

LEGAL NOTICE

(continued from page 12)

as follows:

"Chulioinik — The Bureau of Indian Affairs' printout dated November 8, 1973, shows only 7 persons presently residing in Chulioinik. Moreover, Chulioinik does not appear as a village in the 1970 census. For the reasons set forth with respect to Chulioinik, the Director is directed to investigate to determine by other criteria of residence whether or not the persons enrolled to Chulioinik were in fact residents as of April 1, 1970. For the foregoing reasons its inclusion as a village certified under this Act is protested."

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not listed in subsection (b)(1) hereof shall be eligible for land and benefits under this Act and lands shall be withdrawn pursuant to this section of the Secretary within two and one-half years from the date of enactment of this Act, determines that -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 Federal 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, 27 Natives had been approved for enrollment in the Native Village of Chulioinik (Chulioinik). On September 14, 1973, a field investigation was completed of Chulioinik (Chulioinik) and at that time 19 Natives who used the village for a period of time in 1970 were subsequently approved on December 27, 1973. The 27 Natives who have been approved for enrollment to Chulioinik (Chulioinik), represent a majority of the residents of the village in 1970, it had on April 1, 1970, an identifiable physical location consistent with the Natives' own cultural patterns and life style and more than thirteen Natives enrolled thereto have used the village as a place where they actually lived for a period of time as required by Subpart 2651.2(b) of Title 43 of 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 Chulioinik (Chulioinik) is eligible for land 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 or on behalf of 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 Appeal Board and its address is P.O. Box 2433, Anchorage, Alaska 99510.

Clarence Antioquia
Acting Director
February 12, 1974
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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 COUNCIL
AS A NATIVE VILLAGE FOR
PURPOSES OF ANCSA 1971
ACTION UPON PROTEST
DETERMINATION

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, by Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth, Jr., and through their Counsel, James F. Clark of the law firm of Robertson, Monagle, Eastaugh and Bradley, P.O. Box 1211, Juneau, Alaska 99801, and by Charles F. Herbert, Commissioner, Department of Natural Resources, State of Alaska, Pouch M, Juneau, Alaska, hereinafter referred to as protestants.

The protest of the Alaska Chapter, Sierra Club was dated January 18, 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 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 that 1) Natives enrolled to 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 are illogical 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: "Council — The November 8, 1973 printout by the Bureau of Indian Affairs shows that 6 persons are presently living in Council. Council is not listed as a village in the 1970 census."

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 determine if the 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 Roll Family list for these villages indicates on its face that less than twenty-five enrollees to each village have been determined to be residents of their respective villages to be considered domiciled therein on April 1, 1970. To 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 Council. 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."

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 of 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 Federal 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, 71 Natives had been approved for enrollment in the Native Village of Council. On August 7, 1973, a field investigation was completed of Council and that time 16 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 71 Natives, who have been approved for enrollment to Council, 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 Council.

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 Council is eligible for land 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 final decision and findings of fact upon which the final 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 their notices 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 Appeal Board and its address is P.O. Box 2433, Anchorage, Alaska 99510.

Clarence Antioquia
Acting Director
February 11, 1974
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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 COUNCIL
CREEK (MONTANA)
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 by 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; by Charles F. Herbert, Commissioner, Department of Natural Resources, State of Alaska, Pouch M, Juneau, Alaska 99801; and by Matanuska-Sustina 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 21, 1974, by the Director, Juneau Area Office, Bureau of Indian Affairs.

The protest of the Matanuska-Sustina 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: "1970 census data showed that 25 Natives were residents of the village as of the date of the census."

Protestants Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth state: "The Bureau of Indian Affairs printout on November 7, 1973 shows only 8 persons presently living in Montana Creek."

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 determine if the 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 voting and licensing records of the enrollees to determine the legal residence."

Protestant Matanuska-Sustina Borough states in part as follows: "That thirteen persons enrolled to Montana Creek (Montana) did not use Montana Creek (Montana) as a place in which they actually lived in 1970 as required by Sec. 5(b) of the Alaska Native Claims Settlement Act, 85 Stat. 690. It was within the time frame of 43 C.F.R. 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) 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 of 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 Federal Regulations provides for the enrollment of Natives. A main source of "other evidence satisfactory to 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, 44 Natives had been approved for enrollment in the Native Village of Montana Creek (Montana). On August 29, 1973, a field investigation was completed of Montana Creek (Montana) 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 44 Natives who have been approved for enrollment to Montana Creek (Montana) 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 the eligibility of the enrolled Natives of Montana Creek (Montana).

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 Montana Creek (Montana) is eligible for land 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 final decision and findings of fact upon which the final 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 their notices 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 is now known as the Alaska Native Claims Appeal Board and its address is P.O. Box 2433, Anchorage, Alaska 99510.

Clarence Antioquia

Acting Director

February 12, 1974

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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 COUNCIL
CREEK (MONTANA)
AS A NATIVE VILLAGE FOR
PURPOSES OF ANCSA 1971
ACTION UPON PROTEST

DETERMINATION

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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.

Protestant Alaska Chapter, Sierra Club states in part as follows: "We disagree with the provisions 1) that persons enrolled to 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:

"Umkumut — The Bureau of Indian Affairs printout run November 8, 1973 shows all of those enrolled to Umikumut as living in Nightmute. Furthermore, Umikumut is not listed as a village in the 1970 census."

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 of 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 Federal 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, 27 Natives had been approved for enrollment in the Native Village of Umikumute (Umkumute). On July 16, 1973, a field investigation was completed of Umikumute (Umkumute) and at that time 27 Natives who used the village for a period in 1970 were subsequently approved on December 17, 1973. The 27 Natives who have been approved for enrollment to Umikumute (Umkumute), 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 as a place where they actually lived for a period of time as required by Subpart 2651.2(b) of Title 43 of 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 Umikumute (Umkumute) is eligible for land 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.

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