

# **High court**

## **nixes '77**

### **CIRI proxies**

The Alaska Supreme Court ruled Tuesday that information sent to Cook Inlet Region, Inc. (CIRI) stockholders by stockholder Jerry Ward in 1977 was materially false and misleading, and that proxy votes cast on the basis of the information were therefore invalid.

The majority opinion written by Justice Warren W. Matthews, Jr., in the case of B. Agnes Brown, et al. v. Jerry Ward, reversed a decision by Anchorage Superior Court Judge Seaborn J. Buckalew, Jr., which had held that Ward's proxy solicitation was valid.

The material Ward sent to shareholders in 1977 urged that the Native regional corporation sell its assets and distribute cash to each shareholder. It quoted estimates that coal reserves on land selected by Cook Inlet were worth in excess of \$2 billion, more than \$300,000 per shareholder.

"I say let's get out of white man business, sell all this stuff and invest the money with the people. This would mean THOUSANDS of dollars for each and every one of

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us NOW not 20 years from now," it continued.

The Supreme Court said that evidence presented at the trial indicated that in 1977 Cook Inlet owned surface rights to only 56 acres of land, and mineral rights to about 7000 acres, less than 1 per cent of what it would eventually receive under the Alaska Native Claims Settlement (ANCSA). The opinion quoted findings of the trial court that liquidating all of Cook Inlet's present assets would produce no more than \$6 million, and that the corporation does not "have any present ability to distribute big chunks of land,

or thousands of dollars, to each of its shareholders."

Although Native regional corporations established under ANCSA are not subject to the federal Securities and Exchange Acts, the Supreme Court said that federal law was a useful guide in determining the principles of law to be applied, since it is similar to the state law which governs corporations not subject to the federal laws.

"A misrepresentation is material if there is a substantial likelihood that a reasonable shareholder would consider it important in deciding how to vote," the court said. It is not necessary to prove that one or more shareholders actually were influenced by false or misleading statements.

"There are very few people who, as owners of a small percentage of a large corporation, would not consent to a change in corporate management if doing so

would result in immediate personal wealth," Matthews wrote.

The Supreme Court concluded that Ward's statements were indeed false and misleading, since Cook Inlet had no present ability to distribute anything approaching \$300,000 to each shareholder. It rejected Buckalew's conclusion that Ward had "merely a philosophical difference" with the present management of the corporation.

The court sent the case back to Buckalew to determine what relief should be afforded the corporation and the plaintiffs, who would have won election to the corporation's board of directors in 1977 had Ward's proxies not been counted.

Justice Roger G. Connor dissented. He said that Ward was guilty of only "puffing or argumentative exaggeration," not material representation.