

## NOTE FROM THE EDITOR

The *Alaska Law Review* is pleased to present our December 2022 issue, the second in our thirty-ninth volume. As the world returns to precarious normalcy, I am proud of the work of our journal staff has done to create our fifth biennial Symposium issue.

This year's Symposium, entitled "Alaska and the Environment," addressed many of the complex issues facing Alaska as climate change, transportation, oil, hunting, fishing, and land use continue to define the state's identity. Alongside our co-sponsor, the University of Alaska Anchorage, our speakers and published authors discussed the many challenges facing Alaska. This was the first time the Symposium was held in-person in four years, but the lasting legacy of technological development during the Covid-19 pandemic allowed many others to attend virtually. This issue features an excerpt from the Keynote Address presented at the Symposium, two practitioner articles, two student notes, and a practitioner case comment.

The Keynote Address at the 2022 Symposium was delivered by Elizabeth Saagulik Hensley, the Vice President of External and Government Affairs for the NANA Regional Corporation, which is owned by more than 14,500 Iñupiat shareholders who live in or have roots in Northwest Alaska. Ms. Saagulik Hensley opened this year's Symposium with a discussion about the preservation of her heritage and culture, which she connected to the broad conception of 'environment as everything, affecting everything.' She described analytically the changing relationship between Alaska Natives, the U.S. Government, and the state's vast landscape in the modern era of tribal self-determination. Ms. Saagulik Hensley discussed the development of ANCSA and how Alaska Native corporations have built up from what little land was initially granted to them. Finally, Saagulik Hensley concluded by mentioning the Red Dog mine's success and the uncertainty surrounding the future of natural resource development with its looming closure. To see a full video recording of Ms. Saagulik Hensley's speech and the entire symposium, please visit the symposium tab on the *Alaska Law Review* website.

Our first article is titled *Heat Waves and a Public-Private Partnership in Alaska*. In this piece, authors Karen Sandrik, Professor & Associate Dean, and Sarah Matsumoto, an Assistant Clinical Professor, both at Willamette University College of Law, discuss the necessity of public-private partnerships to address the issues associated with Alaska's rising

temperatures. Professors Sandrik and Matsumoto provide a roadmap for successful partnerships by assessing how several famous public-private partnerships failed, framing them as lessons for future projects in Alaska. The authors also evaluate Alaska Heat Smart, a thriving public-private partnership, and explain how its environmental justice approach plays a central role in its success.

Our next article is titled *Protecting Subsistence Lands While Boosting the Bottom Line: The Enhanced Federal Tax Incentive Available to Alaska Native Corporations for Donations of Conservation Easements*. Authors Timothy Troll, the Executive Director of the Bristol Bay Heritage Land Trust, and Konrad Liegel, an attorney at Seattle-based Konrad J. Liegel, PLLC, discuss the enhanced federal tax incentive for donations of perpetual conservation easements newly available to Alaska Native Corporations. Troll and Liegel explain that the Alaska Native Claims Settlement Act and its amendments are not fully equipped to protect historic tribal lands and subsistence lifestyles in perpetuity. Explaining how conservation easements could help address this issue, the authors provide detailed instructions for Native Corporations, including a discussion about assessing land value and a thorough explanation of the 2015 enhanced tax incentives and how Native Corporations can get them.

Our first student note, written by *Alaska Law Review* Senior Editor Savannah Artusi, is titled *Coastal Marine Debris in Alaska: A Crisis of Plastics, Pollution, & Policy*. The author outlines a bleak worldwide reality of harmful plastic production and waste that presents an especially deleterious impact on Alaska, where the once-pristine coastlines are littered with international petrochemical trash. Arguing that current international, national, and state plastic pollution policies are inadequate, this note offers several realistic steps policymakers could use to respond to the crisis: expanding the scope of the federal oil spill liability fund, increasing existing NOAA grant opportunities, and more general improvements to existing policies.

Our second student note, *Wilderness v. Oil: Resource Balancing in the Arctic National Wildlife Refuge*, written by *Alaska Law Review* Special Projects Editor Megan Mason Dister, discusses the ongoing national and local debate over the Alaska National Wildlife Refuge. Ms. Dister surveys and considers the directives of the Refuge in the context of the 2017 legislation that opened up the “Coastal Plain” region of the refuge to oil and gas leasing. She then describes how, historically, policymakers have approached the Refuge from either an “all protection” or an “all resource extraction” lens—neither of which is currently feasible. Ms. Dister navigates a tightrope of seemingly-opposing directives to present several solutions for law and policymakers to consider for the future of wilderness and oil on this refuge in Northeast Alaska.

Our final piece is a practitioner case comment by Dr. Jon Nachtigal, Assistant Professor and Director of the Sport and Recreation Business Program at the University of Alaska, Fairbanks, and Dr. Mike Stocz, Senior Lecturer of Sport Management at the University of New Hampshire titled *The Kenai Rule in Four Acts: Bear Baiting, Firearms, Hunting, and Trapping; Comment & Analysis of Alaska v. Bernhardt*. The authors describe how the recent Kenai Rule, promulgated by the Fish & Wildlife Service in response to the state's loosening of various hunting restrictions, has rekindled the long-running federalism debate surrounding wildlife management in Alaska. Nachtigal and Stocz present *Alaska v. Bernhart* and the decisions leading up to it as a new chapter in the battle between Juneau and Washington, D.C., now being waged in the federal courts.

This issue of the *Alaska Law Review*, in addition to each of our previous issues, is available on our website, [alr.law.duke.edu](http://alr.law.duke.edu). There, anyone can access PDFs of our volumes, which are easily printable and searchable. Our website also houses our "Year-in-Reviews" – summaries of important cases decided by the Alaska Court of Appeals, the Alaska Supreme Court, the U.S. District Court of Alaska, and the U.S. Court of Appeals for the Ninth Circuit each year. We hope that you will visit our website and continue engaging with *ALR* as we strive to serve the Alaska legal community. We welcome your comments, responses, and feedback at [alr@law.duke.edu](mailto:alr@law.duke.edu).

On behalf of the editorial staff, I hope you find this issue thought-provoking, useful, and enjoyable. We are grateful to the Alaska Bar Association for the privilege of publishing the *Alaska Law Review* and its continued support. We thank Duke University School of Law for its institutional support. Lastly, and most importantly, we thank you for your interest in the scholarship of our published authors. We look forward to future collaboration with the Alaska legal community in the months and years to come.

Sasha Kahn,  
Editor-in-Chief, 2022-23