

AVCP may challenge ANCSA

by Patti Harper

for the Tundra Times

The Association of Village Council Presidents, which represents 56 village tribal governments on the Yukon-Kuskokwim Delta, will decide next October whether to challenge the Alaska Native Claims Settlement Act, according to AVCP Vice-President, Tom Richards.

At a meeting in early March, the organization adopted a policy statement which argues that Alaska Native villages still hold "valid existing rights" protected by ANCSA provisions to all land in Alaska because Congress failed to get tribal approval of the

Act.

Richards said the organization has worked on the 27 page document for several years, researching technicalities and checking their reasoning with legal advisors including Bert Hirsch, a New York lawyer who has won land settlement cases for other Native groups in the U.S. The policy statement outlines 14 points which form the basis for its final conclusion.

1. Land claims were brought by Alaska Native village governments through petitions submitted to the Secretary of Interior from 1911 through 1971.

2. Alaska Native Village

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AVCP may challenge ANCSA in October

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Governments are Federally recognized Indian tribes as defined by the United States Code, Federal Regulations, all major Federal Indian laws, and by Federal policies.

3. Land settlements between the United States and Indian tribes require approval of the tribe by certified elections of tribal members.

4. The United States requested tribal approval of ANCSA by the Alaska Federation of Natives Convention at a meeting held on December 17-18, 1971.

5. The Alaska Federation of

Natives Convention approved ANCSA by majority vote of delegates at the December 1971 convention with only delegates from the Arctic Slope Native Association (ASNA) voting "no".

6. Such approval was not proper as AFN is not a tribe.

7. The Alaska Native Village Governments did not approve the ANCSA settlement.

8. Congress extinguished Alaska Native aboriginal rights in the ANCSA, however made ANCSA subject to valid existing rights.

9. The intent of the "valid ex-

isting rights" clause in ANCSA was to protect interests of non-Natives in traditional Native lands (i.e. holders of mining claims and patents, traders and trappers).

10. The "equal protection" clause of the U.S. Constitution guarantees that all persons shall enjoy equal protection of the laws of the United States.

11. The land claims petitions submitted to the Secretary of the Interior (before ANCSA) represent a valid existing right of Alaska Village Governments to lands resources in Alaska.

12. Each title and conveyance issued under ANCSA is subject to the valid existing rights of Alaska Native villages including

lands, waters, game, timber and other resources represented by village claims.

13. Although ANCSA claims to extinguish aboriginal title in Alaska, the settlement is subject to valid existing rights of Alaska Native villages.

14. The U.S. has a trust responsibility to protect property interests of Native Villages and an obligation and fiduciary responsibility to assist villages in securing permanent possession of lands and resources claimed by tribal governments.

Richards thinks "ANCSA does not fit the situation (of Alaska Natives). It assures there won't be Natives in a couple of genera-

tions. Even 1991 doesn't assure there will be some kind of linkage of Natives in organization into the future." Still, AVCP will "participate fully in the 1991 process" seeking amendments to ANCSA as a member of the Alaska Federation of Natives, he said.

They'll try to get as far as they can with Congress, but Richards thinks that the basic question of (tribal) rights has not been addressed by Congress. If it is left unaddressed, he said, AVCP may then decide to throw that question to the courts, which have historically made the final decisions about the rights of indigenous peoples in the United States.