

Eskimos sue for Native allotments in NPR-A

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The viability and vigor of subsistence living is nowhere more in evidence than on Alaska's North Slope. Subsistence is to the people of the North what agriculture is to Southerners: a way of managing the land to produce the highest possible yield of food. After many years of difficulties in dealing with agriculturally-produced food

from the South, northern residents are more determined than ever to protect their subsistence resources and the habitat of the migratory wildlife upon which they depend.

Recently in the U.S. District Court in Anchorage, a class-action suit was filed against the U.S. government to protect that habitat from unnecessary degradation by industry. The suit was filed by Alaska Legal Services, October 31, 1980, on behalf of Jonah Leavitt, 68, of

Barrow; Martha Ogeaktuk, 66, of Wainwright; Jim Allen Aveoganna, Sr., 55, of Wainwright; and Paul Tazruk, 75, of Barrow.

At issue is a Department of Interior policy which restricts the granting of Native allotments within the National Petroleum Reserve-Alaska. The Alaska Native Allotment Act of 1906 provided for the granting of title to parcels of 160 acres to Alaskan Natives who could prove traditional use of the land. On February 27, 1923, after government geologists had verified the presence of several oil seeps in the area, President Harding issued Executive Order 3797-A establishing what was then known as Naval Petroleum Reserve Number Four. The area was enormous - 35,984 square miles or 23,686,000 acres, an area the size of Indiana, most of it lying within the present boundaries of the North Slope Borough.

The Alaska Native Claims Settlement Act (ANCSA) of 1971 put a stop to the Native Allotment Program. Before ANCSA was passed, several

North Slope Natives filed for an allotment, knowing that the program would soon be terminated. About 150 petitions for the 160 acre allotments were filed within the Petroleum Reserve.

The Bureau of Land Management (BLM) rejected the applications because the lands were considered reserved and therefore unavailable for allotment.

The plaintiffs took the case to court because they hold that the provisions of the Alaska Native Allotment Act of 1906 (as amended in 1956) were not set aside by Harding's Executive Order 3797-A and that they, therefore, qualify for the allotment.

Although the government protests that Native subsistence on the Petroleum Reserve is guaranteed by the NPRP Act, local residents worry about adequate protection of wildlife habitat in their traditional hunting and fishing grounds. There has been sufficient industrial exploration in the area in recent years (a \$500 million government oil exploration program) to give private firms and Congress ample motivation for opening the area

up for leasing.

As the court testimony revealed, the plaintiffs are familiar with the impact of industry on North Slope wildlife. As Jonah Leavitt related in his affidavit:

"My grandfather, William J.L. Inuguak, moved on to the land in the fall of 1844. At first he lived in someone else's sod house; then he built his own house. My grandparents lived there because the fishing was so good. Other people would stop at that place and fish when they were on their way to trap foxes up inland. The lake nearby had very good fishing up until 1961. Then a vehicle broke down the side bank of the lake and the water drained out. Now we cannot fish in the lake. Baxter Adams, a resident of Barrow, saw the tracks, and he told me that they were made by an LVT (Land Vehicle Transport) vehicle."

Two hours of testimony were taken by U.S. Judge James Fitzgerald on October 31. He said he wanted to carefully consider it, and that no decision would be forthcoming for at least 30 days.