

# Easement court fight here

## Lawsuit is transferred to Anchorage courtroom

By Jeffrey R. Richardson  
Staff Writer

"We're going to be in trouble."

This was the reaction of one Native corporation attorney to the announcement that one of two lawsuits over the issue of easements across Native lands was to be transferred from Washington, D. C. to Alaska.

The Tundra Times has learned that U.S. District Court Judge Oliver Gasch in Washington, D.C. ruled on December 22 that the two easements suits should be consolidated and tried in Alaska.

Natives filed suite in April to protest the policies of the Department of Interior in re-

serving easements across Native lands to provide access to public lands and facilities. The suit, Calista, et. al. vs. Kleppe, was filed in Washington, where it was felt the Native corporations could receive a fairer hearing.

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# Easement lawsuit moved to Alaska ...

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The second lawsuit, filed by the Alaska Public Easement Defense Fund in federal court in Anchorage, holds that the Interior policies do not permit enough access across Native lands. Natives contend that the policies are too broad and allow too much access across lands they have selected and will someday own.

Although already a week old, most Native corporations did not learn of the transfer order until last Wednesday, seven days after it had been signed.

Native leaders do not mince words when discussing their previous attempts to win cases in federal court in Alaska. Roy

Huhndorf, president of Cook Inlet Region, Inc., no stranger to land claims litigation, including the easement suit, said Alaska judges have not been fair to Alaska Natives.

"They can't weigh the implementation of the Alaska Native Claims Settlement Act in the perspective it should be. No one knows that better than we do," Huhndorf said.

The order signed by Judge Gasch reads in part:

"Whereas the Native plaintiffs before this court seek a declaration that the Secretary's easement reservation practices are too broad, the non-Native plaintiffs in Defense Fund seek a judicial determination that the

Secretary's easement reservations will be too narrow. Because the two actions involve essentially the same central legal questions, albeit approaching them from different sides of the same easement reservation issue, the Secretary asks this court to transfer the instant litigation to Alaska for consolidation with Defense Fund. Secretary asserts that such a course of action would best serve the interests of justice. The court agrees."

The Natives do not agree.

Huhndorf commented that when the Interior Secretary seeks a court ruling against Alaska Natives, "he ships them to Alaskan judges."

John Shively, NANA Corporation, said of the transfer, "We're disappointed because we

felt the issues could better be heard in Washington."

Shively said the transfer would place a financial burden on Native corporations, who will have to bring their Washington attorneys to Alaska. Shively said the corporations retain Washington lawyers because they can deal more effectively with federal agencies based in Washington on policy issues, such as easements.

In addition, Shively contended that the Easement Defense Fund suit has been inactive, which makes the value of consolidation questionable.

In the easement suit, Lazarus represents the Alaska Federation of Natives, Calista Corporation, Cook Inlet Region, Inc., Doyon, Ltd., NANA Regional Corporation, Chugach

Natives, Inc., Koniag, Inc., and Ahtna, Inc.

Sealaska Corporation filed its own easement lawsuit, which was consolidated, in Washington with the Calista suit. Sealaska is still represented in the suit by its own attorneys.

In a telephone interview with the Times, Washington attorney Art Lazarus, representing the Alaska Federation of Natives corporations, said he filed a motion December 29 to block the judge's move until he could file a motion of reconsider. Lazarus said a motion of reconsider might not be successful if he could not present new material to support the Native position to keep the suit in Washington.

"I hope to have something new," Lazarus said.