

AVCP files

Norton

Sound suit

By George Gardner

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The Association of Village Council Presidents (AVCP) has filed a lawsuit against James Watt and the Department of the Interior in an effort to block the sale of OCS lands in the Norton Sound Lease Sale No. 57 which was held March 15 in Anchorage.

A lawsuit filed by the villages of Stebbins and Gambell to prevent the lease sale was denied by Judge James Fitzgerald in the U.S. District Court Monday. The Alaska Legal Services Corporation, which filed the suit for the two villages, gave immediate notice of appeal to the 9th U.S. Circuit Court of Appeals in San Francisco.

Fitzgerald ruled the sale would not cause irreparable injury to the residents of the two villages, but that the national interest would clearly be damaged by a delay.

He said, however, that the merits of the claims made by the two villages should be decided before the leases are awarded.

At a meeting in Bethel held March 10 and 11, AVCP delegates reached a unanimous decision to file the lawsuit, with AVCP and each of the 56 villages to be named as plaintiffs in the suit.

The suit stated that "since time immemorial Yupik Eskimo communities have used and occupied the Norton Sound-Basin Region . . . and are the only people who have had a continuous Way of Life in the region." Further, "the proposed lease sale area is the biological 'supermarket' and spiritual cathedral of the Yupik people of Alaska."

The suit claims that under various federal statutes, "the plaintiffs have a right to Federal protection for their Way of Life," and the proposed lease sale violates "the Federal trust responsibility to protect the Way of Life of the plaintiffs and their members."

The suit further contends that Watt, in authorizing the Norton Sound Basin lease sale violates "both the statutes which protect the Indian tribal
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rights of the plaintiffs and the environment."

The third and final claim contends that the trust responsibility of the U.S. to the plaintiffs requires the Secretary (of Interior) to "consult with the plaintiffs prior to reaching a decision to lease . . . and to "actively involve the plaintiffs in the administrative processes leading to such a decision."

Attorney Bertram Hirsch, general counsel for AVCP indicated that the lawsuit contains some unique aspects in OCS litigation. One of these is that the Secretary of the Interior has to deal with the AVCP and its member villages on a government to government relationship and under Indian and common law, this has not happened, to date.

Another unique factor, according to Hirsch, is that the Secretary, as part of his trust responsibility to Indians and Alaska Natives, must place greater emphasis on environmental control in any OCS exploration or development in which the livelihood and lifestyle of Natives is affected.

Hirsch said that the major reason for the filing of the lawsuit by Monday was to make the oil companies aware of this suit prior to the lease sale which was scheduled for last Tuesday. "Prior to any development occurring," Hirsch stated, "this suit must be resolved, and the oil companies must realize the risk that these leases might be voided."

In other activities relating to the lease sale, Governor Bill Sheffield announced that a memorandum of understanding had been reached with Watt, bolstering stipulations already negotiated by the state and Interior department. This agreement, announced March 10, put to rest thoughts that the governor would file a suit against Watt and the lease sale.

The memorandum of understanding, according to the release issued by the governor's office, allows the state to veto plans that do not meet its approval for oil spill contingency and construction of offshore or onshore pipelines for the transfer of any oil or gas discovered.