

BSNC moves to repay village corps.

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for the Tundra Times

The Bering Straits Native Corporation has filed a series of motions in federal bankruptcy court in an effort to regain some of its financial balance before June 30, the end of the company's fiscal year.

One of the motions would allow BSNC to pay off about \$4 million in secured debt owed to 16 village corporations by transferring its subsurface rights to the villages.

Two other motions would allow the regional corporation to generate income by amending an existing tax sharing agreement with Del E. Webb Corp. Of Phoenix and entering into a similar agreement with AFG Industries of Los Angeles.

The tax sharing agreements allow a company that has lost money to join forces with a profitable corporation seeking to reduce its federal tax liability.

Bering Straits is trying to get back on its feet after filing for bankruptcy in March 1986. The recent motions, filed May 29 and June 1, will help the company lay a foundation for a full reorganization plan it will present to the court, according to company officials.

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The federal court overseeing BSNC's financial reorganization is scheduled to consider the motions at a hearing in Anchorage June 15.

The company hopes wants to act on its proposals quickly, so it can start off the new fiscal year in a stronger position.

The four recent proposals are related in a very complicated way.

But simply put, the package of proposals would repay part of an estimated \$15 million the region owes 16 village corporations, keep Native corporation land and its subsurface rights in Native hands while the region recovers, and generate some cash income for BSNC.

Guess and Rudd, the Anchorage law firm representing BSNC, says that even though the regional corporation is transferring subsurface rights, it is not avoiding its obligations under section 7(i) of ANCSA.

That section states that regional corporations must share their income earned from subsurface development with all the other regional corporations.

In 1981, BSNC owed \$8 million from the 17 village corporations in the region. BSNC secured the loan by pledging the value of its subsurface lands, less whatever 7(i) commitments there would be.

Through a mineral development, BSNC was able to repay one of the villages, Council. However, BSNC had planned to repay the remainder of the debt with 7(i) receipts it expected to come in from other corporations. When the revenues did not turn out to

be as high as expected, BSNC was caught short.

By 1986, the time of the bankruptcy filing, interest had raised the original debt to nearly \$15 million.

Only about \$4 million is secured debt, and BSNC hopes the subsurface transfer to the villages will take care of that amount.

Attorneys are expected to argue that this proposal satisfies 7(i) obligations, because the deeds of trust backing the secured debt covered only BSNC's projected share of subsurface income, estimated at about 30 percent of the total.

If approved, the transfer might have another benefit for Bering Straits.

"This will eliminate debt," reads a motion dated May 29, "and, it is anticipated, have the additional effect of generating a loss that can be utilized by a profitable business entity."

Here's where the motions to amend and set up the tax sharing agreements come in.

The transfer of the subsurface lands would also show up as a loss on the BSNC books. It would then be able to use that loss to join forces with AFG Industries of Los Angeles. Under this agreement, BSNC would be able to generate some income based on the amount of their overall losses, while AFG's federal tax liability would be reduced.

According to the motions, attorneys for BSNC and its creditors discussed the proposal in a meeting several weeks ago. In addition, the substance of the proposals was to be explained to all parties involved before June 12, the deadline for filing objections.