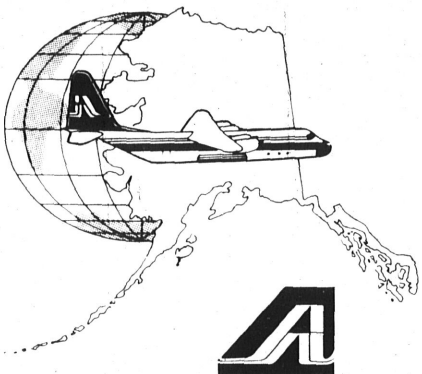


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KIAK 970



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6 A.M.-10:30 A.M. — LARRY STEPHENS
10:30 A.M.-3 P.M. — DON BYRON
3 P.M.-6:30 P.M. — DICK LOBDELL
6:30 P.M.-MIDNIGHT — LAN CARSON
ON SUNDAY LISTEN FOR
TOM BUSCH AND JIM HEIM

Heard on KIAK at 6:45 a.m./p.m. and 8:45 p.m. is
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ON SUNDAYS FROM 2-5 P.M. Join Jerry Naylor with
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The KIAK Top 20 is previewed every SUNDAY from
6-9 P.M. on COUNTRY COUNTDOWN

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LEGAL NOTICE

DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
JUNEAU AREA OFFICE
JUNEAU, ALASKA

FINAL DECISION
CONCERNING THE
ELIGIBILITY OF
BETTLES FIELD (EVANSVILLE)
AS A NATIVE VILLAGE FOR
PURPOSES OF ANCSA 1971
ACTION UPON PROTEST

This is a written decision on protests filed pursuant to 43 CFR, Part 2650 by the Alaska Chapter, Sierra Club, P.O. Box 2025, Anchorage, Alaska 99510, and the Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth by and through their Counsel, James F. Clark of the law firm of Robertson, Monagle, Eastaugh and Bradley, P.O. Box 1211, Juneau, Alaska 99801. The protest of the Alaska Chapter, Sierra Club was dated January 18, 1974, and it was received on January 21, 1974, by the Director, Juneau Area Office, Bureau of Indian Affairs. Protestant Alaska Chapter, Sierra Club states in part as follows: "We disagree with the provisions 1) that Natives enrolled in a village, but not actually residing therein, are deemed residents of the village; and 2) that a village is considered eligible if 'at least thirteen persons who enrolled thereto... have used the village during 1970 as a place where they actually lived for a period of time.' Both provisions seem logically and perhaps legally inconsistent with the wording of the Alaska Native Claims Settlement Act itself. We think that Congress intended that eligible villages be those actually occupied by 25 or more qualified Natives." Protestants Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth state in part as follows: "Bettles Field — the printout run by the Bureau of Indian Affairs on November 8, 1973 shows only 15 persons enrolled to Bettles Field who currently resides there. Section 11(b)(2) of the Alaska Native Claims Settlement Act requires that a village have 25 or more residents before it can be certified under the Act. Moreover, Bettles Field is not listed as a village in the 1970 census. The Director is called upon for the reasons set forth with respect to Bettles Field to investigate each of the individuals enrolled to Bettles Field to determine whether or not they have other criteria of residence as that term was intended by Congress to mean. Because of this prima facie proof that there are not 25 residents of Bettles Field and that it was not a village in the 1970 census the decision to certify Bettles Field as eligible under the Act is protested." The Alaska Native Claims Settlement Act of December 18, 1973 (85 Stat. 688-716), and 43 CFR, Part 2650 provides for the settlement of certain land claims of Alaska Natives and for other purposes. Section 11(b)(3) of the Act is quoted as follows: "Native villages not listed in subsection (b)(1) hereof shall be eligible for land and benefits under this Act and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from the date of enactment of this Act, determines that: (A) twenty-five or more Natives were residents of an established village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; and (B) the village is not of a modern and urban character, and a majority of the residents are Natives." The 1970 census is not, therefore, the exclusive source of information for the determination of residency. Part 43h of Title 25 of the Code of Regulations provides for the enrollment of the Natives. A main source of "other evidence satisfactory to the Secretary of the Interior" is the official enrollment which not only contains evidence of race but of residence (on the 1970 census date) as well. Subpart 2651.2 of Title 43 CFR contains the authority for the Director, Juneau Area Office, Bureau of Indian Affairs, to act for the Secretary of the Interior in the determination of the eligibility of Natives for land benefits under the Act. As of January 21, 1974, 77 Natives have been approved for enrollment in the Native Village of Bettles Field (Evansville). On July 25, 1973, a field investigation was completed for Bettles Field (Evansville) and at that time 27 Natives used the village for a time in 1970 and 25 of these Natives have been approved for enrollment to this village. The 77 Natives who have been approved for enrollment to Bettles Field (Evansville) represent a majority of the residents of the village in 1970. This village had on April 1, 1970, an identifiable physical location evidenced by occupancy consistent with the Natives' own cultural patterns and life style and more than thirteen Natives enrolled thereto have used the village during 1970 as a place where they actually lived for a period of time. See requirements of Subpart 2651.2(b) of Title 43 CFR. The Director, Juneau Area Office, Bureau of Indian Affairs, has examined and evaluated the protests together with his record of findings of fact and decision and does hereby render a final decision determining that the Native Village of Bettles Field (Evansville) is eligible for land and benefits under said Act. The final decision of the Director, Juneau Area Office, Bureau of Indian Affairs, shall be published in the Federal Register and in one or more newspapers of general circulation in the State of Alaska and a copy of the decision and findings of fact upon which the decision is based shall be mailed to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska, the State of Alaska, and any other party of record. Such decision shall become final unless appealed to the Secretary of the Interior by a notice filed with the Ad Hoc Board as established in Section 2651.2(a)(5) of Title 43 CFR, within thirty days of its publication in the Federal Register. Appellants shall have not more than 15 days from the date of receipt of the notice of appeal within which to file an appeal brief, and the opposing parties shall have not more than 15 days from the date of receipt of the appellant's brief within which to file an answering brief. No more than 15 days shall be allowed for the filing of additional briefs in connection with such appeals. All hearings held in connection with such appeals shall be conducted in the State of Alaska. The decision of the Ad Hoc Board shall be submitted to the Secretary of the Interior for his personal approval. The Ad Hoc Board is now known as the Alaska Native Claims Settlement Act and its address is P.O. Box 2433, Anchorage, Alaska 99510.

Alaska 99801; and by Matanuska-Susitna Borough, P.O. Box B, Palmer, Alaska 99645, hereinafter referred to as Protestants. The protest of the Alaska Chapter, Sierra Club was dated January 18, 1974, and was received on January 18, 1974, by the Director, Juneau Area Office, Bureau of Indian Affairs. The protest of the Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth was dated January 21, 1974, and was received on January 21, 1974, by the Director, Juneau Area Office, Bureau of Indian Affairs. The protest of the Commissioner, Department of Natural Resources, State of Alaska, was dated January 16, 1974, and was received on January 17, 1974, by the Director, Juneau Area Office, Bureau of Indian Affairs. The protest of the Matanuska-Susitna Borough was dated January 17, 1974, and was received on January 21, 1974, by the Director, Juneau Area Office, Bureau of Indian Affairs. Protestant Alaska Chapter, Sierra Club states in part as follows: "The Bureau of Indian Affairs' printout run November 8, 1973 shows none of the enrollees to Chickaloon as residents there. Moreover Chickaloon is not listed as a village in the 1970 census. The further evidence that lives there now in addition to the fact that Chickaloon does not appear on the 1970 census creates prima facie evidence that this village is ineligible for certification under the Act." Protestant Commissioner, Department of Natural Resources, State of Alaska, states in part as follows: "The findings of fact are defective in that no reasonable effort was made to examine the data on persons enrolled to the villages were in fact residents of the villages as required by Sec. 5(b) of the Alaska Native Claims Settlement Act, 85 Stat. 690. The findings are further defective in that an examination of the Alaska Native Family List for these villages indicates on its face that less than twenty-five enrollees to each village have had adequate residence in their respective villages to be considered domiciled therein on April 1, 1970. In the contrary, the data on the Family List, developed from application forms upon which the enrollee himself furnished the information, indicates a different place of residency for almost all of the enrollees to each of these villages. The findings are further defective in that they do not include an examination of voting and licensing records of the enrollees to determine the legal residence."

Protestant Matanuska-Susitna Borough states in part as follows: "That thirteen persons enrolled to Chickaloon did not use Chickaloon as a place in which they actually lived in 1970 as required... and that Chickaloon is not nor was within the time frame of 43 CFR 2651.2 a Native village." The Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688-716), and 43 CFR, Part 2650 provides for the settlement of certain land claims of Alaska Natives and for other purposes. Section 11(b)(3) of the Act is quoted as follows: "Native villages not listed in subsection (b)(1) hereof shall be eligible for land and benefits under this Act and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from the date of enactment of this Act, determines that: (A) twenty-five or more Natives were residents of an established village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; and (B) the village is not of a modern and urban character, and a majority of the residents are Natives."

The 1970 census is not, therefore, the exclusive source of information for the determination of residency. Part 43h of Title 25 of the Code of Regulations provides for the enrollment of the Natives. A main source of "other evidence satisfactory to the Secretary of the Interior" is the official enrollment which not only contains evidence of race but of residence (on the 1970 census date) as well. Subpart 2651.2 of Title 43 CFR contains the authority for the Director, Juneau Area Office, Bureau of Indian Affairs, to act for the Secretary of the Interior in the determination of the eligibility of Natives for land benefits under the Act. As of January 21, 1974, 36 Natives have been approved for enrollment in the Native Village of Chickaloon. On September 24, 1973, a field investigation was completed for Chickaloon and at that time 13 Natives who used the village for a period of time in 1970 had been certified for enrollment to this village and such enrollment was approved on December 17, 1973. The 36 Natives who have been approved for Chickaloon, represent a majority of the residents of the village in 1970. It had on April 1, 1970, an identifiable physical location evidenced by occupancy consistent with the Natives' own cultural patterns and life style and more than thirteen Natives enrolled thereto have used the village during 1970 as a place where they actually lived for a period of time. The voting and licensing records of the State of Alaska have no bearing on the determination of their eligibility of the enrolled Natives of Chickaloon.

The Director, Juneau Area Office, Bureau of Indian Affairs, has examined and evaluated the protests together with his record of findings of fact and decision and does hereby render a final decision determining that the Native Village of Bettles Field (Evansville) is eligible for land and benefits under said Act. The final decision of the Director, Juneau Area Office, Bureau of Indian Affairs, shall be published in the Federal Register and in one or more newspapers of general circulation in the State of Alaska and a copy of the decision and findings of fact upon which the decision is based shall be mailed to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska, the State of Alaska, and any other party of record. Such decision shall become final unless appealed to the Secretary of the Interior by a notice filed with the Ad Hoc Board as established in Section 2651.2(a)(5) of Title 43 CFR, within thirty days of its publication in the Federal Register. Appellants shall have not more than 15 days from the date of receipt of the notice of appeal within which to file an appeal brief, and the opposing parties shall have not more than 15 days from the date of receipt of the appellant's brief within which to file an answering brief. No more than 15 days shall be allowed for the filing of additional briefs in connection with such appeals. All hearings held in connection with such appeals shall be conducted in the State of Alaska. The decision of the Ad Hoc Board shall be submitted to the Secretary of the Interior for his personal approval. The Ad Hoc Board is now known as the Alaska Native Claims Settlement Act and its address is P.O. Box 2433, Anchorage, Alaska 99510.

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