

HJR

28

State of Alaska, or a political subdivision of the State of Alaska, to resources located thereon, or to a public body of water regularly employed for transportation purposes, and the protest states with specificity the facts upon which the conclusions concerning access are based and that no reasonable alternatives for access exist; or

(C) A person or entity files a protest with the Secretary stating that the applicant is not entitled to the land described in the allotment application and that said land is the site of improvements claimed by the person or entity.

(6) Paragraph (1) of this subsection and subsection (c) shall not apply to any application pending before the Department of the Interior on or before December 18, 1971, which was knowingly and voluntarily relinquished by the applicant thereafter.

Conflicting allotment applications.

(b) Where a conflict between two or more allotment applications exists due to overlapping land descriptions, the Secretary shall adjust the descriptions to eliminate conflicts, and in so doing, consistent with other existing rights, if any, may expand or alter the applied-for allotment boundaries or increase or decrease acreage in one or more of the allotment applications to achieve an adjustment which, to the extent practicable, is consistent with prior use of the allotted land and is beneficial to the affected parties: *Provided*, That the Secretary shall, to the extent feasible, implement an adjustment proposed by the affected parties: *Provided further*, That the Secretary's decision concerning adjustment of conflicting land descriptions shall be final and unreviewable in all cases in which the reduction, if any, of the affected allottee's claim is less than 30 percent of the acreage contained in the parcel originally described and the adjustment does not exclude from the allotment improvements claimed by the allottee: *Provided further*, That where an allotment application describes more than one hundred and sixty acres, the Secretary shall at any time prior to or during survey reduce the acreage to one hundred and sixty acres and shall attempt to accomplish said reduction in the manner least detrimental to the applicant.

Amended land descriptions.

(c) An allotment applicant may amend the land description contained in his or her application if said description designates land other than that which the applicant intended to claim at the time of application and if the description as amended describes the land originally intended to be claimed. If the allotment application is amended, this section shall operate to approve the application or to require its adjudication, as the case may be, with reference to the amended land description only: *Provided*, That the Secretary shall notify the State of Alaska and all interested parties, as shown by the records of the Department of the Interior, of the intended correction of the allotment's location, and any such party shall have until the one hundred and eightieth day following the effective date of this Act or sixty days following mailing of the notice, whichever is later, to file with the Department of the Interior a protest as provided in subsection (a)(5) of this section, which protest, if timely, shall be deemed filed within one hundred and eighty days of the effective date of this Act notwithstanding the actual date of filing: *Provided further*, That the Secretary may require that all allotment applications designating land in a specified area be amended, if at all, prior to a date certain, which date shall be calculated to allow for orderly adoption of a plan of survey for the specified area, and the Secretary shall mail notification of the final date for amendment to each affected allotment applicant, and shall provide such other notice as the Secretary deems appropriate, at least sixty days prior to said date: *Provided further*,

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85 STAT. 703

finds is qualified for land benefits under this Act, the Secretary shall issue to the Village Corporation a patent to the surface estate in the number of acres shown in the following table:

If the village had on the 1970 census enumeration date a Native population between—	It shall be entitled to a patent to an area of public lands equal to—
25 and 99.....	69,120 acres.
100 and 199.....	82,160 acres.
200 and 399.....	115,200 acres.
400 and 599.....	138,240 acres.
600 or more.....	161,280 acres.

The lands patented shall be those selected by the Village Corporation pursuant to subsection 12(a). In addition, the Secretary shall issue to the Village Corporation a patent to the surface estate in the lands selected pursuant to subsection 12(b).

(b) Immediately after selection by any Village Corporation for a Native village listed in section 16 which the Secretary finds is qualified for land benefits under this Act, the Secretary shall issue to the Village Corporation a patent to the surface estate to 23,040 acres. The lands patented shall be the lands within the township or townships that enclose the Native village, and any additional lands selected by the Village Corporation from the surrounding townships withdrawn for the Native village by subsection 16(a).

(c) Each patent issued pursuant to subsections (a) and (b) shall be subject to the requirements of this subsection. Upon receipt of a patent or patents:

(1) the Village Corporation shall first convey to any Native or non-Native occupant, without consideration, title to the surface estate in the tract occupied as a primary place of residence, or as a primary place of business, or as a subsistence campsite, or as headquarters for reindeer husbandry;

(2) the Village Corporation shall then convey to the occupant, either without consideration or upon payment of an amount not in excess of fair market value, determined as of the date of initial occupancy and without regard to any improvements thereon, title to the surface estate in any tract occupied by a nonprofit organization;

(3) the Village Corporation shall then convey to any Municipal Corporation in the Native village or to the State in trust for any Municipal Corporation established in the Native village in the future, title to the remaining surface estate of the improved land on which the Native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs: *Provided*, That the amount of lands to be transferred to the Municipal Corporation or in trust shall be no less than 1,280 acres;

(4) the Village Corporation shall convey to the Federal Government, State or to the appropriate Municipal Corporation, title to the surface estate for existing airport sites, airway beacons, and other navigation aids, together with such additional acreage and/or easements as are necessary to provide related services and to insure safe approaches to airport runways; and

(5) for a period of ten years after the date of enactment of this Act, the Regional Corporation shall be afforded the opportunity to review and render advice to the Village Corporations on all land sales, leases or other transactions prior to any final commitment.

(d) the Secretary may to the acreage limitations;

(e) Immediately after the Secretary shall convey to the surface estate and/or the subsurface estate;

(f) When the Secretary the surface estate in lands shall issue to the Regional Corporation lands are located a patent to lands located in the Native village drawn or reserved for the Petroleum Reserve National Monument for in subsection 12(a) develop, or remove mine within the boundaries of consent of the Village Corporation;

(g) All conveyances not valid existing rights. Where under this Act, a lease or agreement (including a lease in fee simple) has been issued under such patent, the patent shall be the lease, contract, permit of the lessee, contractor, permit of all rights, privilege. Upon issuance of the patent, the patent shall be entitled to any and all interests, lessor, contractor, permit, permits, rights-of-way, or a lease issued under section 12(a) treated for all purposes as if it were a lease issued under this Act. The administrative fee, or easement shall be paid to the State, unless the agency administering the land embraced within any right-of-way, or easement, the patentee shall be entitled to the amount of the revenues from such right-of-way, or easement, which the numerator is the amount of the revenues and the denominator is the total amount of the revenues from such right-of-way, or easement, permit, right-of-way, or easement.

(h) The Secretary is authorized to issue a patent to the areas withdrawn by section 12(a).

(1) The Secretary shall issue a patent to the Regional Corporation and historical places;

(2) The Secretary shall issue a patent to the Regional Corporation that does not qualify under the laws of Alaska, to the 23,040 acres surrounding the surface estate in such Regional Corporation;

(3) The Secretary shall issue a patent to the Regional Corporation residing in Sitka, Alaska, under the laws of Alaska.

Patent requirements.

1. Native Allotments

2. nonprofit organizations

3. Municipal Selections

SCS CSSHJR 28 (SA)

The Senate State Affairs Committee substitute makes only minor changes for clarity and accuracy in the resolution passed by the House. These changes have been approved by the prime sponsor.

The "whereas" clause beginning on page 1, line 18 was rewritten with no substantive changes.

The number on page 2, line 8 was changed from 10 years to 77 years to reflect the fact that federal responsibility for granting allotments began with the Native Allotment Act of 1906 rather than the Alaska Native Claims Act of 1971.

Folta for
Bradley
5/13/83

Original sponsors: Herrmann, Adams,
Fuller, et al

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 SENATE CS FOR CS FOR SS FOR HOUSE JOINT RESOLUTION NO. 28 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 Relating to the processing of Native
6 allotments.

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 WHEREAS the Bureau of Land Management of the United States Department
9 of the Interior has been given the responsibility for processing appli-
10 cations for allotments granted under the Native Allotment Act of 1906 and
11 the Alaska Native Claims Settlement Act of 1971; and

12 WHEREAS the present procedures of the Bureau of Land Management are
13 moving so slowly that it has been publicly stated in Alaska that it will
14 take no less than 20 years before the allotment applications now on file
15 can be processed; and

16 WHEREAS the applications for the allotments have already been on file
17 for 10 years or more; and

18 WHEREAS some applicants have died while their applications remain
19 unprocessed resulting in unnecessary probate difficulties for the appli-
20 cants heirs; and

21 WHEREAS the land contained within the allotment applications repre-
22 sents the single most valuable asset for most of the individuals who have
23 applied for the allotments; and

24 WHEREAS village corporations established under the settlement act may
25 ^{not} receive ~~only interim conveyance of~~ title to their land until the privately
26 owned land is transferred; and

27 WHEREAS the questions unresolved in these allotment applications cast
28 a cloud on the title to the village corporation lands; and

29 WHEREAS the prospect of substantial delay in obtaining title to the

1 village land represents a substantial financial loss to the village corpo-
2 rations because it ^{delays the possibility of the village} limits the use and disposition of any interest in ^{corperations using} their
3 lands;

4 BE IT RESOLVED that the Alaska State Legislature encourages the Con-
5 gress to provide adequate funding to the Bureau of Land Management, United
6 States Department of the Interior, so that the bureau may carry out the
7 responsibility to process applications for allotments given by Congress to
8 the bureau over 77 years ago.

9 COPIES of this resolution shall be sent to the Honorable George Bush,
10 Vice-President of the United States and President of the U.S. Senate; the
11 Honorable Thomas P. O'Neill, Jr., Speaker of the U.S. House of Representa-
12 tives; to the Honorable James Watt, Secretary of the Interior; to Robert F.
13 Burford, Director of the Bureau of Land Management; and to the Honorable
14 Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the
15 Honorable Don Young, U.S. Representative, members of the Alaska delegation
16 in Congress.

Offered: 3/28/83
Referred: Rules

Original sponsors: Herrmann, Adams,
Fuller, et al

1 IN THE HOUSE BY THE RESOURCES COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 28 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 Relating to the processing of Native
6 allotments.

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 WHEREAS the Bureau of Land Management of the United States Department
9 of the Interior has been given the responsibility for processing ~~the~~ appli-
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14 take no less than 20 years before the allotment applications now on file
15 can be processed; and

16 WHEREAS the applications for the allotments have already been on file
17 for 10 years or more; and

18 WHEREAS individual ^{heirs to} applicants are being born into and ^{applicants} dying out from
19 the existing applications, resulting, at the least, in unnecessary probate
20 difficulties for the ^{heirs of} applicants; and

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2
Verify
with BLM

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE:

April 7, 1983

The Honorable Bill Ray
State Senator
Alaska State Legislature
Pouch "V"
Juneau, Alaska 99811

Dear Senator Ray:

I am responding to your March 15, 1983 correspondence about Native allotment issues in Haines.

Mr. Jacquot is [REDACTED] representative process [REDACTED] however, as you are probably aware, the same situation exists in many areas of the state.

During the creation of the Chilkat Bald Eagle Preserve and Haines State Forest Resource Management Area the Department of Natural Resources committed itself to establishing a process whereby the state might quit-claim its interests in land back to the federal government on selected allotment claims, for subsequent reconveyance to the allottee. Until just recently, however, this process was not legally possible. The recent U.S. District Court approval of specific procedures now allows the federal government to receive such state land reconveyances.

Recently members of my staff have been working with individual allotment applicants in Haines, including Mr. Jacquot, in an attempt to identify more precisely which allotments fall into this reconveyance category (see the attached article from the Lynn Canal News). I have also attached my recent letter to Mayor Halliwill on the subject.

At the present time the most significant remaining obstacle is BLM's lack of funding to support surveys. The allotments must be surveyed before the state can reconvey its land to the federal government. The Governor's representative in Washington, John W. Katz, is pressing the federal government to provide necessary survey funds for BLM. It is estimated

The Honorable Bill Ray
April 7, 1983
Page 2

that survey costs for the Haines area will amount to about \$250,000 (see attached letter).


Please note that the State never made a commitment to fund surveys of individual Native allotments in the Haines area. This responsibility remains with BLM, although the State might choose to assist in this effort.

The Department strongly supports state efforts, such as Herrmann's proposed joint resolution, to expedite the allotment survey and adjudication process.

The Department is doing everything it can to facilitate adjudication of the Haines area allotments. My staff has been in touch with Mr. Jacquot on a regular basis. I believe he is now satisfied with the State's efforts on behalf of himself and other allottees.

Thank you for providing the opportunity to comment.

Sincerely,


Esther C. Wunnicke
Commissioner

Attachment

cc: Representative Herrmann
Curt McVee, State Director, BLM

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

CLARKS POINT VILLAGE COUNCIL
GENERAL DELIVERY
CLARKS POINT, ALASKA 99569
November 28, 1982

Senator, Ted Stevens
United States Senate
Washington, D.C. 20510

Dear Senator Stevens:

An item of particular concern to the shareholders of Saguyak, Incorporated, the Village Corporation for Clarks Point, Alaska, as well as the members of the traditional Village Council is the recent article in the Tundra Times, concerning the status of Native Allotments in Alaska.

According to the October 20th, 1982, issue of the Tundra Times it may be twenty years before Native Allotments receive their lands. Further, I have spoken with the Realty Officer at the Bureau of Indian Affairs and he stated that under present staffing and funding it will be more like seventy years before BLM can survey all the allotments presently pending before BLM.

Speaking as President of Clarks Point Village Council, I wish to make it known that I feel this is to long a period to wait. Many natives have already waited fifteen or twenty years to get their lands and the thought of waiting another twenty years is too much to ask.

Although, I am not an expert on A.N.C.S.A. it is my understanding that my Village Corporation cannot get full title to their lands until the allotments are excluded from their selection. If this is true it would seem that seventy or even twenty years is not a rapid settlement as promised by Section 2 (b) of A.N.S.C.A.

The value portrayed by the allotment is the most that many of us can expect to pass on to our children. Additionally, the value of corporate lands is diminished by the cloud placed on the title by the presence of an unknown amount of allotment land.

As the land represents our culture and our heritage we are in effect a people without a country until the land problem is settled. Further, we are prevented from entering into financial transactions with lending institutions to better our way of life until such time as we gain title to our lands. This is true of both corporate and allotted lands.

Your assistance in resolving these matters are great concern to us in Clarks Point.

Sincerely,

Joseph L. Clark
JOSEPH L. CLARK
TRADITIONAL VILLAGE COUNCIL

Jimmy J. Wassily
JIMMY J. WASSILY

Irene M. Clark
IRENE M. CLARK

Aurora A. George
AURORA A. GEORGE

Annie Ramondos
ANNIE RAMONDOS

cc: To All Concerned

Adelheid Herman, Rep.

Calista Corporation

516 Denali Street, Anchorage, Alaska 99501 (907) 279-5516

March 22, 1983

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.

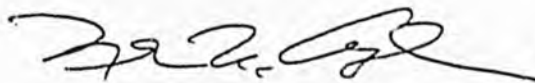
In our humble opinion, we feel this language would not only strengthen the intent of House Joint Resolution No. 28 but further clarify its intent.

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

A handwritten signature in black ink, appearing to read "N. Angapak", written in a cursive style.

Nelson N. Angapak
Executive Vice President

NNA:slb

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



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:

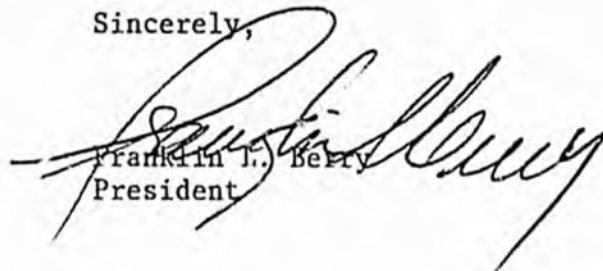
HJR No. 28 relating to the processing of Alaska Native Allotments certainly receives the full endorsement of the Alaska Native Foundation.

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 J. Berry
President

:ds

Rural Alaska Community Action Program, Inc.

10 March 1985

Representative Adelheid Herrmann
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Herrmann:

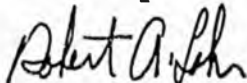
I am writing to express wholehearted support for HJR 28, relating to the processing of Native allotments.

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



REPRESENTATIVE DON CLOCKSIN

Alaska House of Representatives

ASSISTANT MINORITY LEADER

1527 H STREET
ANCHORAGE, ALASKA 99501
(907) 278-4188

WHILE IN JUNEAU:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3704

May 2, 1983

Mr. Daniel Alex
President
Alaska Native Land Managers Association
840 K Street, Suite 202
Anchorage, Alaska 99501

Dear Mr. Alex:

Thank you for your letter expressing appreciation for my support of HJR 28 relating to the processing of native allotments.

Although I am a co-sponsor, please note that Rep. Adelheid Herrmann is the prime sponsor of this legislation.

Thank you again for writing.

Sincerely,

A handwritten signature in dark ink, appearing to be "Don Clocksin".

Representative Don Clocksin

DC:blg

cc: Alaska Native Land Managers Association Members
Representative Adelheid Herrmann —
Representative Albert Adams
Representative John Fuller
Representative Peter Goll
Representative Vern Hurlbert
Representative Anthony Vaska
Representative Fred Zharoff
Representative Ben Grussendorf
Representative Mike Davis
Representative Niilo Koponen

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M
JUNEAU, ALASKA 99811
PHONE:

April 7, 1983

The Honorable Bill Ray
State Senator
Alaska State Legislature
Pouch "V"
Juneau, Alaska 99811

Dear Senator Ray:

I am responding to your March 15, 1983 correspondence about Native allotment issues in Haines.

~~Mr. Jacquot is correct. BLM Native allotment adjudicative process for the Haines area has taken too long. However, as you are probably aware, the same situation exists in many areas of the state.~~

During the creation of the Chilkat Bald Eagle Preserve and Haines State Forest Resource Management Area, the Department of Natural Resources committed itself to establishing a process whereby the state might quit-claim its interest in land back to the federal government on selected allotment claims, for subsequent reconveyance to the allottee. Until just recently, however, this process was not legally possible. The recent U.S. District Court approval of specific procedures now allows the federal government to receive such state land reconveyances.

Recently members of my staff have been working with individual allotment applicants in Haines including Mr. Jacquot, in an attempt to identify more precisely which allotments fall into this reconveyance category (see the attached article from the Lynn Canal News). I have also attached my recent letter to Mayor Halliwill on the subject.

At the present time the most significant remaining obstacle is BLM's lack of funding to support surveys. The allotments must be surveyed before the state can reconvey its land to the federal government. The Governor's representative in Washington, John W. Katz, is pressing the federal government to provide necessary survey funds for BLM. It is estimated

The Honorable Bill Ray
April 7, 1983
Page 2

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Please note that the State never made a commitment to fund surveys of individual Native allotments in the Haines area. This responsibility remains with BLM, although the State might choose to assist in this effort. The Department strongly supports state efforts, such as Representative Herrmann's proposed joint resolution on federal funding for allotment survey and adjudication, to expedite the federal process.

The Department is doing everything it can to facilitate adjudication of the Haines area allotments. My staff has been in touch with Mr. Jacquot on a regular basis. I believe he is now satisfied with the State's efforts on behalf of himself and other allottees.

Thank you for providing the opportunity to comment.

Sincerely,



Esther C. Wunnicke
Commissioner

Attachment

cc: Representative Herrmann
Curt McVee, State Director, BLM

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

March 14, 1983

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c/o Representative Adelheid Herrmann
Pouch V
Juneau, AK 99811

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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.

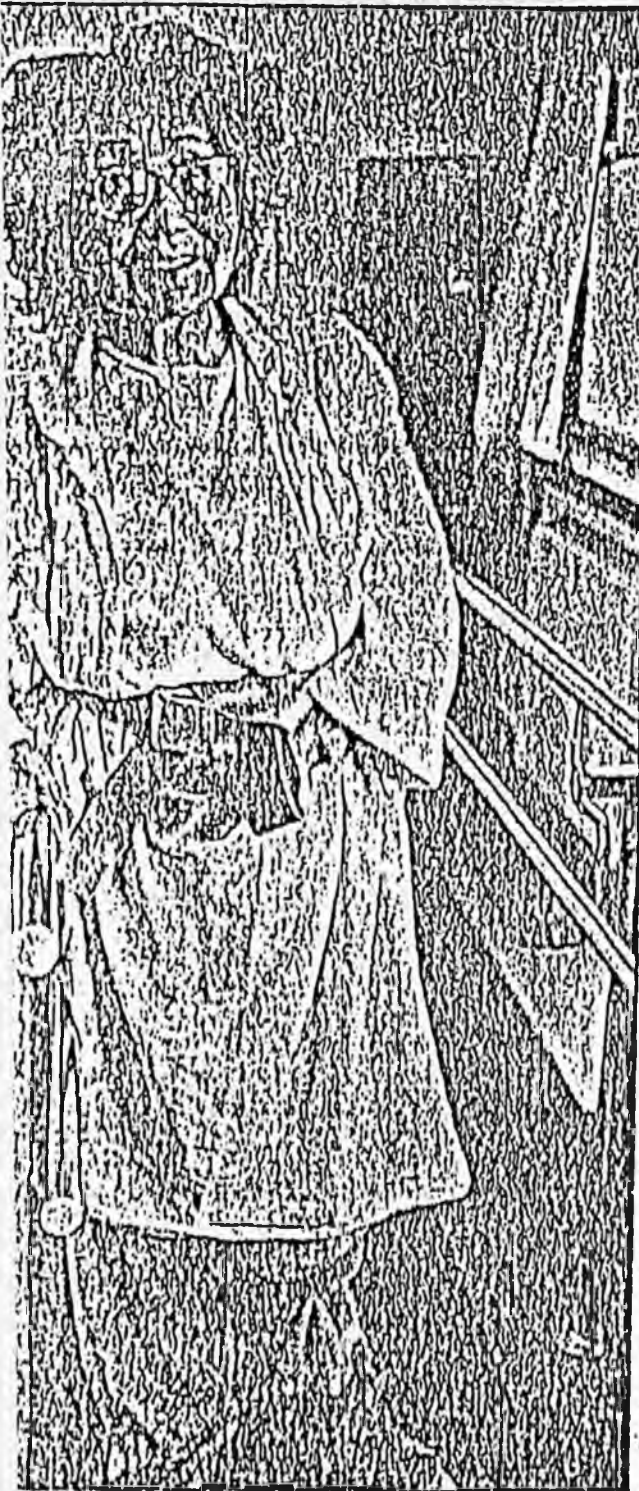
If I can be of further assistance, please do not hesitate to contact me.

Sincerely,
ALASKA LEGAL SERVICES CORPORATION

Craig J. Tillery

Craig J. Tillery

CJT/bh
Enclosures



Red tape slows land transfers

by A.J. McClannahan
Times Writer

Eighty-one-year-old Mildred Sparks of Haines, a Tlingit woman hospitalized with a stroke, doesn't have 30 years to wait for title to about 100 acres of land.

But that's how long she and other native people might have to wait for land they are to get under the 1906 Allotment Act, say U.S. Bureau of Land Management officials.

They say the long wait can be blamed partly on priorities set by Congress, the amount of money allocated to the agency and difficulties such as a short surveying season in Alaska.

The problem affects 9,300 or so individuals who want title to about 14,000 parcels of land — generally from 40 to 160 acres each. But it doesn't stop there.

The native allotment issue also puts a cloud over conveyances of millions of acres of lands to the state and native corporations. It could affect planned road systems, airports — just about anything.

That's partly because of uncertainty over exactly where the natives' land is and whether their claims conflict with land selections by the state and others.

Most applications for native allotments 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 Dec. 18, 1971.

Sparks is concerned because she has been waiting years to get her land, and in the meantime can do little with it because she doesn't have title to it.

"They can't do this. They can't

there," said her husband William Sparks.

Applications are reviewed by the Bureau of Land Management, and many are subject to an adjudication requirement — which means that BLM must investigate whether the claim is valid and is properly described in the application. And that process all comes before the land is even considered for surveying.

The situation is not without hope, said BLM state director Curtis McVee. There is more money in the agency's budget for the coming fiscal year to deal with the adjudication process. So far, fewer than 10 to 15 percent of the claims have gone through that first step.

Adjudication would help the state and native corporations by at least partially clearing the cloud over their conveyances. Some of the natives, however, still would have to wait many years to get title to their land because of the time-consuming process of surveying it.

That's the process that could take about 30 years, given current surveying processes, BLM says.

Pumping more money into BLM could help reduce that amount of time, said BLM public affairs officer George Gurr, but there are other variables that will have an influence, such as weather and finding enough trained people to do the surveys.

It's really a matter of priorities, he said, which means Congress and the Department of Interior must decide they want to stress settlement of native allotments.

The issue has a long history, and has been frustrating for everyone involved, said Irene Rowan,

Federation of Natives land director.

"I don't think we can afford to wait 20 or 30 years to have the native allotment problems solved," she said.

Neither does Craig Tillery, Alaska Legal Services attorney.

Although natives could have filed for title to parcels of up to 160 acres any time after the 1906 act, few knew about it and so almost no claims were made for decades, Tillery said.

It wasn't until the Bureau of Indian Affairs and the Rural Alaska Community Action Program made efforts in the late 1960s to alert people to the Allotment Act that most claims were made.

Accuracy has been another problem.

Many of the applications have mistakes. An individual's land has been known to be 10 to 20 miles from where it is listed, said Julie Gibbons, BLM real estate specialist.

In fact, she estimated that about half the applications have such mistakes. And that's one reason why "interim conveyances," such as are made to the state and native corporations, can't be used. The land cannot be conveyed to the individuals until it actually has been surveyed.

The surveying season in Alaska is short — generally only from late May to late September — which is the time it is most difficult to contact natives who are still leading a subsistence lifestyle. Often they are at a fish camp during the summer months, Gibbons said.

"That guy isn't going to stay there to go with us if he's not to

So far only about 750 of the allotments have been surveyed. With current technology, BLM probably will be able to survey only 400 to 700 annually, Gibbons said.

New technology would help. Already electronic equipment and helicopters are being used to survey large parcels. But that system doesn't work for small amounts of land.

The allotment issue is one of the biggest problems facing the state as far as getting its land from the federal government, according to Reed Stoops, director of research and development for the Department of Natural Resources.

He said he thinks more money would help a lot.

Just surveying the parcels generally costs the government from \$8,000 to \$10,000 for each parcel, Gurr said.

"Money solves a lot of problems," said Vern Wiggins, co-chairman of the Alaska Land Use Council. The council was created under the Alaska National Interest Lands Conservation Act of 1980 to work on federal programs in Alaska.

And as for the natives, they can't do much with the land until they know they have it. Even getting loans for putting improvements on the land usually depends on having title to it.

But Tillery also has not given up hope.

"I don't think it will take 30 years. Allotments are too big a problem to take that long. Under the present system they would take 30 years, but I believe that the parties will get together and work it out, so that it's resolved," he

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Allotment conveyance may take 20 years

By LINDA LORD-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 DIA, 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 Elckbush, 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 BLM'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 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 a 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 Rural CAP 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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160 acres total

how many "active" and "closed" cases
does "cases" mean allotment application

why are cases closed?

how many protests - how many are
still active?

How many claims have been surveyed,
how many pending?

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