

UA student explains aims of easements

By LAWRENCE DAYTON

An easement is a right that one may have in other's land. In the case of the Alaska Native Claims Settlement Act, (ANCSA) the public has the right to cross Native lands by way of an easement.

The ANCSA authorizes and directs the Secretary of the Interior to reserve necessary public easements across lands transferred to Native corporations. He is to decide what easements are reasonably necessary to provide for public access.

Section 17(b) of the ANCSA provides for the reservation of public easements across land selected by Native and Regional corporations. The ANCSA reads in part:

"The Joint Federal-State Land Use Planning Commission shall identify public easements across lands selected by Village Corporations and the Regional Corporations and at periodic points along the courses of major waterways which are reasonably necessary to guarantee international treaty obligations, a full right of public use and access re recreation, hunting, transportation, utilities, docks and such other public uses

as the Planning Commission determines to be important."

Easements under the ANCSA will allow the general public, a public utility, or a government agency to cross over Native private lands to get to public lands or waterways, or to use certain Native lands for public roads, docks, or other access facilities.

Easements are going to be used for many purposes. Among them are transportation corridors, periodic boat landings and campsites along rivers and lakes used for transportation or

recreation, airports and navigational facilities, access along the coastline, and existing trails across Native lands.

Acting through the Bureau of Land Management, the Secretary of Interior must consult with Native landowners regarding easement proposals submitted by government agencies and user groups.

There have been ongoing disputes among numerous parties as to the nature and extent of these public easements. In addition to the Native corporations, the most

obviously affected parties include the Federal Government, the State, the Joint Federal State Land Use Commission, and various private interest groups

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and individuals.

According to Sam Kito, President of the Alaska Federation of Natives, "The most significant point to keep in mind in dealing with Native lands is that Native land is private land and should be treated just as any other such land." He said, "...AFN has no quarrel with the concept of public easements but such easements must meet the criteria of the Settlement Act...The controversy that has arisen surrounding easements is due, basically, to a failure to recognize this private status."

There are many disadvantages for Native landowners arising from easements. For one thing, the Native corporations will be losing control of access on the land within the easement. Also, the Native corporations will lose the right to develop in any way that would interfere with access on land where the easements are located. Also, the existence of these easements may increase the possibility of trespass on Native private lands.

Many of the rural Native communities are concerned about easements, because it will open up their regions to the public. They do not want people coming in by car or rail or any other way. The pipelines would be accompanied by roads, and that would open up lands and game and fish to everyone else and would totally disrupt the Natives' way of life.

Earlier last year, many people were dissatisfied with the BLM's proposal for some 40 corridors for pipelines, highways, railroads, and utilities within the state. Many people felt that the BLM did not take into consideration the social impact that the corridors would have on the rural communities.

Because of easements, the public will have access to Native villages which can be disastrous. The village of Minto is an example of what could happen when we build roads to the city. A few years ago, a road was built between Minto and Fairbanks. Sport hunters from the Fairbanks area went to Minto and killed much of the game. Some left garbage near the lakes and streams. The people of Minto regret that the road was

ever built. We must take into consideration the social needs of the village people before we can consider any technological change.