"I may not agree with a word you say but I will defend unto death your right to say it." — Voltaire

Tundra Times

Owned, controlled and edited by Eskimo, Indian, Aleut Publishing Company, a corporation of Alaska natives. Published at Fairbanks, Alaska, weekly, on Friday.

Address all mail to Box 1287, Fairbanks, Alaska 99701. Telephone 452-2244.

Entered at the Post Office at Fairbanks, Alaska, as second class matter under the Act of March 3, 1879.

Eskimo, Indian, Aleut Publishing Co., Inc. Board of Directors Executive Committee: Howard Rock, president; Thomas Richards, vice president; Mrs. Ralph Perdue, secretary: Jimmy Bedford, comptroller: Mary Jane Fate, assistant secretary. HOWARD ROCK, editor.

SUBSCRIPTION RATES

Regular Mail (including Alaska, Canada and other states)	1 Year $ 8.00	6 Months $ 4.50
Air Mail (including Alaska, Canada and other states)	1 Year $19.00	6 Months $10.00

Need for Readiness . . .

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the mud by the land claims opposition.

These are serious matters. Our native people had better think deeply about them and seek ways to offset them with good counters. This is where the native leadership should apply their talents and battle against what may be the rising tide of opposition. That opposition is tough and it has its powerful press. They don't give a hang about what the native people are. They don't give a hoot how they do it as long as they think they can get their greedy fingers into the precious pei of Alaska resources. The Alaska native people must realize that they don't count much as far as this element of the population is concerned.

There is a lot of work to do. The native people had better buckle down and do it. One of the most potent means to counter the opposition to our land claims efforts will have to be our politics. The native leadership knows this and it should be a matter of paramount importance upon which to think hard and let their public—the native people and their friends—know what these thoughts are. All of this effort should be aimed at the most thorough effort of political strategem the natives ever attempted. Our people will have to be unified politically. The achievement of this should be aimed at getting at the roots of the opposition after making sure that those roots are the proper targets.

Recently, lawyers in Anchorage had a party. One of them sent out invitation cards which read, "Satan, Satin, and Goldberg, Attorneys for the Devil." The man said he was counsel for the firm.

The inference is very unfunny. It is base—assinine. It was probably funny to the lawyers. The native people had better evaluate the lawyers' sense of humor because some of those attorneys do get elected and some are aspiring to get elected. There are ins and there are those who want to get in. When we vote, we had better consider them as they are—assinine—because they are of the present crop. The better element of Alaska's lawyers could perhaps weed out the "weeds" and boot them out of the state. We don't need them because they spell trouble for the native people with their racially tinged attitudes.

Justice Arthur J. Goldberg deserves honor, not ridicule. We say this with firm conviction. He is a great American who has served his country well through services considered some of the highest offices in the land. He is serving the native people well. His great prestige and ability as a lawyer are assets in the effort of trying to win equitable settlement of the native land claims. He has the respect of the nation. This was not earned without skill, talent and strength to persevere. As a man of great established deeds, he far outshines the base lawyers and those people who go along with those lawyers.

In the meantime, the native leadership must sharpen the politics of Alaska's native people. We must make this work to the best level of achievement possible. We must show the state that native politics is nothing to be poohed at.

Unjustified Criticism

Chief Counsel for the AFN in Washington is Justice Arthur Goldberg. This distinguished American is serving the Native cause without fee.

His presence has been a great boost to Native efforts to secure a just and equitable land claims settlement. He and his partner former Attorney General Ramsey Clark and former Senator Thomas Kuchel, their associates, and all our regional attorneys have made a difference.

Some Alaskans have resented the fact that the Native cause can command such distinguished and high powered representation. They try to turn other Alaskans against us by calling our attorneys "Easterners" or "Outsiders" and they repeatedly refer to the AFN legislative proposal as "The Goldberg Bill."

We think they're trying to hide one form of racism behind another.

Most recently the lawyers of Anchorage held a Christmas party. The invitations were signed by an Anchorage lawyer, presumably as a joke, as "Attorney for the Devil, of counsel, Satan, and Goldberg."

Justice Goldberg has only one client in Alaska, the Native peoples. If the lawyers think he is counsel for the devil then what are the Natives?

The attorneys of Anchorage owe the Native People and Justice Goldberg an explanation and an apology.

Poses Tanacross Land Situation—

Chief Isaac Writes to Nixon

Tanacross, Alaska
December 16, 1969

Mr. Richard M. Nixon
President of the United States
The White House
Washington, D.C.

Dear Mr. President:

Please excuse the length of this letter, but it must be done this way to tell the whole story.

Many dozens of Native allotment applications have been rejected by the Fairbanks office of the Bureau of Land Management during 1969. The majority were rejected on the basis that Public Land Order 4582 (the Super Freeze) allegedly precluded filing of applications. (It should be noted that on the basis of BLM's interpretation, the Bureau of Indian Affairs personnel were instructed to not actively assist the Natives in the allotment program.) All of the allotment applications rejected by the Bureau of Land Management claimed use and occupancy prior to the effective date of PLO 4582.

A second reason given by the BLM is that some of the allotments were within a tentatively approved state selection. In these cases, the allotment applicants claimed use and occupancy prior to the state selection.

The actions of the Bureau of Land Management are wrong and are an unconscionable deprivation of the rights of individual Alaska Natives. That they are wrong is proven by the wording of the laws and regulations. That their action is unconscionable is indicated by their obvious intentional disregard of the weight of continued, long standing, reaffirmed, clear decisions of the Secretary of the Interior and the courts.

Public Land Order 4582 was promulgated under the authority of the Act of June 25, 1910. This act states that public land may be withdrawn from settlement, location, sale or entry. As to interpretation of this act the courts, in Mason V. U.S., La. 1923, said that the words "settlement and entry" include all forms of appropriation. It was held in U.S. v. State of Minnesota, Minn. 1926, that lands already appropriated are excepted from subsequent actions. In Northern Pacific Railway Co., v. Mitchell, Wyo. 1921, the court held that authority under the act is limited to lands which are public lands. As far back as Newhall v. Sangor, 92 U.S. 761, 763 (1875), we find our highest court stating clearly and unequivocally, "Whenever a tract of land shall have once been legally appropriated for any purpose, from that moment the land thus appropriated becomes severed from the mass of public lands, and no subsequent law or proclamation or sale would be construed to embrace it."

These six court decisions should establish for the Bureau of Land Management that appropriated lands are not subject to a withdrawal promulgated under the act of June 25, 1910. However, has the Secretary of the Interior's decisions paralleled the thinking of the courts as regards withdrawals under the act of June 25, 1910?

In 1925, in William v. Brening 51 L.D. 225, 226, the Secretary held that the withdrawal in question "saved any valid existing rights in and to the lands so withdrawn, and a preferred right which had been earned, although not actually awarded, prior to the withdrawal is entitled to protection." The Secretary further held that "the withdrawal was designed to prevent the initiation of new claims and not the destruction of rights theretofore fairly earned." In a 1935 Solicitor's Opinion, 55 I.D. 205, the Department of the Interior upheld the term "subject to valid existing rights" which was contained in EO 6910 which was promulgated under the act of June 25, 1910. In a 1950 decision, Wilber Martin, Sr., A-25862, the Secretary held that the right to an allotment is saved from a subsequent withdrawal even though actual application was not filed until 11 years after the withdrawal order. In 1959, in Edward G. Harrington, A-27823, it was stated, "the Department has held that a preference right to an allotment based upon occupancy and continuous use is not affected by a later withdrawal of land." In 1962, John David Smith, et al, A-28829, the Secretary held that "If . . . he established residence on the land prior to the withdrawals . . . he acquired a right to an allotment."

The Native allotment act states that a Native shall have the preference right to secure an allotment. PLO 4582 states clearly of itself that it is subject to valid existing rights.

The Bureau of Land Management, in bold deriliction of its duty, ignores the clear statements of law, clear disclaimers in the withdrawal orders, clear interpretations of the Courts, and clear Decisions of the Secretary of the Interior.

To keep from being overly boring, the many citations available will not be cited as to the right of the Natives to their allotment where a subsequent State selection is involved. However, the laws, the court decisions and Secretarial decisons parallel closely those cited above. The prior rights were upheld against in place land grants. (The State of Alaska was only granted the right to select and gain title to public lands which are vacant, unappropriated and unreserved. Native occupied land is not "unappropriated public lands (30 L.D. 125). The right has been upheld by the Court even when the State had sold the land to a third party.

In derrogation of individual rights upheld by the Courts and by the Secretary of the Interior, the Bureau of Land Management not only ignores legal precedent, it won't even follow its own regulations. 43 CFR 2013.9-3 states that Native-occupied land "is not subject to entry or appropriation by others." 43 CRF 2013.6 requires the Bureau of Land Management to ascertain by any means in its power what lands are occupied by Indians and to suspend all other applications on land occupied by Indians who have made improvements of any value whatever thereon.

In the cases now in question, the Bureau of Land Management in Alaska has not made any effort to give any consideration to the duty clearly required of it. The practical problem is that individual Natives cannot obtain title which they have a clear right to have granted to them. Without title, it has been proven exceedingly difficult to obtain court protection against trespass and physical appropriation by others. In at least one case, the State of Alaska has selected and received tentative approval to Native-occupied land and has permitted the land and buildings to a third party.

Your assistance is needed and is respectfully requested. All that is wanted is for the laws and regulations, as interpreted by the courts and by the Secretary of the Interior, to be followed. Then, each case can stand or fall on its merits.

Thank you for your valuable time and for any help you can give us.

Sincerely yours,
Andrew Isaac
Chief, United Crow Bands