

Tuluksak attorney: Diversion of river calls for detailed study

by A.J. McClanahan

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An attorney representing the Village of Tuluksak IRA Council and former Tuluksak Mayor Anna Phillip on Friday said a preliminary decision in favor of Tuluksak should be formally adopted in part because of uncertainties over a proposed mining plan to divert the Tuluksak River.

Speaking in oral arguments before U.S. District Court Judge H. Russel Holland, attorney Eric Smith said he agreed with Holland's preliminary decision, which would require the Bureau of Land Management to undertake a full Environmental Impact Statement on the effects of diverting the river.

"The uncertainties are inherent," he said, explaining that the only way to more fully understand the situation is to do an EIS. "Those uncertainties spring right out."

James N. Reeves, the attorney representing Northland Gold Dredging, had a different view. Northland Gold is proposing to divert about a mile and a half of the river near Tuluksak into a new channel. The proposal was first made in 1983, and has since been granted permits by the State of Alaska, the BLM and the U.S. Army Corps of Engineers. Court action to date has prevented the firm from carrying out its plans.

"We've got all the permits, and yet we're still in the legal maze," Reeves said. He contended that although it could not be proven that the diversion would not affect wildlife, he said only two salmon spawn in the reach of the river to be diverted and so the impact was very small.

"There is nothing left to study," he said. "One or two fish might be deterred from spawning — maybe."

They depend on the river for drinking water, as well as subsistence fish and game resources.

The third attorney who spoke during the oral arguments was Dean Dunsmore, representing the BLM. He agreed with Reeves and said forcing the BLM to prepare an EIS was essentially a "form over substance problem."

Although Dunsmore conceded that experts disagree over what the effects of diverting the river would be, he said undertaking an EIS will not provide enough new information to make it worthwhile. And, he contended, neither law nor federal regulations requires an EIS in this situation.

Smith said, however, that the affected area is not a "minor" reach of the river from the point of view of the Tuluksak villagers. They depend on the river for drinking water, as well as subsistence fish and game resources. He said the villagers fear the mining operation will dramatically affect the river and that an EIS is sorely needed to answer some of their questions and concerns.

In addition, Smith said federal regulations do require an EIS in this situation.