

Tourists may meet allotment roadblock

Plans to open the North Slope haul road to the public may have to wait until it is rerouted around the Native allotment of Arctic John Etalook, according to a story by Andy Williams in the May 18 Alaska Advocate. Arctic John, a Native of Anaktuvuk Pass, has already received final approval of his 160 acre plot on the South Fork of the Koyukuk River, and he's not interested in tourist traffic using the haul road that crosses his land.

Alyeska has leased a right-of-way across the parcel for the pipeline and use of the state-owned road, but neither the State nor anyone except Alyeska have any right to allow passage across the land for other purposes. In fact, even Alyeska was forced to make a large money settlement for a helicopter pad and valve station they built on the land without John's permission.

Arctic John now lives with his wife Esther in Fairbanks, but he is worried about the declining value of the land for subsistence for his daughter in Anaktuvuk. Since the line went through, the amount of wild-

life in the immediate area has decreased, the article reports.

Native allotments are the creation of a 1906 federal law which allowed Alaskan Natives the right to claim up to 160 acres that they used for subsistence purposes. The Act was a well-kept secret until shortly before passage of the Alaska Native Claims Settlement Act in 1971, however; and ANCSA specifically repealed the Allotment Act. The efforts of Rural CAP, Alaska Legal Services, newly formed Native Associations, and the BIA resulted in the last-minute filing of thousands of allotment applications before the 1971 deadline, by Natives who wanted to claim the land they and their ancestors had used for hunting and fishing camps for generations back.

Many of those applications are still pending as the Bureau of Land Management squabbles with claimants over what kinds of use of the land they must prove. In many cases, Native applicants have been hard-pressed to show that they used the land, because their use has left little mark. In Arctic John's case, however, the BLM has al-

ready finally approved his application.

Native allotments are granted under a deed of trust, which means that no rights can be acquired by anyone except the applicant without approval by the Bureau of Indian Affairs. Since the land is in effect federal land, then, the State of Alaska cannot exercise its power of eminent domain as with ordinary private holdings. Instead, the State must go to federal court and show that the public interest is significant and that it cannot be served by another, less drastic means.

All this means that Arctic John, who has the support of the Association of Interior Eskimos, the BIA and Alaska Legal Services, will be able to prevent or at least significantly delay any public use of the haul road as a tourist route to the North Slope.

And it looks like that's just what he intends to do.

The implications of the case go far beyond the haul road question, to include any other private, state, or even federal rights-of-way in the bush, which is covered with a patchwork of allotment claims