Summary of Settlement Act--

Series to Cover Analysis of Land Claims Settlement

(EDITOR'S NOTE: This is the first of at least seven installments on the "Summary and Analysis of the Alaska Native Claims Settlement Act." The Tundra Times is publicizing the series in an edited and simplified form at the request of Mike Harper, executive director of the Rural Alaska Community Action Program, Inc. Harper feels that the publication of the summary is of vital importance in this period of post land claims settlement and which should make things easier to understand as far as claims oriented matters are concerned. The summary is an 175 page document prepared by the law firm of Ely, Guess and Rudd of Anchorage for the Rural Alaska Community Action Program. It can be purchased for $15 per book at the agency.)

In the year since its passage, the Alaska Native Claims Settlement Act has raised as many questions as it has people's hopes. An extremely complicated piece of legislature, it has left Natives wondering just what they do and do not have and why.

In an attempt to answer some of these questions, RurAL CAP had the Anchorage law firm of Ely, Guess & Rudd prepare a summary and analysis of the Act. This story and those following will sum up the contents of their report.

The first thing to remember is that all eligible Natives must be enrolled before a two-year deadline has passed before any of the Alaska Native Fund money may be distributed. Since the amount of money given is based on the number of Natives per region, this matter becomes highly important.

Just as vital is selection of desired lands. Formal regional corporations must be formed before the Secretary of the Interior will give out any money. And none of the people get funds until all are prepared, so the urgency of quick action is obvious.

Two corporation types are permitted by the Act. A set of 12 regional corporations roughly paralleling the boundaries of old Native associations, with an optional 13th region for non-residents, is the first. Also, village corporations will let individual towns share the wealth. ANF money goes only to the regions, but other funds will go to the villages.

Stock in the regional cor-

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porations goes to each Native in one of the regions. But because of the setup, it may be as much as two years before the stockholders' names will be known. And final regional boundaries still must be set.

Although these boundaries may follow those of the old Native areas, room for dispute still exists. Two or more of the regions can, for example, merge. But all enrollment and boundary arguments must be completed before a shareholder's meeting can be held. The first meeting will elect a board of directors and officers.

Five people, presumably residents of the region, must be picked by the Native associations as incorporators. Their only duty is to write out the Articles of Incorporation, which must list the names and numbers of the initial directors. State law requires no less than three on any board of directors.

After the orginal articles and by-laws are approved by the Secretary, they may be filed with the State. And only then may the board meet and carry out business. The Secretary, who may withhold his approval if he thinks there are "inequities," has one year to divide the land into 12 geographic regions.

Once the boundaries are set and directors picked, the regions can get down to business. Regional corporations get ½ of the Alaska Native Fund revenue and get to select "a proportionate amount" of the 16 million acres allocated among all the regions. In addition, each region receives subsurface rights to all the land in its area.

Acting as a "parent" corporation for the village, a regional corporation may exercise control in several ways. One is withholding money from a village until a suitable plan for its use is submitted. Another is ordering the village to go along with joint ventures and financing of projects started for the benefit of the whole region. And it has review and approval powers over the initial articles of incorporation and the first five years' budget.

After the villages choose surface rights land, the regional corporations will be granted a part of any of 22 million acres not already selected. Such land will, as the region sees fit, be redistributed to the villages equally.

Because their interests and needs may differ, the regions and the villages are provided with a section for arbitrating disputes. Regional corporation duties include helping the villages prepare their incorporation articles and other required documents. They also may provide professional guidance, since it would be impratical for each village to go it alone.

As for their own responsibilities, the regions must be audited annually by a private firm. The audit must go to Interior House and Senate committees.

Village corporations, say the RurAL CAP report, select the majority of Native-owned land within the region. The whole future, both of the village and the regions, may depend on these choices.

Before any land benefits can be received, the Natives must organize as either a business or a non-profit organization. Since the Act does not state who the stockholders or members can be, some questions remain unanswered. While Natives who are not currently residents of a particular village may be enrolled there in special cases. One such might be the people of Afognak, in the Kodiak area, who had to flee their homes when tidal waves struck.

May non-residents of the village vote on corporation matters? Do residents retain voting rights if and when they move to another area? These are the questions that must be answered by the village corporations.

Once done, that still leaves the question of whether to opt for a business or non-profit organization. The report spells out the differences and weighs pros and cons for each.

Organized as a business corporation, the village may engage in any legitimate business. If the business makes a profit, stockholders are paid dividends. While they pay taxes only on these dividends, the corporation pays federal and state taxes on the income derived from its investment.

A "non-profit" corporation is allowed to make more income than it spends for expenses. The main difference is that it cannot issue stock or distribute income or dividends directly to members, directors or officers. Earnings are tax-exempt, but may not go to influence or help political campaigns.

It is that magic little phrase "tax-exempt" – that may influence some of the villages to go for a non-profit grouping. They would definitely be excused from state taxes, which allow this status to all "non-profit, charitable, cemetery, hospital, local government or educational purposes," the report says.

The villages face a fairly tough choice. They must decide whether to operate as a business and hopefully turn a healthy profit or choose non-profit standing and bypass the taxes. Regional corporations have no such decision to make, since they must organize as a business corporation, according to the Act.

No restrictions except legal ones bind the regions as to what business they may pick to earn their money. And they are not forbidden to let the people have a piece of the corporate pie. In fact, the Act states that the regions must distribute no less than 10 per cent of their revenue directly to shareholders within the first five years.

Problems in corporate control while not immediately present, can arise later. This is especially true in village corporations, where the population is less fixed than that of an entire region. While stocks are non-transferable, people are not. What a Native living in Barrow wants, for instance, and what a one-time resident of the area now living in California desires can be two entirely different, and possibly conflicting, things.

Basically, a village corporation is a subsidiary of its region. It has its own income, although subject to some control by the regional corporation. It also holds surface rights to selected lands, although the regions retain subsurface rights.

This difference could, if not dealt with carefully, create tensions between the villages and the regions. A village would naturally want to choose land that would be close enough and good enough to benefit it. Docks, hunting and fishing areas and homesites are a few of the uses they might want for selected land.

The region, on the other hand, would be more likely to choose land rich in mineral or petroleum resources. If the land each wants is nowhere near close together, a battle over priorities could tear them apart.

The summary suggests that such conflicts must not be allowed to get out of hand. As a method of keeping things under control, it says that a forum by which conflicts can be resolved or lessened should be developed without any delay.

NEXT WEEK: Stock ownership, boards of directors and municipalities summarized.

SJC Gets Artifacts

Several important and valuable archelogical pieces from St. Lawrence Island, some possibly a thousand years old, have recently been placed in the Sheldon Jackson Museum.

The very old objects, unearthed by Steve Niksik, Police Chief from Gamble on St. Lawrence Island, are of fossil ivory, with the exception of a few wooden pieces.

A number of tools are represented including harpoon heads, fish spears and hooks, awls, fish line sinkers, finger rests for harpoons, needles, combs, and adzes.

There are a number of tiny bird, animal and human figures which may have had a number of purposes. Wooden pieces include an old bowl smelling strongly of seal oil.

The items are of special interest to Alaskans because St. Lawrence Island is on the direct route by which it is believed that early people may have come into the new world many thousands of years ago.