

If State Sidesteps—

Stevens Village Attorneys to Protect Village's Interests

An attorney for Stevens Village stressed this week that Alaska Legal Services will take whatever legal action is necessary to protect the interests of its clients if the State tries to sidestep a federal court injunction to build the pipeline access road.

The injunction was issued in early April by U.S. District Judge George Hart and bars Interior Secretary Hickel from issuing construction permits for the pipeline or access road over land claimed by Stevens Villages.

It is simply a question of the State trying to take land from the natives without compensating them for their loss, David Wolf, supervising attorney for Alaska Legal Services, said.

The State has claimed that it has the authority to build the

access road under an 1866 law, and Gov. Keith Miller has asked the State Legislature to appropriate \$120 million for that purpose.

The form of further legal action that Alaska Legal Services will take on behalf of Stevens Village and 4 other villages in the area will depend on what the State Legislature does, Wolf said.

With Gov. Miller's request several questions arise, but for natives who claim land in the path of the proposed road, one of the most serious is whether the State will compensate them for lands taken for the project.

For privately owned land, the State has the power of eminent domain and can take the land for public purposes, such as roads, compensating the owner of the

land of his loss of property.

However, as explained by Wolf, the state has no concept for such compensation as regards Indian title, based upon use and occupancy from time immemorial.

In light of the suit and the injunction resulting from it, other questions also arise.

—Does the state have the authority to build the road? Gov. Keith Miller says yes. But Secretary Hickel has said that his approval will be necessary before a permanent road to the North Slope can be built either by TAPS or the State.

Yet he has been restrained from giving such approval by the injunction.

—Can the BLM give gravel to the State for the construction of the road without violating the injunction? (Refer to banner story.)

According to the injunction, the Secretary of the Interior and his agents and employees are enjoined until further action by the U.S. District Court "from directly or INDIRECTLY (our emphasis) issuing or granting to any person or corporation a right-of-way for either a pipeline or a road" through land claimed by Stevens Village.

—Does Secretary Hickel have to lift the Rampart Dam withdrawal before the State can use the 1866 law. As written in the suit against Hickel, the 1866 law states that the State can build roads over public lands, not reserved for public uses.

However, certain portions of the proposed access road have been withdrawn and reclassified as a power site for the Rampart Dam and thus seem not to be "public lands not reserved for public uses."