

# AFN, INC. FIGHTS AND WINS

## Group Rejects Interior Department's Rules, Regulations on Claims

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**BATTLE OF THE LAWYERS** — The regulation hearings turn into a highly technical legal battle. Curt Berklund, left, Deputy Assistant to the Secretary of the Interior, consults with Paul Kirton, attorney for the Division of Public Lands.

Kirton, who is blind, frequently referred to his own copies of the regulations and the Claims Act during the hearings. His set are in Braille.

— Photo by MARGIE BAUMAN

The Alaska Federation of Natives, Inc. led a fight in Anchorage last week to guarantee that the Claims Settlement would not be diminished and diluted by arbitrary and unfair federal regulations.

AFN, Inc. President Willie Hensley charged that the regulations as proposed by the Department of the Interior "insulted the Alaska Native by making meaningless the settlement we fought so long and so hard for."

Hensley's charges came at the outset of a three-day meeting, March 27-29, between the twelve native regional corporations, Dept. of the Interior officials, and representatives of the Bureau of Indian Affairs and the Bureau of Land Management.

The native groups totally rejected the draft submitted by the government on the grounds that there had not been "maximum participation" by Alaska Natives in drawing up the rules.

All twelve regions unanimously supported the AFN resolution which asked that the draft as submitted be rejected and that a new committee, including representation of Alaska natives, meet in Washington to draw up a completely new set of regulations.

"The proposed regulations do not comply either with the spirit or the intent of the Act," commented Tim Wallis of Tanana Chiefs.

"We gave up a great deal," added Tlingit-Haida's John Borbridge. "We are not prepared to give up any more."

"We have our decision-makers here," Borbridge pointed out. "You must have your decision-makers here. We are prepared to make commitments."

He further warned the government officials that they were about to "witness the strongest sense of unity that has prevailed since the passage of the Claims Act."

But, by their own admission, the government officials present were not the "decision-makers".

However, Curt Berklund, Deputy Assistant to the Secretary of the Interior, said, "I am ready to go back and support you," and pledged to do all in his power to see that a committee from all twelve regions meet in Washington with the "policy-makers" at the highest possible levels.

Native leaders charged that not only were specific recommendations within the regulations "flagrant violations of the Act" but that the entire philosophy underlying the regulations was hostile to native interest and did not reflect the input of ideas suggested when another set of regulations were presented to native leaders last September.

Delegates were persuaded to remain for the three-day planned session in order to help identify major problem areas in the regulations and discuss options to the proposals that might be acceptable.

Major disagreements centered around several key issues:

Village Eligibility Requirements

Compact and Contiguity

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# AFN, Inc. Fights, Wins...

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## Limitations

— Definition of Navigable Waters

— Interim Conveyance

— Deficiency Withdrawals

Paul Gregory of Bethel made a strong speech in the Yupik language protesting the "modern and urban" interpretation. "95 per cent of the Natives in Bethel do not have running water," said Gregory.

"The only people who have such luxuries are BIA employees and other government workers. The town's one dentist serves not only Bethel," he pointed out, "but 52 other villages. Although Bethel has a fire and police department, the fire department is only a volunteer one and ineffective as proven by the number of deaths in Bethel each year due to fire."

Gregory claimed that it is unfair to discriminate against Bethel by labeling it "modern and urban" under the existing conditions.

John Schaeffer of Kotzebue drew a similar parallel. "The central water and sewer system in Kotzebue was put in by the PHS (Public Health Service). It is a very expensive one. They have spent 5 million dollars and it is not one-fourth done. It breaks down every day."

He admitted that Kotzebue had more than five businesses, one of the criteria suggested for determining "modern and urban."

"The majority of businesses are financed by the SBA (Small Business Administration). The police department is funded through PEP, federal money. The fire department has one vehicle. The resident dentist does the majority of his work through contract with PHS. The schools, both elementary and secondary are BIA schools.

Schaeffer concluded, "The BIA and PHS are knocking Kotzebue out of the eligibility list!"

Several hours passed while lawyers for both sides attempted to define a village. At last, Jimmy Huntington of Galena stood up.

"In 1968 and 1969," said Huntington, "every damn town in Alaska was a village! Now you're trying to make non-villages out of them."

Huntington protested the needless wrangling over definitions that should be perfectly clear and which create unnecessary delays in implementing the Act.

"It's just like all the broken treaties in the past," he said. "Get them all screwed up, get all kinds of things put in there till nobody knows what they got. This is going to cost the native corporations thousands and thousands of dollars to try to settle things that didn't need settling at all."

The common-sense arguments won out. While the hearings

were in session, native interests won an important concession from the government.

A phone call to Washington, D.C. to the Associate Solicitor of Public Lands for an interpretation on the modern and urban criteria produced a legal ruling that — listed villages (those named in the Act) must be found to be BOTH modern and urban AND to have a majority of non-native residents to be disqualified as a village under the Land Claims Act.

The surprise ruling removed any shadow of doubt hanging over the eligibility of large communities such as Kotzebue, Barrow, Bethel, Ft. Yukon, and Nome.

Legal counsel prior to the ruling had allowed that these communities might be technically disqualified under the proposed regulations.

The new ruling requires only that a listed village show a majority of native residents, and then the modern and urban do not apply. The village will qualify under the Act.

Another major gain in the three day meeting came when Berkland announced that he would instruct BLM to make immediate withdrawals of land for unlisted villages, those not named in the Act.

In spite of protests from many regions in the past, no lands had yet been withdrawn for unnamed villages which might qualify for land under the Act, leaving the lands unprotected.

Berkland's directive now clears the way for withdrawals for all villages that have been submitted by the BIA.

Still unresolved is the problem of deficiency withdrawals in some areas where public land is not available in the area immediately surrounding native villages. The Chugach region again levied protests against the choice offered them of useless mountaintops and glaciers.

On the final day of the hearings, Department officials met in private work sessions with individual regions to discuss just such problems. Much headway had been made, but much still remained to be done in Washington. The target date for the new version of regulations was set for May 15.

The bold action of AFN, Inc., supported by all twelve regions in unanimous consent, made it clear to the United States government that the Alaska Native people will fight equally as hard to maintain the integrity of the Settlement as they fought to win it.

They will journey once again to Washington, D.C. to insure that the regulations for the implementation of the Act reflect the philosophy and life-style of native people and "maximum participation" by those people.