

# Supreme Court: Inupiat have no claim to sea

by **Jim Benedetto**

Tundra Times Editor

The U.S. Supreme Court let a 9th U.S. Circuit Court of Appeals ruling stand on Monday, October 7, that Inupiat Eskimos have no claim to the ice islands off Alaska's North Slope, or the mineral deposits below them.

"We kind of had a feeling that it might come out the way it did," said Edith Vorderstrasse, president of Ukpeagvik Inupiat Corporation, adding, "but you don't know what will happen until you try." UIC joined the Inupiat Community and the North Slope Borough in the suit in 1981 to help defray the high cost of legal expenses. UIC's board will meet tomorrow and is expected to issue a statement in response to the Court's ruling.

After the 1979 federal-state Beaufort Sea offshore lease sale, the Inupiat Community and the Ukpeagvik Inupiat Corporation sued the federal government, claiming sovereign rights to the sea beyond the federal three-mile limit based upon the law of aboriginal rights, and traditional use and occupancy of the ice islands by the Inupiat people.

During the long winter months, Eskimos hunt polar bear and other animals upon the frozen ocean, and during the break-up they pursue the bowhead whale, seals and fish.

In refusing to review the Circuit Court's ruling, the Supreme Court removed what the major oil companies perceived as a threat to the industry. Inupiat Community and the Ukpeagvik Inupiat Corporation had argued that exploration and production of oil and natural gas resources constituted trespass by the industry on the Eskimos' rightful ownership of the sea beyond the three-mile limit.

Sixteen oil companies argued on behalf of the federal government that the U.S. had fulfilled its obligation to protect the subsistence rights of the Inupiat people.

But Attorney Richard Berley of the Seattle law firm Zientz, Pirtle, Morisset, Ernstoff and Chestnut, says that that was never the motivation for pursuing the case. The real concern of the Inupiat people, says Berley, is protection of the marine mammals which the Eskimos depend on for food. Subsistence, not oil revenue, is the important matter.

Edith Vorderstrasse, President of Ukpeagvik Inupiat Corporation, echoes that concern. "We did it to protect our sea mammals," said Vorderstrasse in a telephone interview.

The U.S. District Court had ruled that the Eskimos had no aboriginal right to the oceans. The Court ruled that the Alaska Native Claims Settlement Act ex-

tinguished all aboriginal land claims both in and out of Alaska.

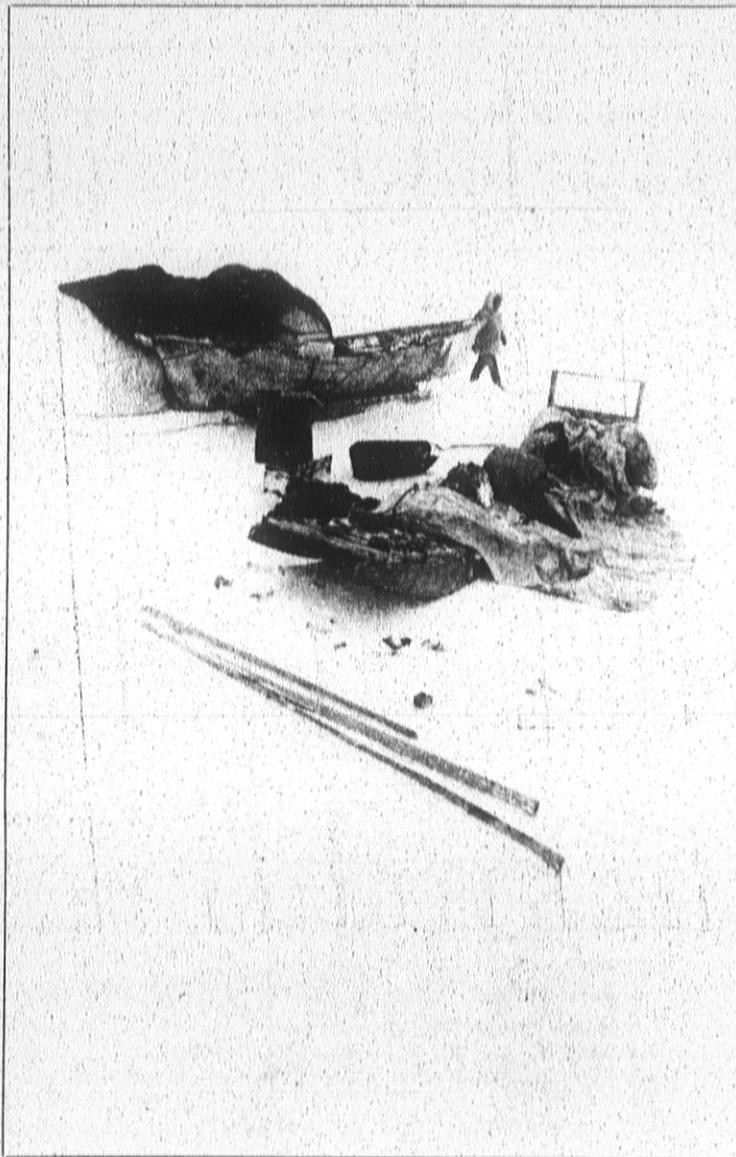
Representing the federal government, the Justice Department argued that the Eskimos' aboriginal rights "were extinguished with the passage (of ANCSA)."

The government also argued that, in any case, the federal claim to the ocean "are paramount over those of any state or Indian tribe," using precedents established in Louisiana and California cases.

"My clients were very realistic," says Berley. "They were disappointed, but not surprised. We had some major hurdles to overcome, and some major interests against us." The major hurdle, said Berley, was that, "there's not a lot of law (establishing) rights in offshore regions... we wanted the opportunity to prove we could demonstrate such rights existed."

Now, says Berley, the focus of the Inupiat should change. Since it is they who must bear the brunt of oil development, they should press for preferential treatment in contracting and employment; they should be provided training opportunities and scholarships, and revenues to offset the impact that the industry will have upon their lifestyle.

Berley said the ruling may have a positive affect on a similar case brought by Gambell residents.



*Inupiat Eskimos based their claim to the Arctic Sea ice beyond the three-mile limit on 'use and occupancy'.* Tundra Times photo