

HJR

28

Haines, Alaska
March 8, 1983

Senator Bill Ray
Pouch V
Juneau, AK 99811

Dear Senator Ray:

On Feb. 17, 1982, we wrote you a letter prior to the creation of the Forrest and Eagle Preserve (Senate Bill 796) in opposition to the Preserve reasons being the pending Native Allotments in and adjoining the proposed preserve, we felt once this was made into law we would have problems to acquire titles to these allotments. At that time some of these allotments were up for adjudication by the B.L.M., but were not adjudicated due to the creation of the preserve.

In March and April 82, we had meetings with John Katz, Commissioner of D.N.R., and Reed Stoops, Frank Rue and Tom Lawson all of D.N.R. at that time they promised that they would work out a process where the state would quit claim its interests on patented or tentatively approved lands, and would help fund the survey through this process. They promised this would be done within a month, as they would go to Washington and meet with James Watt and Bill Horn all this would be done if a Forrest and Eagle Preserve was adopted. They also promised that we would not be used as a pawn or blackmailed. Now its been a year since this all started and the whole matter has not moved towards being resolved. We think that this would be in the State's best interests if this issue were expedited.

It seems that the Attorney General of D.N.R. is not agreeable to this process. It seems we have had one bureaucratic delay after another.

Also during the creation of this Preserve, there was suppose to have been money set aside for surveying the allotments but it seems now that was lost in the shuffle at the last minute.

We have written to our representatives in Washington for funding for the surveying, but the B.L.M. claim they haven't the manpower or funds for surveying. This used to be their excuse on mining claims until pressure was put on Washington. Now the B.L.M. contracts this out to certified surveying contractors also when these surveys are made, the contractors hire locally.

Maybe the D.N.R. and the B.L.M. could go jointly on these surveys. We are enclosing a copy of a letter written to Senator Murkowski by the B.L.M. with our corrections on the bottom.

We would appreciate anything you can do for us at the State or Federal level as this is of great concern to us.

Sincerely,

Henry C. Jaeger

ALASKA FEDERATION OF NATIVES, INC.

411 W. 4th Avenue, Suite 1A • Anchorage, Alaska 99501 • Phone 907-274-3611



March 15, 1983

Representative Adelheid Herrmann
ALASKA STATE LEGISLATURE
Pouch V
Juneau, Alaska 99811

Dear Adelheid:

The Alaska Federation of Natives, Inc. supports House Joint Resolution No. 28. We believe that the mandate of Congress should be funded and accomplished by the Bureau of Land Management, Department of the Interior so that Alaska Natives can receive their allotments. This process is important so that Native corporations can receive clear title to all of their land as intended by Congress.

Thank you for your interest and support of Alaska Native affairs.

Sincerely,

Janie Leask
President

REPRESENTATIVE
ADELHEID HERRMANN
P.O. BOX 63
NAKNEK, ALASKA 99833
(907) 246-4495

While In Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4942, 465-4943

Alaska State Legislature



CHAIRMAN
SPECIAL COMMITTEE
ON FISHERIES

MEMBER
TRANSPORTATION
COMMITTEE

House of Representatives

DISTRICT 26

ADAK
AKUTAN
ALEKNAGIK
ATKA
BELKOFKI
CLARK'S POINT
COLD BAY
DILLINGHAM
DUTCH HARBOR
EGEGIK
EKUK
EKWOK
FALSE PASS
IGIUGIG
ILIAMNA
KING COVE
KING SALMON
KOKHANOK
KOLIGANEK
LEVELOCK
MANOKOTAI
NAKNEK
NELSON LAGOON
NEWHALEN
NEW STUYAHOK
NIKOLSKI
NONDALTON
PEDRO BAY
PILOT POINT
PORT ALSWORTH
PORT HEIDEN
PORT MOLLER
PORTAGE CREEK
SAND POINT
SOUTH NAKNEK
SQUAW HARBOR
ST. GEORGE
ST. PAUL
TOGIAK
TWIN HILLS
UGASHIK
UNALASKA

MEMORANDUM

March 24, 1983

To: Representative John Ringstad
From: Representative Adelheid Herrmann
Subject: SSHJR 28

Although the issue of native allotments is very complex with many legal ramifications and the involvement of federal, state, and local organizations of all kinds, the intent behind SSHJR 28 is quite simple. The message I want to send to Congress is this: BLM has received inadequate financial support for the processing and surveying of claims, and it's time to get moving. This lack of commitment on the federal level is holding up the progress of our state and is causing hardship for thousands of individuals. I am no expert on land claims, but I have received the message from throughout my district that something needs to be done. Here's what I know about the situation:

In 1906 the Native Allotment Act provided for selection of parcels up to 160 acres, but not many people knew about the Act until the late 1960's. Most claims were filed in 1970 and 1971. The Alaska Native Claims Settlement Act repealed the 1906 Act but allowed for the processing of applications pending on or before December 18, 1971.

Filed applications are reviewed by BLM and many are subject to an adjudication requirement which means BLM must investigate whether the claim is valid and is properly described. There are over 6,000 native allotments statewide that require adjudication. According to an article in the 8-15-82 Anchorage News, BLM has adjudicated only 10-15% of the claims which require adjudication.

After a claim has been processed, the site must be surveyed. Surveying costs approximately \$8-10,000 per parcel. So far BLM has surveyed only 750 allotments. It has been estimated that there are 14,000 parcels which will have to be surveyed.

You can see that things are really bogged down. This not only affects private individuals, but native corporations, municipalities, and the state as well. Until the issue of native allotments is resolved, thousands of acres of land will remain in

limbo. It affects development in rural Alaska since land status must be determined before any improvements can be made.

If passed, SSHJR 28 tells Congress that this is a statewide priority and we wish it to be recognized as such by the federal government. One way to attack the problem is with more money - money for the processing of the claims and money for the surveys. That is what this Resolution requests.

I introduced the Sponsor Substitute because the original Resolution contained a statement which could not be substantiated. The SS removes lines 16 and 17 which stated that an informed source said that it would be 70 years for applications to be processed. Removing this "whereas" does not effectively change the Resolution in any way.



THE ALASKA NATIVE FOUNDATION

411 WEST 4th AVENUE, SUITE 314 • ANCHORAGE, ALASKA 99501 • PHONE (907) 274-2541

83-133

March 10, 1983

Rep. Adelheid Herrmann
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Dear Ms. Herrmann:

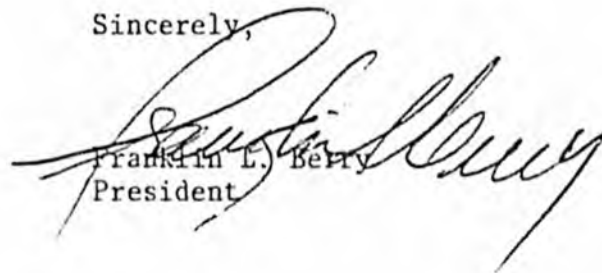
HJR No. 28 relating to the processing of Alaska Native Allotments certainly receives the full endorsement of the Alaska Native Foundation.

The ANF, through the assistance and involvement we have with villages, has been aware of the tremendous delays involved with the entire process. It concerns us that many village corporations may be denied title to their lands without a speedy process on the individual allotments.

Please keep me informed of any progress in the matter.

Keep up the advocacy. . .

Sincerely,


Franklin L. Berry
President

ds

Haines, Alaska
March 8, 1983

Senator Bill Ray
Pouch V
Juneau, AK 99811

Dear Senator Ray:

On Feb. 17, 1982, we wrote you a letter prior to the creation of the Forrest and Eagle Preserve (Senate Bill 796) in opposition to the Preserve reasons being the pending Native Allotments in and adjoining the proposed preserve, we felt once this was made into law we would have problems to acquire titles to these allotments. At that time some of these allotments were up for adjudication by the B.L.M., but were not adjudicated due to the creation of the preserve.

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We would appreciate anything you can do for us at the State or Federal level as this is of great concern to us.

Sincerely,

Henry C. Johnson

ALASKA FEDERATION OF NATIVES, INC.

411 W. 4th Avenue, Suite 1A • Anchorage, Alaska 99501 • Phone 907-274-3611



March 15, 1983

Representative Adelheid Herrmann
ALASKA STATE LEGISLATURE
Pouch V
Juneau, Alaska 99811

Dear Adelheid:

The Alaska Federation of Natives, Inc. supports House Joint Resolution No. 28. We believe that the mandate of Congress should be funded and accomplished by the Bureau of Land Management, Department of the Interior so that Alaska Natives can receive their allotments. This process is important so that Native corporations can receive clear title to all of their land as intended by Congress.

Thank you for your interest and support of Alaska Native affairs.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Janie Leask'.

Janie Leask
President

Calista Corporation

518 Denali Street, Anchorage, Alaska 99501 (907) 275-5516

March 22, 1991

The Honorable Adelheid Herrmann
House of Representatives
Pouch V
Juneau, Alaska 99811

Re: House Joint Resolution No. 28

Dear Representative Herrmann:

This letter is to inform you that Calista Corporation is in full support of the intended results of the House Joint Resolution No. 28, relating to the processing of Native Allotments.

While we are supportive of this resolution, we feel that the first "WHEREAS" should be amended as follows: beginning with line 10, the words "Alaska Native Claims Settlement Act of 1971" should be deleted and in-lieu of add "Native Allotment Act of 1906". Rationale:

The Native allotments were applied for pursuant to the authorities granted by the terms of the Native Allotment Act of 1906.

The new language would read as follows:

Whereas, the Bureau of Land Management of the United States Department of the Interior has been given the responsibility for processing the applications for allotments granted under the Native Allotment Act of 1906.

In our humble opinion, we feel this language would not only strengthen the intent of House Joint Resolution No. 28 but further clarify its intent.

Rep. Adelheid Herrmann

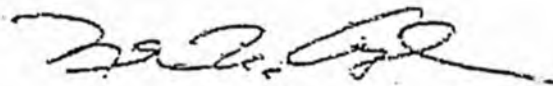
March 22, 1983

Page 2

Thank you for your kind consideration. If you have any questions per this letter, please contact us.

Sincerely,

CALISTA CORPORATION



Nelson H. Angapak
Executive Vice President

WNA:slb

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
615 "H" STREET, SUITE 100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-9431

March 14, 1983

Ms. Beth Robinson
c/o Representative Adelheid Herrmann
Pouch V
Juneau, AK 99811

Dear Ms. Robinson:

In response to your request for information regarding the need for the federal government to allocate additional funds for processing Native Allotments, I am enclosing several newspaper articles. I believe that the figure 30 years is probably the best current estimate. The 70 years which you mentioned was an estimate made by a BIA employee in a letter to an applicant. I have spoken with that individual and have been informed that he now believes the true figure to be closer to 30 years.

You should be aware that this time period is derived from an estimate of the time required to survey the allotments. It assumes that the applicants' entitlement to the allotments will be adjudicated at a faster rate. While this is true with respect to the "easy" cases -- such as those subject to automatic approval under section 905 of ANILCA -- those allotments which the BLM intends to deny must go through a "Pence" hearing. The Office of Hearings and Appeals of the Department of the Interior has only been able to complete about six hearings per year. If there were a thousand of these, you can see that it would take a considerably longer period of time to finish processing the applications. Similarly, there are between 50 and 100 Aguilar applicants who will have to go through a lengthy procedure.

I have also enclosed for your information an article regarding the potential impact of allotments on such major state projects as the Fairbanks-Anchorage intertie. On a lesser scale, I have included an article dealing with an allotment in the small boat harbor in Bethel. While all allotments are not so strategically placed, these demonstrate the potential problems which may result from a failure to process the allotments in a timely manner.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,
ALASKA LEGAL SERVICES CORPORATION

Craig J. Tillery

Craig J. Tillery

CJT/bh
Enclosures

Rural Alaska Community Action Program, Inc.

10 March 1983

Representative Adelheid Herrmann
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Herrmann:

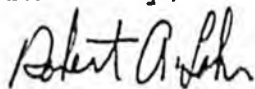
I am writing to express wholehearted support for HJR 28, relating to the processing of Native allotments.

As your proposed resolution so capably states, Congress charged the Bureau of Land Management with responsibility for processing Native Allotments over 10 years ago, and Alaska Native applicants have been waiting all that time can ill afford to wait any longer to receive clear title to their land.

Years ago, RuralCAP was involved in helping Alaskan Natives deal with the complicated allotment application process. Those efforts, as well as our continued close connection to rural residents, have made us keenly aware of the serious impacts of this unreasonable delay, both on individuals and village corporate landowners.

We must not accept inadequate funding as an excuse for putting the legal rights of Alaskans on the back burner. Hopefully, passage of this resolution will help correct this injustice. A formal statement of position on this issue by the State Legislature on behalf of its citizens is long overdue. We strongly endorse and encourage passage of HJR 28 as that positive step forward.

Sincerely,



Robert A. Lohr
Executive Director

Southcentral

•Obituaries
•Tell It To Bud



Land acquisition: a sticky wicket for Susitna

by A.J. McClanahan
Times Writer

Native land ownership and claims could be a stumbling block, or at least the subject of complex negotiations, in the massive \$5-billion Susitna dam project.

Negotiations to acquire almost 50,000 acres — about 78 square miles — for the two-dam hydro project are expected to start this summer, says Alaska Power Authority spokesman George Gleason.

But it's going to be a tough battle, despite general support for the project by native corporations involved.

"We were pushed into selecting that land . . . So if somebody wants to say we want all of the land, that's fine. But if they want some of the land, that's a different story," said Roy Goodman, business consultant for the Knik village corporation, Knik Atnu Inc.

Goodman also works as a consultant for the native regional corporation Ahtna Inc., which manages land for the village of Cantwell within the area of an access route.

Natives point out that the Talkeetna area was one of those withdrawn by the U.S. Department of Interior for "deficiency"

claims. Those are areas offered to natives who were unable to get enough land in the areas of their villages or regions because of already existing private or public land ownership.

Others say, however, that the natives saw the future dam site as a way to make money.

Whatever the case, the Alaska Power Authority is going to have its hands full in negotiating for the land.

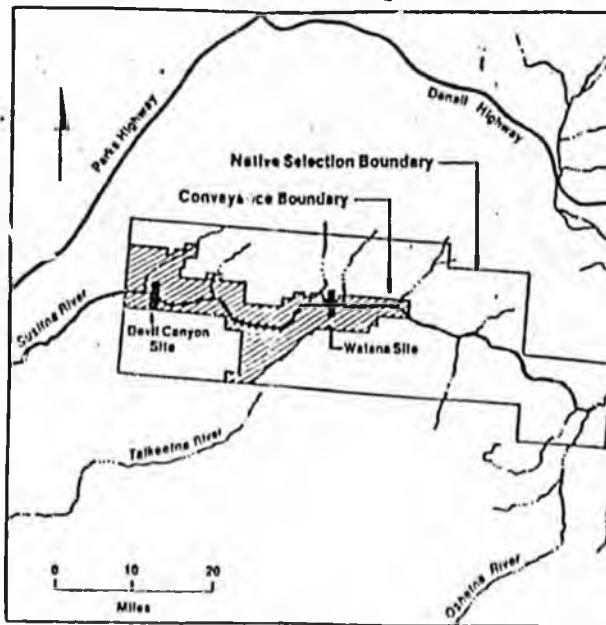
Others who own land in the area, or who have claims to land there include Tyonek, Chickaloon, the Anchorage-based native regional corporation Cook Inlet Region Inc., and possibly some of the other villages within the CIRI area.

Acquisition of the land by the power authority can't start officially until the massive two-dam project has been approved.

But both the Alaska Power Authority, which is administering the project, and affected natives for the last two years already have been considering just how negotiations could proceed.

In the meantime, an argument between some villages and native regional corporations over who owns sand and gravel underneath native lands could further complicate Susitna.

The project will require at



Map shows property boundary lines for proposed Susitna dam project

least 62 million cubic yards of fill material, said Gleason. Officials say the cost could range anywhere from 25 cents to \$1 for each cubic yard.

The power authority has hired a consultant whose work will include a study of the sand and gravel issue to figure out just who owns specific parcels of land

which could be used for sand and gravel extraction.

Depending on who owns land under which sand and gravel are located, much of the money could go to native corporations because they have claim to much of the land in the project area, Gleason said.

Under federal law and court rulings, sand and gravel resources are considered "subsurface estate," which means they are owned by the regional corporations.

A number of villages disagree, however. So it could become a critical issue for the villages that have claim to land in the Susitna project area.

Sen. Ted Stevens, R-Alaska, recently issued a statement supporting the villages' position. He urged villages and regional corporations to iron out their differences and offer a proposal to Congress.

Gleason said the money to pay for the sand and gravel probably will be put into a trust account, where it will remain until the natives agree on who owns the resource.

Another land claim in the dam area is by a native group called Gold Creek Inc., which is recognized in the Alaska Native Claims Settlement Act as a po-

tential native group. That of about 14 people is claim about two square miles of the Intertie corridor, a claim is pending before the U.S. Department of Indian Affairs and the U.S. Department of Land Management.

And some of the land area — claims for a handful of parcels within the area of the Intertie/Fairbanks Intertie being claimed by individuals "native allotments." Such were authorized under a law of Congress. Under that law, natives could file for title to parcels of up to 160 acres any time after the act.

Although it was repealed the Alaska Native Claims Settlement Act of 1971, the Bureau of Land Management is still to process thousands of permit applications.

The power authority have the authority to collect land for the project itself. Bruce Bedard, a native specialist for the power authority, says it will be a tricky business to collect land, because it will involve negotiations with the BIA.

Because the BIA holds native allotment lands in trust for natives until the land is conveyed, condemnation would involve much more red tape.

Day-surgery



Sea sanctuary plan

HARBOR from page 29

the ground. Boyette said that the City also agreed to compensate Crow for any damage done to the vessels during the attempted move.

In the interim, Andy Hicks, a marine surveyor working for B.J. Logan and Associates of Anchorage, came to Bethel to evaluate the two barges. Boyette described Mr. Hicks' crawling through the vessels to arrive at an estimated value of \$18,000 for the two: \$15,000 for the Widow Maker and \$3,000 for the Akiak.

After two days of un-

successful efforts at thawing the ground around the barges, the city crew brought in a Terex to attempt to lift the barges out of their frozen slough bank. When that didn't work, the crew brought on their D-S Caterpillar tractor, to try to shove the vessels out of the ice. This attempt also failed, with the result that the barges broke into pieces.

The City crew gathered the broken wood into a pile and faced with the choice of collecting it all and hauling the shards to the dump, or burning the wrecked hulks

on site, the crew elected to burn the boats.

Fire Chief Mark Barker was not informed of the burning, nor were any fire department personnel involved in the blaze.

According to Boyette, he informed Alice Crow and Myron Angstman as soon as he heard the news of the burning. Bruce Crow, he said, was in Chauthbaluk that Friday. When he returned, finding his barges burned, Crow reportedly called the police.

Negotiations between the City and Crow continue. "The City did it," said Boyette. "The City accepts responsibility," he said.

Buttcane claims City is being "extorted" by feds

The mood of the Bethel city council was indignant Friday afternoon, at a special council meeting to settle a question of a new Native allotment filing on

the site of the small boat harbor, now under construction.

"I feel as though we're being bribed, blackmailed

Please turn to page 19

Tundra Drums
2/3/83

City News from page 1

and extorted," said councilman Bob Buttcane after a brief executive session, "but for the sake of the small boat harbor, I'm willing to give into the demands made." Buttcane said he found it appalling but could not do otherwise.

Councilman Buttcane's remarks came in response to a negotiated list of land options from the local BIA land office and the allottee, James Nicolai of Akmouthluak.

Council was informed in mid-week that a several acre Native allotment was recently accepted for filing by the BLM and BIA within the 57-acre small boat harbor boundary. The original seven-and-one-half acre Nicolai Allotment was either recorded in error with the wrong coordinates or had eroded, leaving only about 100 feet of riverfront

property on the N.N. Ne quarter of Section 16. This situation was recently realized by BLM and with the authority to adjust allotments, they did so by redrawing Mr. Nicolai's land allotment filing within the harbor.

Late last year land for the small boat harbor was conveyed by BNC to the City of Bethel under the 14c3 provisions of the Alaska Native Claims Settlement Act. The filing came as a complete surprise to both BNC and to the City.

At the advice of BIA Realty Specialist, Mr. Nicolai agreed initially (see related story LOST ALLOTMENT on page 1) to the following land options.

-1. Condemnation by the Corps of Engineers. Expedited procedures can

Please turn to page 22

EXTORTED

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allow condemnation to take place in a relatively short period of time.

-2. State condemnation. Same as above.

-3. Land exchange for 4.5 acres of city land for the boat harbor site, plus, cash—\$30,000.

-4. Straight out purchase of the 4.5 acres

required.

-5. Scrap the project for the time being. This would cause the Corps to pull out and also cause Knik to sue the Corps and the City for damages.

-6. Land exchange of 9 acres for the required 4.5 acres plus a cash exchange of \$5,000.

Tundra Drums
2/3/83

Lost allotment, boat burning plague harbor project

by Richard Goldstein

Two thorny legal problems involving the City of Bethel's small boat harbor project have surfaced recently. The first of these initially could have caused a shutdown of the entire project, when the Army Corps of Engineers threatened to pull out their participation.

The second does not have quite the same negative potential, and will probably require that the City pay an as yet to be determined amount of money for damages.

The first problem came to light in mid-January when Glen Watson, the Bethel Native Corporation's land planner, discovered a 'lost' Native allotment, occupying a small portion of the project site, across Brown Slough, in Louse Town.

BNC had received interim conveyance on that entire parcel of land from the Bureau of Land Management and had reconveyed about 40 acres to the City under auspices of section 14c3 of the Alaska Native Claims Settlement Act. BNC could not have done so if the land had been encumbered by any conflicting allotment.

Watson informed the AVCP realty office, which in turn contacted Richard Honey, manager of the Bureau of Indian Affairs' realty office in Bethel.

Upon investigation, the valid Native allotment application of Jimmy Nicolai of Atmauthluak was produced, showing Mr. Nicolai with a legitimate

see turn to page 29

HARBOR

from page 1

claim to about four and one half acres of land, most of which, however being situated in the Kuskokwim River, several hundred yards upriver from Crow and Sons' fishing operations.

Only about 100 square feet of the allotment appeared to fall within the harbor project boundaries.

Russell Blome, a realty specialist from the Bureau of Land Management was notified and flew to Bethel. On January 21, Blome, Honey and Nelson Nicolai, the allottee's son, toured the allotment area and staked out the boundaries. Nelson Nicolai however, informed the two government agents that the land described in the allotment document did not conform to what his father had intended when the elder Nicolai filed his application in 1972.

Honey and Blome then re-drew the allotment to conform to Nelson Nicolai's specifications, increasing the size of the area to seven and one half acres, about four and one-half acres of which now falls within the small boat harbor project. The federal government then informed the City and the Corps, partners in the \$3 million project.

By the end of last week, the Corps was threatening to pull out of the project altogether if the City did not resolve its problem with the allotment holder. Acting quickly, the City drafted six alternative solutions to the problem, all of which were acceptable to Mr. Nicolai and to the BIA.

One of the six alternatives proposed an acre-for-acre land swap with an additional \$30,000 added on for Mr. Nicolai.

In return for conveyance of the allotment to the City, the City would grant

to Mr. Nicolai a four-and-one-half acre parcel of City-owned land lying just west of Ptarmigan subdivision.

According to several estimates compiled by City Capital Projects Director Dan Boyette, the current value of that parcel of land is approximately \$200,000.

The deal was supposed to have been arranged on Monday, but at the last minute, the government backed off, claiming that City by-laws prevent the direct conveyance of land without a hearing and without bids submitted.

But City Planner Tony Stigall disputes that assertion, claiming that the by-laws allow for the city to convey land to the state, to the federal government or to any political subdivision of the state. He cited several precedents within the City's history to support his claim.

As the negotiations began to break down, Richard Honey, the local BIA representative for realty, suggested that his client would accept a straight cash settlement of \$6 a square foot, or about \$1.2 million for his land.

Although this was one of the six alternatives agreed to by all parties, the buy-out price was quite a bit more than the City had bargained for.

As a result of the lapse, Honey and Bruce Landon, an attorney from the Solicitor General's Office of the Department of the Interior, met on Tuesday in Anchorage with Stigall and with Joe Powell, from the office of Rick Garnett, the City attorney.

According to Dan Boyette, "things look good" for a settlement, as of Tuesday night.

Meanwhile, work on the project continues, with Knik

Construction excavating the harbor site.

And according to Mr. Boyette, the Corps has been mollified and has withdrawn its deadline for resolution of the allotment dispute.

The second incident came about when the City, on its own initiative, burned two barges belonging to Bruce Crow, both of which were located within the project boundaries.

Crow has retained Bethel attorney Myron Angstman. According to Angstman, Crow wants the two 60-foot-by-16-foot wooden craft replaced.

According to Dan Boyette, Crow's family was notified in late August that the two vessels, the Widow

Maker and the Alciak, had to be moved, as both were lying on ground slated for excavation.

Boyette said that he contacted Crow's son Sam, and that his daughter Alice indicated that her father was upriver moose hunting at the time, but that she would see what she could do about moving the barges. The barges remained unmoved.

Boyette said that Bethel Police Chief Tom Varnell also informed the family about the same time, and City Planner Stigall took a map of the proposed project to show to two members of the Louse Town Development Corporation: Louie Andrew and

Bruce Crow.

In addition, according to Boyette, Public Works Director Gary Volkman also told the Crow family that the barges had to be moved.

Through his lawyer, Crow maintains that he wasn't informed about the need to move the barges until late September, after the last of the high water, when the vessels were finally grounded up the Louse Town Slough.

With the start-up of work imminent, an agreement was finally reached between the City and Crow, in which the City offered to attempt to move the vessels, now frozen in

Please turn to page 30

City, BIA reach agreement on land entanglement

by Richard Goldstein

Arctic Reader Opinions - 10/63

An agreement has been reached between the City of Bethel and a Native allotment holder whose land was found to be located within the City's small boat harbor project, in Louse Town.

Under terms of the agreement settlement,

Jimmie Nicolai of At-mutluk will be paid \$380,000, the money coming out of project funds. The money will be held by the City for Mr. Nicolai, accruing interest at 13 percent a year.

In return, Mr. Nicolai

has signed over to the City a four acre portion of his Native allotment located within the harbor construction site.

The money will be used as Mr. Nicolai's bid in the auction sale of a 6.02 acre site located near Ptarmigan

subdivision. The City has taken steps to auction off that portion of property within nine months of the effective date of the agreement, signed on Monday, February 7.

If the property is not successfully sold within nine months, or if Mr. Nicolai is not the successful high bidder, he will be paid the \$380,000 and the interest.

If Mr. Nicolai's bid is

high, then the City will award to him the 6.02 acre site near Ptarmigan, and the interest accrued from the \$380,000.

These arrangements were arrived at after extensive consultations between the City and the Bureau of Indian Affairs, which represented Mr. Nicolai in the matter.

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BIA from page 1

The small boat harbor project was begun in earnest last year when the Bethel Native Corporation granted a 58 acre parcel of land to the City under auspices of Section 14c3 of the Alaska Native Claims Settlement Act, which regulates land conveyance from Native corporations to local municipalities.

In conveying the land, BNC was under the impression that it had clear title, and apparently was unaware of the Native allotment which had been top-filed by Mr. Nicolai in August, 1970. The allotment was only discovered by BNC land planner Glen Watson subsequent to BNC's having conveyed the parcel to the City, and following an agreement between the City and US Army Corps of Engineers for construction of the harbor.

When news of the discovered allotment was aired, the Corps felt its position was compromised and initially threatened to walk off the project unless a deal was quickly agreed to settling the land ownership issue within the project's boundaries.

But assurances were obtained, the land agreement was struck, and the Corps has continued to oversee the project, with Krik Construction still excavating the site.

But with one problem solved, the City still has to grapple with another harbor-related problem: replacing the two 60 foot by 16 foot wooden barges belonging to Bruce Crow which the City's public works crew burned two weeks ago.

The two barges, reportedly used by Crow during his summer fish buying and processing business, were parished, high and dry, up the Louise Town Slough, squarely in the middle of the proposed harbor.

Having received permission to attempt to move the barges from the harbor site, and assuming the responsibility for any ensuing damage, the City crew began to work at extricating the vessels from the frozen slough bank. But neither heat, nor Terax, nor D-8 Caterpillar could pry the boats loose, at least in one place. While pushing on the barges with the Cat, the barges began to break up. The crew pushed the wooden hulks into a heap and reportedly burned the fragments.

Neither the Bethel Fire Department, nor Crow himself were told beforehand of the plan to burn the barges.

Through his attorney, Myron Angstman, Crow has indicated that he wants the City to replace the barges by break-up.

A marine surveyor hired by the City to assess the worth of the barges before they were burned

\$18,000. Whether the City can replace the two vessels for that amount of money is

few replacement barges available in the Delta at present.

Natives take land claims to high court

by A.J. McClanahan
Times Writer

Southeast Alaska natives are attempting a last-ditch effort to gain title to more than 200 parcels of land they believe are rightfully theirs.

The government says they are out of luck because the land is in the Tongass National Forest.

The natives have lost once at the U.S. District Court level and twice in the Ninth Circuit Court of Appeals. Even so, Alaska Legal Services Attorney Craig Tillery thinks the 200 or so natives have a chance of winning in the U.S. Supreme Court.

To the natives, the stakes are high.

The case involves land secured under the 1906 Native Allotment Act which authorized natives to obtain restricted title to parcels of up to 160 acres for each person. Title was for land they traditionally used for hunting, fishing, trapping or homesites.

Under the act, natives got the land under a trust arrangement. See Lands, page A-4

A-4 The Anchorage Times, Friday, March 4, 1983

Lands

(Continued from page A-1)

with the Bureau of Indian Affairs. The allotment land essentially belonged to the natives, but they needed to obtain BIA approval for most transactions.

By the same token, they didn't have to pay taxes on the land.

The act was repealed by the Alaska Native Claims Settlement Act of 1971, but statewide there are 7,421 applications for about 14,000 parcels ranging from 40 to 160 acres each. The applications remain pending before the Bureau of Land Management.

Getting the Supreme Court to take the case is no easy task.

"You not only have to convince them you're right, but that it's important," Tillery said.

It is to the natives.

If the Supreme Court does not rule in their favor they will lose their claim to the land, Tillery said. "They're also losing their link with their past, their heritage," he added.

The case involves approximately 32,160 acres of land in Southeast Alaska, located in the Tongass National Forest. That amount of land is substantially less than 1 percent of the 17-million-acre forest, which is the largest national forest in the nation.

The suit was filed on behalf of Albert Shields Jr. of Juneau in a class action suit for about 200 natives. It stems from a native allotment application filed by BIA for Albert Shields Sr. in 1972.

Two years after the application, the Bureau of Land Management made a field examination of the application and found that the land was within the Tongass National Forest. The bureau's report stated that

Shields had used the land extensively, but that his use did not predate the forest.

The U.S. Forest Service said Shields had to prove that his use of the land predated the forest, which was created in 1902. In 1909 the forest was increased to include most of Southeast Alaska.

The Alaska Legal Services filed suit on Shields' behalf on Feb. 23, 1977, to fight the decision. He died Nov. 13 of that year, but the court allowed his son Albert Shields Jr. to be substituted as plaintiff.

The government says that natives must establish personal — not just ancestral — use and occupancy of the land from before the land was put into the forest.

The case was made into a class action suit three years later.

In 1981, the court ruled against the natives, so they appealed to the Ninth Circuit, which ruled against them twice.

Tillery said the case also will affect natives who have allotments in the Chugach National Forest.

The natives' brief will be filed with the U.S. Supreme Court by the end of next month. Tillery said he expects word on whether the high court will hear the case by early this summer.

In a related development, nine Democratic state representatives have introduced a resolution in the legislature, calling on Congress to increase BLM financing so that allotments can be conveyed within 10 years.

BLM officials have said in the past that it could take 30 or more years to convey the land.

The resolution was introduced by Reps. Adelheid Herrmann, D-Bristol Bay; Albert P. Adams, D-Kotzebue; John G. Fuller, D-Nome; Peter Goll, D-Haines; Vernon L. Huribert, D-Sleetmute; Tony Vaska, D-Bethel; Fred F. Zharoff, D-Kodiak; Ben Grussendorf, D-Sitka; and Don Clocksin, D-Anchorage.

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Allotment conveyance may take 20 years

By LINDA LOP JENKINS
Tundra Times

Last week the good news for Native land allotments was that the "Fanny Barr" class action suit against the United States had been settled in favor of the allotment seekers.

The bad news this week is that, at the present rate of land surveying, it will take 20 years to clear up all the allot-

ment petitions awaiting resolution in federal Bureau of Land Management files.

One skeptical allotment watcher said cryptically after hearing of the Fanny Barr settlement, "Your children and children's children will be in college before all these allotments are conveyed, they're in such a mess."

The Fanny Barr decision

centered on the allotment petitions filed by an unknown number of Alaska Natives with volunteers during an early-1970s allotment drive.

Under terms of the settlement, any Alaska Native who filed an allotment form with a Rural CAP volunteer or employee before the Dec. 18, 1971 deadline and who believes that the request never

was passed on to the BLM or BIA, should write a letter to the District Court Clerk stating that that had happened.

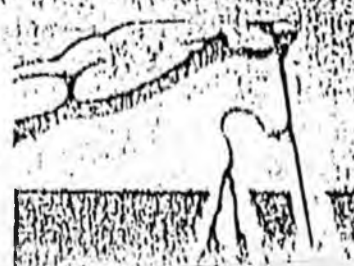
Their letter must be received by the court clerk by Nov. 22 and would put into effect a process in which the petitions would be investigated and acted upon by the government.

The bad news is the length

of time necessary to survey each land petition and the limited amount of financial and staff resources available to conduct those surveys.

Frances Eickboesh, chief of the Division of Cadastral (land surveying) Studies for BLM, estimates that if the land surveys are conducted at this year's rate, 40 years will

(Continued on Page Eleven)



Struggling in the shadow

AROUND ALASKA

No money, long process stall conveyances

(Continued from Page One)
 pass before all the surveys are conducted.

If the surveys are conducted at the rate planned for next year, Eickbush said 20 years could elapse.

The cadastral office has altered and made more efficient the methods it uses to conduct surveys for the coming years. Eickbush said that his surveyors plan on surveying 500 parcels in the Point Hope, Galena, Anvik, and Eagle-Northway areas in the coming year.

Until this year, the surveyors tended toward a more scattered approach and surveyed parcels throughout the state as those parcels were cleared for survey by the DLM's adjudication office.

The regional survey method will allow the cadastral office to get 'more for its money' by focusing on general areas and saving travel costs and time.

In nine years, the cadastral office has conducted surveys on 1,663 parcels of land. Allotment requests have been filed by about 9,000 people who are seeking about 13,381 land parcels.

Under the 1906 Land Allotment Act, petitioners can seek up to 160 acres of land divided in up to four different parcels.

Eickbush says that it takes from one to four days to sur-

Another problem fouling up the works in the land allotment conveyance procedure is the State of Alaska which filed blanket appeals to thousands of Native allotment petitions after the passage of the Alaska National Interest Lands Act (ANILCA), according to one attorney.

Don Mitchell, a former Alaska Legal Services Corp. attorney who worked on ANILCA passage in Washington D.C., and now works for the Alaska Federation of Natives, said that ANILCA stipulated that allotments which were not appealed by anyone within 180 days of ANILCA's passage would be cleared to survey and no challenge could be filed.

The State violated the intent of the ANILCA legislation, however, when it filed blanket appeals to the 4,000

to 5,000 allotments on day 180 of the appeal deadline, he says.

ANILCA also required that the agency appealing the allotment specify his, her or its reasons for objections but the state obviously couldn't nor did it specify in each case, he says.

No one, however, has taken the State to court over this matter, Mitchell said.

More than 8,000 people filed allotment petitions during the 1970s allotment drive — an amazing number of requests which were brought about by the efforts of the Rural Alaska Community Action Program under the direction of Byron Mallott, then John Shively.

Many of the allotments were filed with volunteers from the villages who were trained by Rural CAP employees.

Unfortunately, says Shively who now works with NANA Development Corp., in such a massive effort, with so many volunteer workers, problems will crop up and more than 100 petitions were found in three villages several years after the allotment drive was ended and the deadline for filing allotment petitions was long past.

The allotments couldn't be filed after the signing of the Alaska Native Claims Settlement Act on Dec. 18, 1972.

Three groups of petitions were found in the attic of a building, which formerly

housed a Nome Rural CAP office; in the home of one volunteer in Quinhagak, and others were sent back to the village of Akiachak with the promise that Rural CAP or BIA workers would follow to help straighten them out. The workers never showed up and the petitions were kept in village files for years.

When the petitions were brought to light, the Alaska Legal Services filed a class-action suit on behalf of Fanny Barr, one of the Shishmaref petitioners whose request was lost in an attic, and others.

MOVING FUR SALE ALL MUST GO

YOUR SHAREHOLDERS

ment-Act; petitioners can seek up to 160 acres of land divided in up to four different parcels.

→ Eickbush says that it takes from one to four days to survey an average parcel, depending on the type of terrain to be surveyed.

Each survey costs about \$8,000 to just survey with the total field examination, adjudication and paperwork running about \$30,000 per allotment for all parcels, he estimates.

The age-old problem of lack of funds also crops up daily in the office. According to testimony presented at many hearings on the allotments for the past four decades, Congress rarely has funded the allotment process to anywhere near the amount needed to sufficiently carry it out.

Previous allotment officers testified that requests for additional money were generally ignored.

The reason that RURALCAP became involved in the allotment drive was because neither the BIA or BLM had sufficient money to go out to work on the allotment requests.

Today is no different.

Eickbush says that his office requested \$15 million for the current federal budget year but received only \$8 million for the year. That \$8 million must also pay for office surveys of Alaska state land withdrawals, village withdrawals and many other programs so the piece of the "budget pie" remains insufficient to get the job done.

Eickbush said that if more money were to be allocated — and with the federal budget belt-tightening the way it is, that doesn't look likely — he would contract with private surveyors to do the work.

ALL MUST GO

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