

Kasayulie explains why he opposes Murkowski's bill

by Willie Kasayulie
for the Tundra Times

The primary goal of the 1991 amendments is to ensure continued Native ownership of the land achieved when Alaska Native Claims Settlement Act passed in 1971.

Preservation of the land base can be achieved only in part by extending stock restrictions and making land bank protections automatic. The only long-term iron-clad protection for all the land will come from transferring it to tribal governments.

This objective can be achieved through a Qualified Transferee Entity section which would make transfers possible. The House Bill — H.R. 278 — contains such a provision which would allow corporations to transfer their land to tribal governments.

On Sept. 23, however, the Senate Energy and Natural Resources Committee reported out Sen. Frank Murkowski's Substitute Bill which does not provide such a tribal option.

Why did the committee support such an unsatisfactory piece of legislation? The answer is simple: the Native community was divided.

Murkowski refused to include a QTE provision requested by both the Alaska Native Coalition and the Alaska Federation of Natives unless an anti-Native disclaimer clause was also included which would have had the practical effect of precluding Native councils from exercising tribal powers of self-government.

AFN, although supporting inclusion of the QTE principle, gave in to Murkowski's pressure and argued to delete both the QTE and objectionable disclaimer clause. The ANC on the other hand refused to surrender and lobbied hard to gain support for inclusion of a QTE along with a neutral disclaimer in the bill.

A vast majority of the committee members or their aides expressed great sympathy for the coalition's position. Most importantly, they made it clear that had AFN and ANC presented a united front we would, in all likelihood, have carried the day in the committee. The same was true on the House side.

Since Murkowski refuses to deliver what Native people want, we should actively seek outside support. It is waiting to be tapped.

The bill is now out of committee and on the Senate floor, so we have another opportunity to improve this legislation. Sen. Jeff Bingaman, D-N.M., at the request of ANC, has agreed to offer amendments to address defects in the bill.

If AFN will join ANC and present a united Native front, ANC's amendments can be passed, and an unacceptable, unworkable and discriminatory bill can be transformed into a sound, workable law that will both protect Native land and corporations and provide a clear path out of the corporate system.

The protection provided the land under the Murkowski bill is limited. Its "land bank" protections only cover undeveloped and unleased lands.

Therefore, the most valuable land — the core areas of the 200 Native villages which are developed — will receive no protection and could be lost through taxation, bad debts or bankruptcy.

The House bill, on the other hand, includes a QTE provision which authorizes Native corporations to transfer their lands to tribes. Under this provision *all* land, developed and undeveloped, could be protected against loss by any means.

The Murkowski bill is deficient in terms of protecting Native control of

the corporations as well. While the bill extends stock restrictions beyond 1991, thereby shutting off one means by which non-Natives could gain control of the corporations, it opens three other doors:

- It authorizes the issuance of stock to non-Natives *without limitation* and would even permit such stock to have greater voting power than stock held by other shareholders.

- It authorizes the lifting of restrictions on sale of stock to non-Natives prior to 1991 — in fact, they could be lifted immediately.

- It authorizes the satisfaction of dissenters' rights by the issuance of alienable stock or notes secured by the corporation's land — both of which could lead to non-Native takeovers of the corporations.

In short, the Murkowski Substitute satisfies neither its intended goals nor our concerns. It provides no protection for the most valuable land; it opens more doors to non-Native takeovers than it closes; and *it offers no way out of the corporate system.*

ANC strongly urges the AFN to join with it and present a united Native front in Washington, D.C.
