

Supreme Court upholds Cook Inlet swap

The Alaska Supreme Court has held the 1976 law passed by the Alaska State Legislature authorizing the Cook Inlet land exchange between the state, the federal government, and the Cook Inlet Native Regional Corporation is constitutional.

The majority opinion was handed down January 18. It reverses a superior court decision which held the law to be unconstitutional and lifts the injunction which has delayed the exchange.

At issue was whether the law passed to authorize the land exchange violated parts of the state constitution which prohibit the state from giving up mineral rights in state lands and passing local and special acts. The law authorized Governor Jay Hammond to convey designated state lands to the federal government in accordance with a negotiated agreement between the state, the Cook Inlet Native Corporation, and the federal government.

The majority opinion held that there was no constitutional prohibition against the transfer of mineral rights which would stop the land exchange.

According to the exchange agreement reached in December 1975, and enacted into law by the U.S. Congress, the state was to give up lands, including sub-surface mineral rights, to the United States government which would then convey the lands to Cook Inlet to satisfy its entitlements from the Alaska Native Claims Settlement Act of 1971.

Under the 1971 Act, which

was passed by the U. S. Congress to provide a fair and just settlement of all aboriginal land claims by Native groups in Alaska, twelve regional Native Corporations were established and given the right to select land and share in revenues derived from the sale of minerals.

"In most of the state, this mechanism worked reasonably well," the Supreme Court said, "Within the Cook Inlet Region, however, severe difficulties arose. Existing federal withdrawals, state land selections and other nonnative settlement patterns denied Cook the freedom of selection experienced by other regional corporations."

The land swap agreement attempted to overcome these problems. As part of the agreement, Congress expressly waived the restrictions on giving up mineral rights contained in the Statehood Act which admitted Alaska to the Union in 1959.

According to the agreement, in exchange for its giving up certain state land to the United States, Alaska would receive approximately 2½ times as many acres of federal lands located elsewhere in the state, plus four public purpose tracts in the Anchorage area, improved selection rights statewide, and a greater role in determining where Cook Inlet's land selections may occur.

The agreement was to be effective only if, among other things, Alaska irrevocably committed itself to the land transfer before March 26, 1976.

The state did so when the Alaska State Legislature passed a law early in 1976 authorizing the governor to convey the designated state lands, including sub-surface mineral rights, to the federal government in accordance with the agreement. The 1976 law authorizing the governor to go forward with the exchange waived the provisions of other Alaska statutes restricting the state's right to alienate minerals and authorizing exchanges of land with Native corporations only on the basis of equal value.

J. R. Lewis and Harold H. Galliett, Jr., citizens and taxpayers of the state, challenged the validity of the 1976 Act in superior court. They questioned whether the legislations was valid under the Alaska Constitution, which forbids local and special legislation and allegedly keeps the state from transferring its title to mineral resources on state selected land.

In reaching its decision that the law authorizing the exchange is valid, the majority of the court held that nothing in the state constitution specifically limits the alienation of mineral rights in state lands.

The Supreme Court opinion holds that the Alaska Constitution left it to Congress and the legislature to decide if the state could give up its mineral rights. Under the Statehood Act passed by Congress after the constitution was adopted, the State was not allowed to surrender mineral rights. However, Congress waived that provision

for the purposes of the land exchange.

Galliett and Lewis, however, argued that in effect the state constitution was actually amended to include "the terms and conditions of the grants of land" set forth in the Statehood Act.

The majority opinion rejects

that argument, saying that the state constitution contains only two means for its amendment—a two-thirds vote of each house of the legislature, thereafter approved by a majority vote at the next statewide election, or by constitutional convention with any resulting amendments subsequently ratified by the people.