

Congress says don't share NOL funds, Village leaders angry

by Jeff Richardson
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The U.S. House of Representatives has voted overwhelmingly to concur with Senate changes to a package of amendments to the Alaska Native Claims Settlement Act of 1971. But that's not the end of the story.

Villages object

Village corporation leaders, strongly opposed to one provision of the package, were stung when they traveled all the way to Washington, D.C. but were unable to meet with Rep. Don Young before the vote to discuss their concerns.

What started as a non-controversial package of technical amendments to ANCSA became just the opposite when the amendments were approved by the House and then sent to the Senate for concurrence. At that point, Sen. Ted Stevens added a provision that would prevent the distribution of revenues derived from the sale of net operating losses (NOLs) under Section 7(i), the revenue-sharing provision of the settlement act. The Senate agreed to the package, including the language added by Stevens. The bill went back to the House for concurrence on the NOL change, where it passed 390-10.

A call for greater village unity

"What I got out of the two days down there is that this issue was decided long before we got there," said Pat Norman, president of Port Graham Corp.

While Norman and Hazel Nelson, president of Becharof Corp. criticized the failure of both Senate and House leaders to hold hearings on

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Congress and NOL distribution . . .

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the NOL measure, they were especially frustrated when they couldn't get a meeting with Young, despite assurances from his staff that he would be available before the final House vote.

The experience prompted both to call for greater political unity among village corporations, and they vowed to press for formation of a coalition to advance village interests more strongly.

No comment from Young

No comment from Young on the amendment package or the village assertions was available by press time, despite several calls by *Tundra Times* to his Washington office.

The NOL language introduced by Stevens and accepted by the House states that for the purposes of revenue-sharing mandated by ANCSA, and retroactive to 1971, the term *revenue* "does not include any benefit received or realized for the use of losses incurred or credits earned by a Regional Corporation."

Definitions at issue

Under Section 7(i), each regional Native corporation is supposed to share 70 percent of revenues derived from "the timber resources and subsurface estate patented to it" with other regional corporations. Under Section 7(j) of ANCSA, a portion of the shared revenues are in turn distributed to village corporations and "at-large" shareholders not enrolled to villages. The purpose of the measure was to overcome to some extent the disparity between resource-rich corporations, and those not endowed with market-

able resources.

The Stevens language is intended to derail a class-action lawsuit by several village corporations claiming that NOL revenues obtained from selling timber and mineral losses should be shared under Section 7(i). At issue is whether money made by selling timber and minerals is the same as money made from selling *losses* on timber and mineral transactions. Losses would be defined as the difference between what the corporations actually took in, and some higher figure representing the actual value of the resources.

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~ Pat Norman
Port Graham Corporation

How will new bill affect lawsuit?

The suit was thrown out on jurisdictional grounds, but the villages have appealed the dismissal. Village corporations advancing the suit include those representing Dillingham, Chenega, Chevak, Mt. Village, and Ayakulik. They claim that as much as \$525 million in NOL revenues should have been shared.

Regional corporations say resource revenues already shared

While a couple of regional Native corporations have remained on the sidelines in the NOL controversy, several have strongly opposed the village as-

sertion both in court and in Congress. Their position is that revenue derived from timber and minerals sold even below their hoped-for value have already been shared, and that the sale of net operating losses represents a different transaction not subject to revenue-sharing.

They say the Congressional record is clear that the authors of the land claims settlement did not intend "tax attributes" such as NOL proceeds to be shared.

The regional corporations also contend that if village corporations or at-large shareholders are given standing to sue on the issue, it could make the closing of resource deals difficult, if not impossible. Clearly this was not what Congress intended, they say.

Villages say regional position, Congressional procedures flawed

Vowing to continue seeking a day in court to air the merits of their position, village corporation leaders denied they were being opportunistic. They said years of battling the federal and state governments to properly implement ANCSA had left many village corporations financially drained, and in light of this, the question of sharing NOL revenues was legitimate.

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porations' chances to move forward and make progress," said Becharof Corporation's Nelson. "If there had been hearings, our Congressman would have been able to gauge the needs of village corporations and how important the NOL revenue is to us. Village corporations need to seriously consider working closer together,

perhaps working in a coalition."

Port Graham's Norman agreed, saying he was "disgusted" by his recent experience in Washington.

"I've got to go back and explain this to my board of directors," Norman said, adding it was clear to him that the Alaska Federation of Natives apparently could not or would not represent village interests in conflicts with regional corporations. "If we join together in some form, we can stop this from ever happening to us again."
