PART I

The following article is the first installment of a four-part series that will discuss the Alaska Native Claims Settlement Act (ANCSA), BSNC’s land base and how the corporation is managing this important asset. This first part outlines ANCSA and delves into the history of BSNC’s land selections (1968-1977). The second installment reviews BSNC’s early years and the difficulties faced by the corporation (1977-1995). The third article will outline BSNC’s recent history (1995-2013), as land conveyances become finalized and the corporation diversified its business ventures. The fourth article will discuss BSNC’s land holdings, the history of exploration and development on its lands, and the plans for future land management and economic development.

THE BERING STRAITS REGION PRE-ANCSA

By 1968, the year after the Alaska Federation of Natives (AFN) held its first meeting, the state was blanketed by a patchwork of villages and communities organized as Native Villages under the Indian Reorganization Act of 1937 (IRA), regional non-profit organizations, a few Native reserves (with lands set aside for reservations) and one reservation. Merging these varied forms of government and authority for the purposes of a statewide solution to indigenous claims would not prove easy.

Alaska Native groups throughout the state were organizing to press for a land claims settlement. For the Bering Strait area, three land reserves had been previously created under IRA: Wales in 1943 with 21,000 acres, Diomede in 1946 with 3,000 acres, and Unalakleet in 1941 with 870 acres. White Mountain and Shishmaref had proposed reserves but these were voted down by the residents. There were two other reserves within the region which had been established by Executive Order of the U.S. President: White Mountain in 1925 for 1,200 acres and Elim in 1925 for 316,000 acres. Approximately half of the region’s villages petitioned for reserves in 1950 but no further action was taken to consider the filings.
As a result of the formation of AFN and the pressing issue of land claims settlement, protest filings were submitted by regional groups in 1968. These claims, combined with the pre-existing reserves and IRA petitions for reserves, set the stage for what would eventually become ANCSA. The Seward Peninsula Native Association and the Arctic Native Brotherhood jointly filed protest F-166, which claimed lands beginning at Shishmaref and extended through the Seward Peninsula to the east bank of the Koyuk River.

The lead up to a final land settlement took three years of Congressional Committee and Sub-Committee hearings and numerous field hearings to gather opinions and expertise in the issues surrounding the Act. In the end, ANCSA was passed on Dec. 18, 1971. Through Public Land Orders and ANCSA, the U.S. Secretary of the Interior withdrew vast tracts of land from any form of appropriation in anticipation of selection by the regional and village corporations. Additionally, lands were set aside under Section 17(d) for inclusion within, or creation of new, Federal Land Management Units. These latter lands would become the basis for the Alaska National Interest Lands Conservation Act of 1980 (ANILCA).
Restrictions were imposed on specific lands, including Section 17(d)(2) lands – existing Federal Land Management Units (Parks, Preserves, Monuments, Refuges, and National Forests). The eventual passage of ANILCA established new federal management units and established a rural preference for hunting and fishing on federal lands through Title VIII. For the BSNC region, the primary lands that were not eligible were the now-Bering Land Bridge National Park and lands along the Unalakleet River that were selected for inclusion in the National Wild and Scenic Rivers System, a designation for certain protected wild areas. Some land south and west of St. Michael would become a portion of the Yukon Delta National Wildlife Refuge. Along with these exclusions, the Alaska Native Allotment Act of 1906 was slated to be closed upon the passage of ANCSA; however, any applications pending at the time of its passage would be eligible for settlement.

Each village corporation could select lands within “core townships” and the regional corporation would be conveyed the subsurface estate underlying the village’s surface estate. As stipulated in ANCSA, the regional corporation would receive the subsurface estate to the lands selected and conveyed to the village corporations and would also be given an opportunity to select surface and subsurface estate within or adjacent to the village corporation’s areas for conveyance through Section 14(h) of the Act.

Formed in 1972, BSNC and the region’s villages would have only until 1977 to file all land selections available through ANCSA.

The first BSNC Board of Directors was faced with the task of identifying lands that could then — or might someday — provide positive future economic benefits or sustain traditional livelihoods for the Company’s 6,300 enrolled shareholders.

Areas chosen were Salmon Lake, Glacial Lake, the area along the Kougarok road to the Pilgrim River, and the north and south shores of Imuruk Basin delta and Windy Cove.

While other regions in the state have timber or oil reserves, the Bering Strait region has minerals.

For BSNC, this meant selecting areas with tin and gold potential (Cassiterite Peak, Mount Distin, the
Kougarok area, and Christmas Mountain, possible oil and gas (Reindeer Cove), geothermal reserves (Lava Creek, and uranium and rare earth deposits (Mount Arathlatulik).

The 17 village corporations within the region would receive approximately 2 million acres of surface estate. Some village corporations chose whole watersheds to protect their subsistence/tradition areas (Mary’s Igloo, Koyuk, and others), some selected the shoreline for the sealing camps and access to ocean they depended upon (Shaktoolik, Golovin, St. Michael), and others combined their traditional land needs with lands that might have future potential for other uses (Sitnasuak, Council, Inalik).

Understanding split estate and 7(i)

Land that is divided and shared between an ownership of the surface estate and one of the subsurface ownership estate is what is known as a “split estate.” As applied under ANCSA, the subsurface estate is comprised of a set, or bundle, of rights that allow the owner the right to access, develop and benefit from the minerals, oil and gas, and geothermal resources located within the lands. Invariably, this sharing or splitting of the lands causes tension between the surface and subsurface owner.

In anticipation of the tension “split estate” would cause, the framers of ANCSA created a specific section that requires a major portion of all proceeds from subsurface resource development to be redistributed to all regional and village corporations. This is a means of insuring that the benefits from development accrue not only to the subsurface owner (regional corporations) but also to the surface owner (village corporations). Section 7(i) of ANCSA also applies to timber resources, and requires that 70 percent of all profit from resource development be distributed to all other regional corporations on a per capita basis. Each regional corporation, in turn, must distribute 50 percent of the 7(i) receivables to their village corporations. These annual, semi-annual, or quarterly payments to the village corporations are called 7(j) payments.

In effect, village corporations (surface estate owners) receive 35 percent of all profit generated from any mining, oil, or timber development on ANCSA lands. If a shareholder of the regional corporation is not a member of a village corporation (an “at-large” shareholder) that person receives a portion of the 7(j) funds based on the per capita formula. It is important to remember where this source of money comes from and that Section 7(i) was an equitable distribution derived from the irregular pattern of resource wealth in the state.
PART II

BSNC AND THE LAND

The following article is the second installment of a four-part series that discusses the Alaska Native Claims Settlement Act (ANCSA), BSNC’s land base and how the corporation is managing its lands and resources. The first part briefly outlined the history of ANCSA and delved into the history of BSNC’s land selections (from 1968-1977). This second installment will review the early years of BSNC and the difficulties faced by the corporation as the Board and shareholders came to terms with the corporate structure imposed by ANCSA and land ownership (1977-1995). The third article will outline BSNC’s recent history (1995-2013), as land conveyances became finalized and the corporation diversified its business ventures. As a concluding article, the fourth installment will discuss BSNC’s land holdings, the history of exploration and development on these lands, and the plans for future land management and economic development.

TODAY

BSNC’s total operating revenues totaled more than $242 million. We have come a long way from where we started, and even further from where we hit rock bottom in March of 1986, when BSNC filed for Chapter 11 bankruptcy protection.

ROCK BOTTOM

During the 1980s, some Alaska Native corporations faced huge losses in their original settlement fund. Why did so many Alaska Native Corporations face financial hardships? Immediately after the passage of ANCSA, Alaska's regional corporations were required to establish a corporate board, invest seed capital from the ANCSA settlement and begin an intense process of land selections and eventual land and resource management. The experience and skill sets of many of the new corporate leaders did not easily translate into a corporate setting. BSNC made errors, and in some cases was the recipient of unscrupulous or inadequate investment and business advice. Companies were purchased and investments made with the long-term goal of developing a business portfolio that would enhance the original ANCSA settlement. These often proved to be companies that looked promising, but had little value as long-range growth strategies. As the late Charlie Johnson once said, “We bought a tire company with no tires and a construction company with no equipment.”

The end result was failed investments. Because ANCSA had not been amended to protect ANCSA lands from creditors and the lands could be seized to compensate creditors, BSNC embarked on a valuation of its mineral estate. What ensued was a series of complex agreements designed to protect BSNC’s land base, repay the village corporations for the lost settlement funds, and bring BSNC back from bankruptcy.

The lands subject to the valuation varied greatly in terms of mineral values (whether lode or placer deposits), mineral type, and whether they contained other potential such as material sources or quarry locations. The value of the mineral estate underlying each community would depend on the mineral potential the lands contained. Stronger today: Where skill set and experience failed BSNC in its early years, strong cultural values helped BSNC recover. The value of honor shone through the hard times, and BSNC compensated the villages for the capital lost in the early years by deeding some of its subsurface estate to them, with an understanding that the lands could be purchased back once BSNC emerged from bankruptcy and had sufficient capital.

In the 1980’s, tax law allowed companies to sell their losses to large corporations that could count the losses against a portion of their tax liabilities. BSNC was able to utilize its NOLs (Net Operating Losses), and negotiated a payment that brought the company back into solvency. The NOL settlement allowed BSNC to purchase back a majority, but not all, of its subsurface estate.

Some villages retained a portion of subsurface estate, including Brevig Mission, Golovin, King Island, Koyuk, Mary’s Igloo, Shishmaref, Shaktoolik, St. Michael, Stebbins, Teller, Unalakleet, Wales and White Mountain. Some villages retained subsurface lands that held valuable minerals, while others retained the lands that lie under around their cultural village sites. In areas where gravel resources
existed, some villages retained those lands with an eye to future community needs and infrastructure projects. Mary's Igloo Native Corporation retained the subsurface estate surrounding Pilgrim Hot Springs, an area of known geothermal potential.

_Bankruptcy tested the core of the company... But BSNC emerged intact and stronger because company leadership relied on strong cultural values honed by their ancestors, who survived for thousands of years in Alaska’s harsh environment._

After the final payments to the village corporations in 1995, BSNC was a small and spare operation centered in Nome. Bankruptcy tested the core of the company... But BSNC emerged intact and stronger because company leadership relied on strong cultural values honed by their ancestors, who survived for thousands of years in Alaska’s harsh environment. Today, these same values continue to define our company, and as each year passes, these values shine stronger in reflection of the work BSNC provides. BSNC’s recovery from bankruptcy has been based on the foundation of teamwork and the expectation that the company will operate with integrity, honor and the ability to respond to change and challenges.

Today, BSNC enjoys a sterling reputation among the business sectors that it interacts with because of these same values.

**BRIGHT ARCTIC FUTURE**

The past several years have been very progressive for the company, as strategic financial changes have been implemented to fortify our path to long-term economic sustainability.

Today, our company culture is unstoppable in its determination to fulfill its mission. BSNC is growing its value by investing in the communities in which we work and live and by holding true to its commitment to providing meaningful benefits to its shareholders. We are looking forward to a Bright Arctic Future.
After emerging from bankruptcy in 1989, BSNC operations were based primarily in Nome. Because of the difficulties associated with the bankruptcy, the Board of Directors entered this new period with a cautious approach to business development and investment. During this period, other Alaska Native Corporations were becoming involved in the SBA 8(a) program, which provided specific incentives for federal contracting by small and disadvantaged businesses. BSNC avoided entering the 8(a) program early on, instead focusing on building solid ventures in Nome.

In the early 1990’s BSNC began a car rental service through Stampede Ventures. Construction of a new office building, purchase of the Old Federal Building and the construction of the Aurora Executive suites in the mid 1990’s enhanced BSNC’s real estate portfolio. In 1999, the Aurora Inn construction was finalized and it now serves as the center for hotel rooms and car rentals in Nome.

Other business ventures in Nome were established during the early and mid-1990’s, and Bering Straits Development Company (BSDC) has grown since that time and now provides electrical and construction services throughout western and northwest Alaska, as well as general construction. BSDC has had a number of projects in the region’s communities including housing, daycare and clinic construction as well as alternative energy projects throughout western Alaska.

Sound Quarry Inc. (SQI) and Cape Nome Products (CNP) have provided rock for the sea walls in Shishmaref, Unalakleet and Nome and the causeway/port of Nome. Throughout the late 1980’s and 1990’s the BSDC, SQI, CNP, Aurora Inn and Stampede Ventures successfully expanded and they continue today as solid regional businesses that have significant shareholder and descendant hire.

BSDC was Bering Straits Native Corporation’s first entry into 8(a) contracting, becoming certified in 1994. One of the first 8(a) projects was an environmental cleanup on Anvil Mountain in the mid 1990s.

In 2003, Inuit Services became BSNC’s initial 8(a) subsidiary. Since that time, BSNC has developed subsidiaries and partnerships to secure a strong position within the contracting sector. Based on the success of Inuit Services, BSNC has continued to add numerous successful small business and 8(a) contracting companies, including Bering Straits Information Technology, Global Support Services and Bering Straits Logistics Services. We continue to look at new opportunities to grow these subsidiaries to bring value to shareholders.

Land prioritizations continued as BSNC worked with the Bureau of Land Management to secure final patent for village lands and lands selected by BSNC under Section 14(h) of ANCSA. The corporation selected all of the lands surrounding Salmon Lake, but the State of Alaska also selected the property. Due to a regulatory requirement, BLM rejected BSNC’s selection. The Board decided that the area of Salmon Lake was indeed a priority and appealed the BLM ruling to the Interior Board of Land Appeals (IBLA). It was at this time that Senator Murkowski introduced legislation that would accelerate land conveyances for Native Corporations and the State of Alaska. In the legislation (P.L. 108-452, Dec. 10, 2004), a provision allowed negotiations with BLM to rectify competing claims. BSNC and the state entered into discussions in 2004 and reached an agreement with BLM on the disposition of the lands surrounding Salmon Lake on July 18, 2007 (Salmon Lake Area Land Ownership Consolidation Agreement). Congressional Legislation ratified the agreement and the president signed the Salmon Lake Land Selection Resolution Act (P.L. 112-133) on June 15, 2012.

BSNC continues to work with BLM and the region’s village corporations to finalize conveyance of all ANCSA lands. Towards this end, all but Unalakleet, Shaktoolik, Sitnasuak (Nome) and Inalik have received the final patents for their ANCSA lands. BSNC still has some outstanding 14(h) acreage to be conveyed, a number of historic and cemetery tracts (14(h)(1)) and the remaining 14(h)(8) selections (surface and subsurface for BSNC).

One of the last ANCSA land selections BSNC is actively pursuing is the property at Point Spencer (Port Clarence). Because of the potential for
increased marine traffic related to offshore oil and gas development and shipping through the Northern Sea Route and the Northwest Passage, it is critical that BSNC secures the property and position necessary for insuring that the benefits of these trends are realized by our coastal communities. Of equal importance is the need to prepare for the negative impacts that could come with economic development along our Arctic shores. Legislation has been introduced by Congressman Don Young (H.R. 4668) which will expedite the transfer of Point Spencer and will distribute the lands there to the State of Alaska, the Coast Guard and BSNC. The division of the land is necessary to insure that the needs of the Coast Guard are met and to provide BSNC the real estate necessary to begin, with partners in industry, the phased build-out of infrastructure for spill response and shipping support. Through the acquisition of lands at Point Spencer, BSNC will be able to use the experience and capabilities we have gained through our multi-faceted business ventures. Moving forward into the Arctic future we will continue to work towards increasing BSNC’s value while maximizing economic independence in our region and communities.

¹ The Agreement and Act also conveyed lands in the Agiapuk River delta and Windy Cove areas on Imuruk Basin to BSNC.

² Congressional action will be necessary because of the competing State and BSNC claims, and the need to expedite the transfer to meet the growing need for facilities along the Arctic coast.
The four installments of BSNC and the Land were organized to bring our shareholders and their descendants a sense of BSNC’s history as an Alaska Native Corporation. We looked at the state of the region just prior to and immediately following ANCSA in the first installment. The troubled years during and following bankruptcy were discussed, and our emergence from those years with a careful regional focus were reported in the second installment. In the third installment, we traced the growth of BSNC as we expanded our business line beyond the region and eventually into an international company. And in this last part, we have tried to convey a sense of the mining industry and where BSNC has been in terms of resource development and preservation and where we are headed as we move toward a bright Arctic future.

Forty years after ANCSA, the corporation continues to meet challenges and strive for success. We reach for excellence in all of our ventures, from exploration for minerals on BSNC lands, to real estate, to government contracting and, importantly, for the maintenance of the land base granted on which many of our people depend for their subsistence and spiritual well-being.

While the winds of business have not always blown fair for BSNC, the land base granted through the Alaska Native Claims Settlement Act to all corporations has provided a stabilizing effect. A key to the long-term economic health of the regional corporations was the timber and mineral rights granted through the Act. This final installment provides an overview of how BSNC resources are managed, the positive effects of the Section 7(i) requirements, and what the future may bring in terms of development and preservation of BSNC’s land base.

**THE MINING INDUSTRY: A GENERAL DESCRIPTION**

It is worthwhile to describe how the exploration and mining industry operates and BSNC's position within the overarching commodities market.

Most exploration efforts on BSNC lands have been guided by what is commonly called an Exploration and Option to Lease agreement. This type of agreement has two parts: 1) the exploration phase, and 2) the option to enter into a mining lease at any point during the exploration phase.

During the exploration phase, an exploration company will usually have from three to five years to explore the property, during which drilling and collecting core samples, stream and surface sampling, and minor trenching may occur. The terms of the agreement carefully define what property may be accessed and require responsible work practices.

Most of the exploration programs have used helicopters and tracked vehicles to access the lands of interest, resulting in very minimal impact to the surface. All crossings of anadromous fish streams must be done in compliance with state law and access across state lands and village corporation surface estate is preferably done on existing legal easement. Any work conducted during the exploration must also comply with laws governing environmental and safety compliance.
Benefits that are derived by BSNC from exploration programs are increased knowledge about the quantities and qualities of a specific resource, and annually increasing payments to BSNC for the right to explore corporate-owned property. Many prospects have been explored over the years by various companies, and with each project our knowledge of the resource improves. Fees paid to landowners for exploration rights depend on the type of commodity (gold, tin, etc.), the size of the company, the general health of the mining industry at that point in time, and the scale of the exploration program.

Most agreements are multi-phased: the exploration agreement may be transformed into a mining lease at any time during the exploration term. What this means, as far as the organization of the Exploration and Option agreement is concerned, is that the mining lease is included as an exhibit and referred within the language of the exercise of the option to lease (which is a section in the exploration agreement usually entitled, “Option to Lease”). The terms of the mining lease are directly tied to the type of ore body being mined, the mineral being mined, the current and projected price that the mineral will fetch on the market, the cost of developing the mine infrastructure, and the cost of production. Most mining leases have a 20-year term and some have a renewal clause for very long term projects. As an owner of the mineral being mined, the corporation will receive payment for the extraction of the commodity throughout the life of the mine. What form that payment takes may vary from agreement to agreement, but it is usually in the form of a Net Smelter Royalty (NSR), a Net Profit Interest (NPI) or a combination of both. Other benefits and payments can be negotiated for a mining lease, including local or shareholder hire requirements, contractual preferences, or an option for the landowner to “buy-in” to obtain an ownership portion of the project. The level of risk and ownership assumed by the landowner in any given project will also affect their returns.

Certain aspects of the mining industry are speculative, in large part because the commodities being mined do not have fixed prices and the market is susceptible to fluctuations caused by global influences. For instance, a few years ago, there was a great deal of attention on the markets and mining of Rare Earth Elements (REEs). China controls the vast majority of the exports for REEs and these minerals are increasingly important in high tech applications (cell phones, defense technology, alternative energy technologies). The stock price of many REE-focused exploration and mining companies went through the roof and companies were able to invest in more programs focused on REE exploration. However, the rush has been subsiding. Subsequently companies are not pursuing agreements for properties as they were a few years ago.

Much of the exploration and mining industry in North America is driven by what are referred to as “junior” companies. These companies incorporate and raise funds through the Toronto or Vancouver Stock exchanges. Due to the significant economic downturn in 2008 – 2009 and again in 2013, many junior companies found it difficult to raise the capital necessary for advancement of exploration on mineral prospects. Exploration in the north has slowed as a result, and it has been further affected by uncertainties in permitting and environmental review.

**Revenue Sharing Under ANCSA: Section 7(i) and 7(j)**

ANCSA anticipated that development of the land and resources conveyed to corporations would not happen overnight and that resources are not distributed equally across Alaska. The first article of this series (Part 1: ANCSA and the Bering Strait region, Autumn 2013), reported that ANCSA has a sharing provision that has proven an effective mechanism for redistributing profits from resource development to all regional and village corporations. This provision is commonly referred to as “Section 7(i).” The framers of ANCSA created a specific section that requires a major portion of all proceeds from subsurface resource development to be redistributed to all regional and village corporations. This is a means of insuring that the benefits from development accrue not only to the subsurface owner (regional corporations) but also to the surface owner (village corporations). Section 7(i) of ANCSA also applies to timber resources and requires that 70 percent of all profit from resource development be distributed to all other regional corporations on a per capita basis. Each regional corporation, in turn, must distribute 50 percent of the 7(i) receivables to their...
village corporations. These annual, semi-annual, or quarterly payments to the village corporations are called 7(j) payments.

In effect, village corporations (surface estate owners) receive 35 percent of all profit generated from any mining, oil, or timber development on ANCSA lands. If a shareholder of the regional corporation is not a member of a village corporation (an “at-large” shareholder), that person receives a portion of the 7(j) funds based on the per-capita formula. It is important to remember where this source of money comes from and that Section 7(i) was an equitable distribution derived from the irregular pattern of resource wealth in the state.

The village corporations and at-large shareholders witness fluctuations in the commodities markets through the varying payments they receive as a result of the 7(i)/7(j) distributions. In the case of BSNC, a check is issued annually to at-large shareholders for their portion of the 7(i) payment to BSNC (payments to village corporations are done quarterly). The amount of the check may vary significantly from year to year as a result of the price of zinc (NANA has the profitable Red Dog Mine), or oil (ASRC). Though the market price of zinc, oil, or timber is reflected in the 7(i) and 7(j) payments, so are the costs of expanding and maintaining the respective resource businesses. In years when the price for the commodity is high and production costs low, the 7(i) payments are high. Payments are low or non-existent when the commodity price or demand drops and/or production costs rise.

Variability in production, the price of commodities, the level of exploratory and mining activity, and the global economy directly impact 7(i) revenue and therefore the bottom line for Alaska Regional Native Corporations.

VARIABILITY IN RESOURCE REVENUES AND PERMANENCE OF THE ANCSA LAND BASE

While the extractive industry holds promise for economic development in Alaska, the volatility of the commodities market and the cost of doing business in the Arctic has effectively checked rapid development of mine projects. While BSNC has endeavored to have exploration programs on BSNC lands, we know that significant inroads must be made towards reducing the cost of power, improving the permitting process, and developing practices and technologies that help mitigate the negative impacts that come with mining.

Mineral exploration will continue as BSNC works toward improving other economic opportunities in the region such as the acquisition of Point Spencer. Protection of the land base for subsistence purposes is paramount, and we are advocating for expanding the opportunities for conservation easements on corporate-owned lands. BSNC sees all of these as important tools or means for ensuring that your ANCSA entitlement is protected and also used to enhance the quality of life for you and the future generations of BSNC shareholders and descendants.

¹ The Rock Creek Mining Lease was signed in 2006. Novagold constructed the mine but was unable to bring it into production. BSNC purchased the Alaska Gold Company (Novagold’s subsidiary) which included the Rock Creek Mine in November of 2012. BSNC has been evaluating the possibility of re-opening the mine, but current conditions, including the price of gold, indicate that mining there would not be profitable.

² As explained in an earlier installment, BSNC holds nearly two million acres of mineral estate in the region, most of which underlies the village corporations’ surface estate.

³ Village corporations develop Surface Use Agreements with the exploration companies for access across village lands.

⁴ The Toronto and Vancouver exchanges are the primary points for investment in mining in North America. Though many people think Alaska mining is run by Outside or Canadian companies, these companies employ many U.S. citizens in managerial and technical positions.