

Villages file Beaufort appeal

Attorneys representing the North Slope villages of Kaktovik, Wainwright, Anaktuvuk Pass, and Point Lay have filed an appeal to the Alaska Supreme Court of a recent Superior Court ruling concerning oil exploration in the Beaufort Sea. The lower court ruling identified substantial problems in the State of Alaska's decision to allow drilling in the Beaufort Sea beyond the barrier islands and enjoined exploration there. The villages' appeal asks the high court to delay drilling on or inside the barrier islands as well, claiming that problems in the decision-making process cover the entire lease sale area.

Reached by phone earlier this week, Kaktovik Mayor Archie K. Brower stated "the village is appealing Judge Hodges' decision because we are concerned about the migration of the whales and the fish. Our wildlife goes through the lease sale area, and that's what we've been wanting to protect." Superior Court Judge Jay Hodges issued the lower court ruling on September 10, 1980, in Fairbanks. Sworn testimony presented to Judge Hodges by Mayor Brower and other village residents documents how the bowhead whales' fall migration passes just outside the barrier islands in the Beaufort Sea. The area inside the barrier islands was identified in the testimony as critical for im-

portant fish migrations and for the food supply of the migrating whales.

Mayor Brower also stated that "we are concerned about our food supply, and we want the drilling stopped until the industry and government finish more research on oil spills and what it would be like after there was a spill." He expressed special concern about the Challenge Island well, which is located on a barrier island beside the fall migration route of the whales. The rig was assembled on the island during the fall migration period, as whales were passing the island, and drilling may begin as soon as November 1, 1980.

Attorneys representing the villages, Craig Tillery and Michael Jeffery of Alaska Legal Services Corporation, have requested the Supreme Court to schedule the fastest possible hearing on the case following submission of a full written legal arguments to the court. North Slope Borough attorneys are joining in this request.

The village appeal identifies several issues in the lower court ruling for consideration by the Supreme Court. Both the federal Endangered Species Act and the Marine Mammal Protection Act are alleged to have been violated by the decision permitting oil activities which threaten the future survival of key wildlife species like the bowhead whale and seals. Federal/state decision-making documents issued just before the lease sale last year predicted that 3 to 4 major oil spills were possible from Beaufort Sea development, and that up to one half the entire bowhead whale population could be wiped out in a worst case oil spill situation.

The village appeal also challenges the lower court ruling that violations by key decision-making groups of the Alaska Open Meetings Act during the sale decision-making process was harmless. The villages had argued to the lower court that in fact these meetings, conducted without public notice or adequate opportunity for public participation, were the forums for critical decisions like those

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surrounding the seasonal drilling stipulation.

The village appeal also disputes the lower court's acceptance of the administrative finding that the Beaufort Sea lease sale complies with the Alaska Coastal Management Act and that there is a reasonable basis for the finding that the drilling on or inside the barrier islands is in the best interests of the State.

All parties have reached an agreement which, if approved by the Supreme Court, could lead to the presentation of oral argument by the end of January or early February.