviews were conducted in two languages, English and an Alaska Native language. Since the overwhelming majority of ANCSA researchers spoke only English, or did not speak the given Alaska Native language, interpreters were required for most interviews—and even the best of them were unable to accurately convey certain words and concepts between the two languages (cf. Morrow and Hensel 1992; Pratt 1993). Further, as a result of generational change in Native languages, interpreters often could not understand (much less translate) some words and phrases used by their elders (cf. Dauenhauer and Dauenhauer 1987:8). This was especially true when the interpreter and the elder were separated in age by several decades and/or came from different villages: and neither scenario was uncommon. Other factors also complicated this process.

For example, in 1982 I was part of an ANCSA field crew conducting site investigations in the lower Yukon and Kuskokwim river regions of southwest Alaska. In the Yukon River village of Pilot Station I was unable to find anyone to interpret for me in oral history interviews. One man, perhaps 30 years old, declined the job claiming that—at that time—his generation had little interaction with their elders (a fact I later learned, from elders, was a source of tension in the village). His unwillingness to act as my interpreter seemed to be based on shame for his lack of relations with the very elders I hoped to meet; of course, political issues or cultural mores (e.g., see Drozda 1995:113-114 [#2]) unknown to me might also have been at play. I ultimately hired a 64-year old man from the nearby village of Marshall for this job. An elder in his own right, this man had essentially grown up with Pilot Station elders and shared similar life experiences; thus, he spoke their language in more ways than one. As luck would have it, I could not have asked for a more capable interpreter.

<sup>14</sup>The BIA has tried to increase the possibility that this goal will be achieved by: (a) in 1995, funding a \$115,000.00 contract to produce multiple copies of every tape in the collection; (b) providing copies of all ANCSA 14(h)(1) oral history tapes, region-by-region, to the relevant Native regional corporations; and (c) placing a duplicate set of the entire tape collection in the UAF Archives.

<sup>15</sup>AHP-CPSU employees were considered UAF staff; however, the entirety of the AHP-CPSU operation was paid for with public funds under a Federal contract...the principal purpose of which was to satisfy the NPS' responsibilities per Sec. 14(h)(1) of ANCSA. The work of AHP-CPSU was, therefore, a Federal "work for hire" and the information generated thereby is in the public domain. Clear support for this position is found in the General Provisions (Data [c (*Rights in data*)] of the NPS-UAF contract (No.CX-9000-9-0060 [April 1979]), which states that data produced under the contract become the property of the Government.

Conversely, there were also occasions when interpreters were readily available, and badly needed, but their participation was considered unnecessary by the interviewees. That is, in interview settings certain elders (regardless of their fluency with the language) insisted on speaking English.<sup>16</sup> Interviewers faced with this problem had little choice but to defer to the elders' wishes, although doing so greatly impeded some interviews. Due to language deficiencies, elders determined to speak English sometimes could not understand the questions being asked and/or were unable to construct clear and appropriate answers. Conversely, ANCSA researchers did not always recognize how important the language factor was to making elders comfortable in interview settings and to producing worthwhile end products; thus, many interviews began in confusion and never got on track. The resulting recordings can be extremely convoluted and difficult to interpret; in fact, some require translations from "village English" to standard English.

In my experience, even elders who possessed a good command of English invariably expressed themselves more eloquently and precisely in their native tongues. A knowledgeable elder who was able to converse in his/her native tongue without undue interruptions, an experienced interpreter who understood what types of information ANCSA researchers needed, and a trusting relationship between all participants provided the best foundation for rich and coherent interviews (cf. Drozda 1995:114-115). This ideal was hard to achieve, however, given the time constraints imposed by the large volume of work individual ANCSA field crews were expected to complete.

Release forms were typically presented to interviewees as permissions to use their words in reports and, secondarily, to preserve and safeguard the words of elders by providing copies of the resulting tapes or transcripts to designated entities or repositories (e.g., local schools, UAF Archives) (Drozda n.d.). Thus, although signed release forms are on file for most interviewees, they are very general in nature and may be more accurately characterized as "partial" releases. But assessing whether or not a proper release was obtained from an interviewee must take into account several other important points—one of which is whether the conditions and agreements specified in the release form are legally enforceable. Additionally, ANCSA researchers did not interview or tape record any person without his or her permission. Each person was given the option of saying "no" to the request for an interview, as well as to the

request that the interview be recorded; and some people *did* decline to participate in this process. Because participation was strictly voluntary, the simple act of agreeing to be interviewed—and to have the event tape recorded—*may* constitute a release. The same goes for accepting payment for services rendered to the government, and interviewees were customarily paid for their services. Thus, "releases" for ANCSA 14(h)(1) oral history information may derive from one or more of several distinct but closely connected factors: signed release forms, cash payments, and voluntary contributions of information by individuals who openly consented to having their words tape recorded.

And what are the practical and legal parameters of "informed consent"? Regardless of how hard I tried to explain things, I know that some elders who signed, or made their marks on, release forms in my presence did not understand their purpose. (This is also true for some interpreters who helped "explain" the release forms, and even personally signed them as witnesses.) In fact, in their eagerness to participate in the oral history documentation process some elders with whom I worked essentially "tuned out" during discussions of the release forms: they just wanted to get started! Another consideration (brought to the author's attention by Drozda [n.d.]) is that the insistence on securing permission, in written English, to use or repeat the words of individuals who were illiterate, or did not speak the language, was almost certainly culturally inappropriate. At the very least, release forms' origin in Western academic or legal rituals rendered them foreign to Alaska Native elders. Given such problems, one could argue that elders' signatures on interview release forms are of dubious value. My point is that informed consent may sometimes be an unattainable and/or unrealistic concept (particularly in cross-cultural settings)—even if it is pursued with integrity, the best of intentions, and sincere respect for the interviewees (cf. Brown 1998:199-201).

Finally, although 'informed consent' is a laudable objective (and one that researchers should always strive to attain), the concept embeds the risky assumption that the involved parties recognize and mutually understand the full range of potential uses to which the oral history in question may apply...both at the time of the interview and in the future.<sup>17</sup> This is especially problematic with regard to information gathered to resolve Native land claims filed pursuant to ANCSA Sec. 14(h)(1), because every final decision rendered on such claims is subject to

<sup>16</sup>This was usually manifested as a matter of courtesy (e.g., "We should speak English because I know you can't understand me when I speak Cup'ig").

<sup>17</sup>For example, in 1980 who could reasonably have envisioned creation of the Internet/World Wide Web and the many attendant problems with regard to information use and dissemination (cf. Brown 1998)?

legal appeal. This alone suggests that the BIA could not arbitrarily restrict access to related oral history materials. In fact, legal actions tied to the 1989 Exxon Valdez Oil Spill required the BIA to share its oral history and archeological files with Exxon attorneys, despite strenuous objections from the relevant Native regional corporation.

## PRESERVATION CONCERNS

For the time being, the ANCSA 14(h)(1) collection is secure and intact, and work devoted to improving its organization, accessibility and usability is ongoing. But, though its status is not likely to change in the immediate future, there is legitimate cause for concern about the ultimate disposition and preservation of this valuable collection. Just how grave this concern should be depends largely on whether the BIA labels the collection as museum property, official records, or fiduciary trust records. The specific management responsibilities vary between these three record types, as does the availability of the subject records for access and use. The fact that a decision about what to call the 14(h)(1) collection is even necessary at this late date is a testament to its unique composition. That is, this collection differs from all other BIA record sets to such an extent that it does not have a clear place in the agency's present records management scheme.

One point all interested parties would certainly agree on is that records in the ANCSA 14(h)(1) collection have sufficient historical or other value to warrant continued preservation by the Federal government beyond the time they are needed for administrative, legal, fiscal or other official purposes. In other words, they must be managed as "permanent" not "temporary" (i.e., disposable) Federal records. There would probably also be unanimous consent among these parties that the collection, in its entirety, should be preserved and housed in Alaska—its place of origin and home of the people to whom the information it contains is most relevant. However, this objective evidently cannot be achieved unless the 14(h)(1) records are officially designated a "museum property collection" (as defined by the DOI in Departmental Manual Part 411, Chapters 1-3 [411 DM 1-3]). This action would give the BIA the necessary (and currently non-existent) legal authority to negotiate an agreement whereby the 14(h)(1) collection could be archived at a suitable Alaska repository.

The ANCSA Office completed the necessary documentation to have the collection designated 'museum property' and—with the Alaska Regional Director's concurrence—submitted it for approval to the BIA Central Office (in Washington, D.C.) in November 1998. Six years have now passed without a formal response from the Central Office to the ANCSA museum property documents. The lack of response is particularly frustrating given that—since submission of the documentation—two different teams of museum property experts have traveled to Anchorage from Washington, D.C. specifically to perform on-site assessments of the collection, and both unanimously concluded that it clearly satisfied the definition of museum property.<sup>18</sup>

So, why has the BIA failed to take positive action on this matter? There is no clear answer to this question, but several factors are apparent. The first is that oversight of the Bureau's museum property program (from its inception in September 1991 through February 2004) was assigned to the BIA Division of Property Management. This is significant because the things staff of that division have traditionally been responsible for managing include buildings (and other real property), furnishings, office equipment, and the like—not cultural and historical records/items, which require a very different management mindset. Another factor is that once an agency officially acknowledges that it has a museum property collection it is also accepting responsibility for organizing, housing, and preserving that collection for access and use over the long term. The involved property managers at the BIA Central Office have been averse to committing the agency to such obligations; in the present case, this has been manifested in arbitrary refusals to entertain any argument that the ANCSA 14(h)(1) collection is museum property. A final "property" issue that has periodically surfaced, in a negative way, relative to this collection is the fact that it consumes a comparatively large amount of floor-space...the annual cost of which is not inexpensive. Thus, some BIA managers seem to think of the 14(h)(1) collection as just a bunch of file cabinets eating up space that should really be accommodating workers.

The present situation can be further clarified by noting that BIA document collections are normally categorized as "official records." When no longer needed to conduct current business, records in this category are delivered to National Archives and Records Administration (NARA) facilities (i.e., Federal Records Centers)

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<sup>18</sup>The first assessment was performed in July 2000 by a four-person team: i.e., the BIA Curator of Museum Property; the DOI Museum Property Program Manager; the Chief, DOI Museum Services; and the Assistant Chief, DOI Museum Services. The second assessment occurred in March 2002 and was done by a two-person team: i.e., the Chief Curator and NAGPRA Coordinator, BIA Museum Property Program; and the Staff Curator, BIA Museum Property Program.

for organization, housing, and preservation. Records that go to a Federal Records Center are not immediately available for research; in fact, that situation only changes when (and if) title to the records is officially transferred to NARA. Significantly, NARA does not accept museum property collections. Since a NARA facility is present in Anchorage, however, it might seem that an easy way to eliminate existing preservation concerns related to the 14(h)(1) collection would be to designate it as “official records”—and abandon the museum property tack altogether. But doing so might threaten the collection’s integrity in at least two ways: (a) NARA generally does not accept archeological materials (i.e., artifacts); and (b) previous contacts with the Alaska Branch of NARA indicate the 14(h)(1) oral history tapes could potentially be shipped out of Alaska, for archiving at a NARA facility in Maryland.

Assuming BIA facilities satisfied NARA archival standards, it might be possible for the agency to label the 14(h)(1) collection official records and then negotiate an agreement with NARA whereby BIA facilities were designated an affiliate archive. This would allow the collection (in its entirety) to be permanently retained for ongoing business of the BIA; however, there is not presently any BIA building that could qualify as an affiliate archive.

A reasonable argument can probably be made for managing the 14(h)(1) collection as either museum property or as official records. In either case, the basic management requirements are the same: organize, house, and preserve the collections for access and use (Wilson n.d.). The best (and only reasonable) way for the government to facilitate future access and use of these records is to make certain that the individuals most knowledgeable about the ANCSA 14(h)(1) program are provided the requisite time and support to develop “finding guides” that cross-reference and link the collection’s multiple components *prior to archiving*. Valuable information (both physical and contextual) will ultimately be lost if this basic objective is not met.

In contrast to those tied to museum property and official records, the management requirements attached to “fiduciary trust records” differ in important respects, the most notable being that these records are not accessible for public use or research. The materials that make up the ANCSA 14(h)(1) collection do not appear to meet the existing definition of ‘trust records’: i.e., Federal records that include information that influences, affects, governs or controls Indian trust assets. But some expansion of this definition may occur as an indirect response

to ongoing litigation involving BIA mismanagement (outside Alaska) of Indian trust records and assets. This litigation has understandably made the BIA extremely cautious about how it defines the records now under its control; thus, if there is any doubt as to whether a certain type of document, etc., is a trust record the BIA will err on the side of caution and treat it as such. For example, because the records it contains are so important for documenting the cultural history and heritage of Alaska Natives the ANCSA 14(h)(1) collection could conceivably be considered a ‘trust asset’—thereby setting the stage for a trust records designation. This would almost certainly torpedo efforts to keep these records in Alaska, because the intended repository for all BIA trust records is the “American Indian Records Repository” in Lenexa, Kansas (established in 2004).

## CLOSING REMARKS

The ANCSA 14(h)(1) oral history collection is relevant to a broad range of projects and issues of concern to Federal, State, and Native organizations, and the general public. But its accessibility, usability, and preservation are most critical to Alaska Natives, the majority of whom remain unaware of its existence. It is also noteworthy that complex and highly-charged political issues such as “subsistence” and “tribal sovereignty” have, over the years, created a “Native-vs-non-Native” dichotomy in the minds of many Alaska residents. Widespread ignorance of Alaska Native histories and cultures is arguably the root cause of this problem, just as education is its solution. And who better to educate the masses on these subjects than the hundreds of elders whose collective knowledge and experience is captured in the 14(h)(1) oral history collection (cf. Burch 1991:13-14)? These elders’ sincere desire to continue to teach even after death was a major reason why they collaborated with ANCSA researchers and agreed to be recorded on tape. Simply having the words recorded on tape, however, is not enough to preserve this knowledge.

The tapes are secure, but they remain severely under-processed; and the longer this situation persists the more difficult it will be to accomplish the associated tasks. Many people assume that lack of funding is the chief impediment to fully processing this collection, but the real problem is a lack of qualified people to perform the required work. For instance, no amount of available funding can generate a transcript of an interview conducted primarily in a Native language if a competent interpreter/translator cannot be found who is willing to do the work. Locating such people is more difficult than one might think and keeping them on task can be harder still, particularly

once it is clear just how tedious and demanding a job they have taken on.

For example, from 1986-1991 the BIA spent roughly \$250,000.00 under contract with the UAF Alaska Native Language Center (ANLC) to produce translations and transcriptions of selected tapes. Although ANLC employed Alaska Natives with professional training in the orthographies of the relevant languages and dialects, this contract work was highly problematic and most of the end products can only be characterized as “preliminary” or “works in progress.” The results have been even less positive when BIA has provided funds directly to Native tribes and organizations to process oral history tapes. The primary cause for the poor return on such contracts has been the difficulty of finding and retaining committed, qualified workers.

The BIA now realizes that detailed topical indexes of these tapes constitute the minimum level of processing required to effectively manage this part of the oral history collection; and indexes are a more realistic objective than full translations and transcriptions. But this processing goal also will not be easy to meet. Recent experiments indicate an experienced researcher requires an average of eight hours to topically index one 60-minute oral history tape of good audio quality. This statement must be qualified. An “experienced researcher” means someone knowledgeable of the region, local geography, and cultural group(s) represented on the tape, and who is also familiar with the ANCSA 14(h)(1) program. An interview tape “of good audio quality” means one that was recorded at the proper speed with good equipment, does not contain excessive background interference (e.g., blaring CB radios, crying infants, wind noise), and whose participants spoke clearly and above a whisper. These ideal conditions could hypothetically lead to production of a topical index of one interview tape for a cost of around \$200 (based on eight hours at a rate of \$25.00 each [which is probably an unreasonably low rate]). In this best case scenario—which ignores known language problems and also assumes the necessary workers are available—the entire 14(h)(1) oral history collection could conceivably be indexed for roughly \$400,000.00. But the real cost would certainly be at least two to three times as high...because the majority of tapes do not satisfy the ‘good audio quality’ criteria and there are a limited number of appropriately ‘experienced researchers’ capable of doing the indexing work.

Along with ensuring the tapes are completely indexed, the BIA must give careful attention to inventorying and indexing the hundreds of note files on non-taped inter-

views, and systematically working through the annotated field maps to identify and organize the oral history information they contain. The successful performance of these tasks will be similarly problematic, time-consuming, and expensive.

Given the scope and complexity of the associated challenges, the only way the ANCSA 14(h)(1) oral history collection can be adequately processed is through a sustained partnership involving the BIA, Alaska Natives, and other interested parties. The feasibility of such a collaborative effort would ultimately depend on the participants’ abilities to get beyond any suspicions they may initially have toward one another (e.g., see Nadasdy 1999:2-3) and keep their respective energy focused on the preservation needs of the 14(h)(1) oral history collection. If this level of shared commitment was achieved there is little doubt that the necessary funding to complete the work could be secured, and the enormous potential of this collection could finally be realized.

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