

Unfulfilled Promises

The Treaty of Cession, swiftly negotiated between the United States and Russia in 1867, did little to define the rights of Alaska Natives. It did, however, set the stage for a relationship between the Government and Natives which holds sway even today.

Article III of the Treaty, almost as an afterthought, states the following: "The uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country."

One-hundred and four years later, when the Congress consented to define what rights Natives did possess by virtue of aboriginal occupancy, the language was vaguely familiar in part. Section 25 of the Settlement Act states, "The Secretary is authorized to issue and publish in the Federal Register, pursuant to the Administrative Procedure Act, such regulations as may be necessary to carry out the purposes of this Act."

While Congress made a clear declaration of policy, the regulation drafters and the gray administrators securely squirrelled away in their mid-fiefdoms subverted the intent of the law. Burdensome easement provisions were written, and conveyances of lands to the Natives were painfully slow or more often nonexistent. Apart from misdeeds of the bureaucrats, oversights in the original legislation came to light. No definition of the rights of the subsistence user, for whom there is no alternative to subsistence, had been provided.

One section of the Claims Act provided for a further opportunity to bring before the Congress further legislation, and hence to bring to the Congress' attention the failure of the Government to implement the law earlier passed. Also existed the opportunity to bring forth the neglected subsistence question. Much progress has been made by Natives in bringing both issues to light, with resulting development of favorable solutions to these problems. The legislation has been adopted by the House and is now before the Senate.

Some have suggested delaying tactics to dispense with less attractive aspects of the proposal. Others have suggested that misjudgements of certain bureaucrats resulting in unfortunate but hastily corrected incidents, will indicate poor future treatment of subsistence users.

From the broader view, Natives had waited 104 years for a resolution of their rights. After settlement was made, they have been left with unfulfilled promises. While every effort must be made to ensure as much as possible that the promises will be kept with this legislation, time is of the essence. The promises must be kept. There should be no filibuster. The drastic consequences of the failure to keep the promises in a timely manner are becoming evident on the front page of this week's newspaper. They will be further evident in the lives of neglected subsistence users.

The promise best be kept and the deed best be done.