

# State backs Red Dog detachment from NSB

by Jim Benedetto

Tundra Times Editor

The State of Alaska will apparently back the NANA Regional Corporation's claim to the jurisdiction of the lands surrounding the Red Dog Mine.

Emil Notti, Commissioner of the Alaska Department of Community and Regional Affairs, will file a petition with the state's Local Boundary Commission on or about November 22 to change the boundaries of the North Slope Borough.

The boundary change being sought is a detachment of area from the jurisdictional boundaries of the North Slope Borough consisting of some 3298 square miles of land which lies both within North Slope Borough and NANA Regional Corporation boundaries. The change would also include the waters three nautical miles offshore of the boundaries of NANA.

The outcome of the dispute over jurisdiction of the land will determine which entity will derive tax revenues from the proposed Red Dog Mine, perhaps the world's largest deposit of lead, zinc and other minerals, located some miles north of the 68th parallel in northwest Alaska.

The mine reportedly will generate approximately \$5 million in tax revenues on a yearly basis, perhaps for a period of 100 years. The mine will also bring about 400 permanent and 250 temporary jobs to an area of the state with extremely high unemployment.

On October 1, North Slope Borough voters rejected a ballot initiative which would have authorized NSB Mayor George Ahmaogak to hold discussions with NANA officials to negotiate the terms under which the detachment might be approved.

The people of the NANA region would like to form a Kotzebue-based borough of their own, but without the revenues from the Red Dog Mine, they would be without a tax base for such a borough. People from the NANA region point out that the lands around Red Dog were traditionally used by NANA residents from Noatak and Kivalina for subsistence purposes.

When the Alaska Native Claims Settlement Act was signed into law in 1971, the boundaries set for the regional corporations reflected that fact. On the other hand, when the North Slope Borough boundary was formed, an arbitrary boundary — the 68th parallel — was chosen.

But North Slope Borough residents are unwilling to give up even the relatively small revenues which the mine will generate, because of worries over the borough's \$1.2 billion

debt. Nevertheless, many borough officials spoke in favor of the detachment when it was put before NSB voters. NSB residents had been promised preferential employment status on the project if the detachment had been approved by the voters.

But now, all bets are off. Willie Hensley, NANA's new president has said that in the absence of an agreement with the North Slope Borough, NANA "has no legal or moral obligation" to provide the number of jobs or the preferential hiring status previously offered to NSB residents.

"That doesn't mean that some of the jobs won't go to borough people," Hensley said, "those Point Hope people especially, are pretty close."

In addition, NANA is now seeking the detachment of all its lands which

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# Red Dog lands

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conflict with the NSB boundary — some 3298 square miles — instead of the 433,000 acres NSB voters were asked to detach.

All of this has left Commissioner Notti of CRA in a very difficult situation. Notti had to decide how to proceed with the issue objectively, according to the best interests of the State of Alaska and its residents.

"The framers of the (state) constitution envisioned the State of Alaska covered by boroughs — large boroughs," explained Notti. "The policy of the state has been to encourage local government. That is long-standing."

There were also other considerations in the decision. "There's a financial incentive to incorporate," said Notti, who pointed out that a

hypothetical community with a population of 250 would receive between \$21,000-\$25,000 in state funding and revenue sharing. The same community, after incorporation (as a second-class city), would probably receive about \$175,000 according to Notti. If the same community were to form a borough, Notti explained that under Title 29, it would receive \$300,000 during its first year.

If the petition is approved by the Local Boundary Commission and the Legislature, the voters of the NANA region will be asked to vote on whether or not to form a borough of their own.

"We have been working closely with our people," said Hensley, "and will continue to work with them, presenting them with the alternatives, discussing it with them, so that they can make the decision."

Accordingly, nearly everyone involved would like to see the petition acted upon quickly; everyone, that is, except the North Slope Borough. According to an article in the *Anchorage Times*, NSB officials have filed a suit in Barrow Superior Court alleging that the Department of Community and Regional Affairs violated the state's open meeting laws. The suit seeks to invalidate CRA's decision to back the detachment based upon that allegation.

In the article, assistant borough attorney David Weber is quoted as saying that the NSB officials were "given the run-around" when they tried to obtain documents pertinent to the detach-

ment. Weber also says the NSB was given no opportunity for comment at meetings CRA held on the detachment.

Notti denies that borough officials were locked out of the talks.

Maniilaq Association issued a lengthy statement responding to the NSB suit. According to Susan Erlich, Chairman of the Maniilaq Association's Board of Directors, the statement was issued because Maniilaq was "disturbed by the hired staff of North Slope making statements which were inaccurate."

"They were well aware that if the vote was no, that we would act on our own," said Erlich. The statement also calls into question the North Slope's contention that the state is acting too hastily.

"They've had time to respond," said Erlich. "We discussed the fact that the state had its timelines that it had to meet — even before the borough voted."

In fact, in a telephone interview with the *Tundra Times*, on November 6, Notti was asked specifically about meetings with the parties in the dispute.

"I met with the North Slope people — five of them, as a matter of fact; one of their attorneys, their chief financial man, a special assistant to the mayor, a planner and a contract consultant. We talked about the process... and I asked them to supply me with all the arguments against it," said Notti, adding, "I have not had any for-

mal meetings with the NANA people."

CRA has asked the Local Boundary Commission to expedite the petition process; those who wish to submit comments or answering briefs to the Local Boundary Commission must see that they are received by that body by December 18.

"We are asking the Local Boundary Commission to expedite the handling of this, because of the timeline in getting to the Legislature, (but) we're not going to short-cut anything," said Notti, "all of the legal requirements for public and comment time will be met."

At this time, there is no word as to how long the NSB suit may hold up the petition process, if at all. The detachment should be presented to the Legislature sometime in January.

Although he stopped short of issuing a prediction on the outcome of the detachment, NANA's President Willie Hensley did say that. "We have had great response to the Red Dog project from our own people; we have also had great response from the state and the Legislature, on getting the funds for the road and port. Congress and the president cooperated by approving the Land Exchange. I am very hopeful that the detachment will be approved, and that our people will support a borough."

John Schaeffer, who recently stepped down as president of NANA, says that the Red Dog Mine could be in production as early as 1989.