

# And the land will be bountiful if...

## **Conflicts over land selections**

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ANCHORAGE, AK., Jan 6, 1977—The Alaska Department of Fish and Game is using its power to protect a special interest group while Natives are unable to effectively protect their own land interests, according to an official of the Bristol Bay Native Corporation.

Jack Moores, who directs land selection for the corporation, charged last week that the Department of Fish and Game has asked for easements across Native-selected lands based only upon land use information from guides. Moores said the department did not seek information from Native residents in the area and that procedure for setting aside easements does not give Natives enough opportunity to protest unacceptable easements.

The Alaska Native Claims Settlement Act, which gave Natives ownership of 40 million acres of land, and the authority to the Interior Secretary to guarantee public access across Native lands to reach public lands and facilities isolated by Native selections.

This authority has been the subject of controversy and litigation ever since. Natives have protested that the Secretary has set up guidelines that allow too much access across their lands. They fear trespass difficulties and destruction of subsistence resources.

Moores made his remarks in reference to land selections made by the villages of Manokotak and Eleknagik. Easement recommendations for these villages are now being reviewed by the Joint Federal-State Land Use Planning Commission. The Commission was set up by the land claims act to participate in developing land use policy for Alaska.

Most of the easements across these selections parallel both banks of many streams in the area. According to an order of the Interior Secretary issued last spring, recreation easements along rivers and streams should only be allowed in areas having "highly significant present recreational use."

"The evidence doesn't support the streamside easements requested," Moores said. He added that testimony from local residents would show that many of the streams for which ease-

(Continued on Page 3)

(Continued from Page 1)

ments are requested are only used by bears and the Department of Fish and Game. Bristol Bay Natives fear that if new areas are opened up to sport fishing because of easements being placed where there has been little or no fishing, commercial stocks of red salmon may be depleted.

In a December 22 letter to the chairman of the Bureau of Land Management's Easement Task Force, Moores stated that the department had sent out

questionnaires in the Bristol Bay region to obtain information on land use in order to make easement requests. The problem, according to Moores, is that the forms were sent to "a rather select group of individuals," namely, hunting and fishing guides. Moores went on to say:

"The recommendations are based on data submitted by professional guides. These guides are in business for a profit. The Alaska Department of Fish and Game has utilized its resources to protect the interest of a specific class. The BLM Task Force has made recommendations based on these narrow interests."

To make matters worse, Moores said that when the Task Force sits to formulate easement proposals for a regional or village selection area, Native representatives have not been able to sit in, even though the Planning Commission sent non-voting members to observe the meeting.

In his letter to Task Force Chairman Horace Sanders, Moores stated, "The entire process with regard to streamside and site easements is prejudicial to the Alaska Native. It is time for a reflection on past practices. It is time the Native community was a part of the process as mandated by ANCSA."

The BLM Easement Task Force was formed in 1973 to provide advice and information to BLM State Director Curt McVee on where easements should be reserved across Native lands. Task Force members are all BLM personnel. McVee makes the final decision on easements before land is conveyed to Native corporations under the Alaska Native Claims Settlement Act of 1971. (See sidebar for a review of the current easement process.)

Moores said when the Task Force reviewed easements for Bristol Bay villages, the corporation "never got the chance to sit in there, we were not represented and we are a party of interest. I've tried, but they never let me in, maybe I didn't try hard enough."

Fish and Game officials deny they are supporting a special group and maintain they are protecting public access to public resources.

Frank Stephanich, the man who observes Task Force Meetings for the Fish and Game, refused to make available a list of people contracted by his agency for easement recommendations. However, he did remark that allegations that only guides had been contacted "were not quite true."

Larry Heckart, research management coordinator for the department, admitted that guides are "kind of a class in themselves in that country," but added that many of them have out-of-state customers who are difficult to reach for information.

Heckart also pointed out, as did other state officials, that the easement process has been a

nightmare for them because of confusion at BLM over easement guidelines. He added that since the guidelines were finalized last spring, the state had adhered to them.

Stephanich explained that in considering whether a stream has significant, existing use, agencies are required to determine if a stream has "at least several users each year." He indicated that the word "several" to him meant two or more people.

A review of data presented

Sanders also said their had been numerous in-house discussions about the possibility of allowing Natives to sit in on Task Force meetings, but he said the presence of village or regional representatives could be "disruptive" to the land conveyance process because opposition to easements has been so strong.

Neil Bassett, BLM's chief of lands and minerals management, commented, "I don't think Fish and Game's input is any more extensive than anybody else's"

was not his function to support easement recommendations.

However, one official of the Land Use Planning Commission told the Tundra Times that Stephanich had a "powerful voice" at Task Force meetings. Stephanich himself commented, "I had a red face a couple of times because I didn't have supporting data."

A Fish and Game official working out of King Salmon, Dick Russell, added to the chorus of voices critical of the

by guides indicates that it is not difficult to show use of a stream or a portion of it by so few people. Still, Natives chafe under the zeal with which the department seems to recommend easements and their inability to counter such pressure on their interests through existing procedures.

Easement Task Force Chairman Sanders said the group gets its information on land use wherever it can. He acknowledged that the Department of Fish and Game is their "main source" of information, but added that BLM records show they had used other sources as well.

except through regular official channels. He did admit that having an observer at Task Force meetings give the state a slight edge in being able to protect its interests, an opportunity that Natives do not have.

However, like Sanders, Bassett said having Native representatives at Task Force meetings when easement recommendations are discussed would not be practical. "They're taking the approach in so many, many, many cases that they don't want any, it just won't work."

Bassett also pointed out that although Stephanich had been helpful in clarifying information reviewed by the Task Force, it

way BLM has handled easement problems. He said his office used forms to collect land use information from guides, fishermen and sportsman's groups and that the forms were prepared by BLM. "It seems like every two weeks they changed their minds and sent out a new form."

Russell agreed with federal officials that it is difficult to obtain land use information from an area as large as the Bristol Bay region and it was inevitable that testimony from guides would be heavily relied upon. "There aren't any other sources of information," he said.

(Continued on Page 8)

# BBNA protests

(Continued from Page 3)

Bristol Bay Native Corporation is not only concerned with the possible impropriety of a state agency representing a special interest group, but with the effect of the whole easement process on commercial salmon stocks.

BBNC's Moores says he cannot find any record of someone presenting evidence of existing use for the streamside easements requested. Nonetheless, he pointed out that all the streams are important for red salmon spawning, which is crucial to the Bristol Bay commercial fishing industry.

On easements for the land selection of Aleknagik, Moores stated, "The placement of streamside easements along every major salmon spawning creek within the Aleknagik selection is not in the public interest. The salmon resource needs protection."

Fish and Game officials say this criticism of the easements is not valid. Stephanich commented, "They have no basis for that." He added that the standard regulation of sport fisheries by the department would prevent overfishing by increased numbers of users.

Dick Russell, the department's King Salmon office said, "I don't think it's a valid concern in Bristol Bay." He said, "the sport catch of red salmon was totally insignificant" compared to the commercial and subsistence catch of that species.

Several Native corporations filed suit last April against the Interior Secretary to protest his easement policies. The Tundra Times reported last week that lawsuit was being trans-

ferred to Alaska.

Bristol Bay Native Corporation was one of six regional corporations reportedly near agreement with the Interior Department on the easement question. Although not participating in the easement lawsuit against Interior, Bristol Bay had been attempting to solve easement problems through negotiations.

However, the Alaska Native Management Report published last month that a ceremony to finalize agreements with four regions was called off when the State of Alaska and the Land Use Planning Commission protested they had not been consulted during the negotiations.