

# Shuyak charges dropped

BY MARGIE BAUMAN

Koniag Natives seeking certification of the village of Shuyak are a step closer to that goal, with a decision of the U.S. Attorney's office in Anchorage not to pursue criminal fraud charges.

"It's all over, at least from a criminal perspective," said Anchorage attorney Tony Smith, who is representing some four dozen people enrolled to Shuyak in the certification battle.

Shuyak, also referred to as Port Williams, has been walking a legal tightrope since the summer of 1976, when a federal grand jury in Anchorage handed down an indictment against Shu-

yak enrollees Bernard and Francis Wanser and Shuyak Inc. The indictment charged them with defrauding the government by establishing a fake village, misrepresenting the facts on enrollment applications and conspiring to defraud.

Smith told the Tundra Times Thursday that he's been advised that the U.S. Attorney's office will not try to resubmit the matter to the grand jury. Chances of certification are now "fair," Smith said.

U.S. District Court Judge James von der Heydt dismissed the case against Shuyak back on March 22, noting that he was taking the action "without pre-  
**PLEASE TURN TO PAGE ELEVEN**

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CONTINUED FROM PAGE ONE

justice." U.S. Attorney Alexander Brenner subsequently advised Smith that "despite the fact that the dismissal was without prejudice, our office has conducted a review of our files, in order to determine whether the matter would be presented again to the grand jury.

"The review of the information and evidence related to the case has convinced me that at this point further efforts at criminal prosecution would be inappropriate. Accordingly, this office will take no action to re-submit the matter to the grand jury," Brenner said.

Meanwhile, Smith said the village still faced extensive legal procedures to get certification. "It's expensive to fight the criminal case and time consuming. It's a question of whether the people will at this point say 'enough, no more' or whether they will still try to assert their rights," Smith said. "The process could take another year and end up back in the courts again, but not the criminal court."

## One of 11 in Review

Shuyak is one of 11 villages still seeking benefits of the Alaska Native Claims Settlement Act, but not yet certified. The others are Anton Larsen Bay, Ayakulik, Bell's Flats, Litnik, Uganik and Uyak in the Kodiak area; Alexander Creek and Salamotof in the Cook Inlet Region, Solomon in the Bering Straits region and Pauloff Harbor in the Aleut region.

The cases of all these villages are now before Interior Secretary Cecil Andrus, awaiting review. All 11 villages were initially determined eligible for ANCSA benefits by the Bureau of Indian Affairs, but then denied those benefits by the Interior Department. A Court of Appeals later found the Interior move to be unlawful and now

the Interior Secretary is considering the cases again.

## No Evidence of Fraud

Smith said that when Brenner took over the U.S. Attorney's post in Anchorage, he began negotiations for Shuyak, hoping they would lead to dismissal of the criminal charges. Smith said he obtained an affidavit from Robert Bruce at the Solicitor's office, which stated that as far as Bruce was concerned, there had been no fraud.

Bruce had conducted the investigation of the Shuyak case for the Solicitor's office. Prior to passage of the land claims legislation, Bruce was an attorney advisor for the Interior Department in the office of legislative affairs. After passage, he was assigned responsibility of representing the commissioner of Indian Affairs in preparation of regulations for enrollment and certification of villages. He continued to represent the commissioner of Indian Affairs in matters of enrollment and certification of villages and as such had attended the eligibility hearing for the village of Shuyak.

Bruce was personally sent by the Commissioner of Indian Affairs to investigate the Kodiak villages situation and found that they met the criteria, Smith said.

Smith quoted from an affidavit which followed from Bruce, the original of which went to Judge von der Heydt on Feb. 22, a month before he dismissed the Shuyak case. The affidavit said, in part, that as a result "of my representation (with the BIA) and my prior involvement in the process of enrollment and village certification, it is my opinion that there was no fraud on the part of the individual Natives, the village and the regional corporation or any governmental officials.

Bruce said further that "it is my opinion that the individual

Natives were properly enrolled and that the village was properly certified by the BIA, in accordance with ANCSA as administered and interpreted by the Department of the Interior."

Although Bruce conducted an extensive investigation for the Interior Department on Shuyak, he was never asked to testify before the grand jury which handed down the criminal indictment against Shuyak. This was despite the fact that Bruce had advised the FBI in Anchorage that he had done the investigation, Smith said.

## Meets Criteria

Smith said that Shuyak definitely meets the criteria for certification, that it is a village used traditionally, for fishing, hunting and berry picking. Every summer that village is fished by a number of people, many of whom are enrolled to Shuyak, he said. "They all said in their applications that if Shuyak is accepted as a village, they will go back and live there."

How far they will pursue the case now, however, remains to be seen.