
NATURAL RESOURCES JOURNAL

Volume 19
Issue 2 *Spring 1979*

Spring 1979

Validity of Claims under the Alaska Native Claims Settlement Act Determined

Larry M. Kasen

Recommended Citation
Larry M. Kasen, *Validity of Claims under the Alaska Native Claims Settlement Act Determined*, 19 NAT. RES. J. 381 (1979).
Available at: https://digitalrepository.unm.edu/nrj/vol19/iss2/9

This Recent Developments is brought to you for free and open access by the Law Journals at UNM Digital Repository. It has been accepted for inclusion in Natural Resources Journal by an authorized editor of UNM Digital Repository. For more information, please contact disc@unm.edu.

VALIDITY OF CLAIMS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT DETERMINED

INDIAN LAW—ALASKA NATIVE CLAIMS SETTLEMENT ACT: In interpreting the act designed to settle the claims of Natives and Native groups of Alaska, the Ninth Circuit has denied the use of the plain meaning rule, relying instead on legislative history and the Secretary of the Interior's statutory construction. *Doyon, Limited et al v. Bristol Bay Native Corp.*, 569 F.2d 491 (9th Cir. 1978).

In *Doyon, Limited et al v. Bristol Bay Native Corp.*,[1] the Ninth Circuit was requested to construe the Alaska Native Claims Settlement Act[2] (hereinafter ANCSA), which was enacted by Congress in 1971 to provide a "fair and just settlement of all claims by Natives[3] and Native groups[4] of Alaska, based on aboriginal land claims."[5] The Secretary of the Interior, as principal administrator of ANCSA, was authorized to divide the State of Alaska into twelve geographic regions[6] so as to simplify administering the Act. To be eligible for benefits under ANCSA, besides the requirement of having a valid aboriginal claim, Natives of each region must form a Regional Corporation[7] and subdivide into villages, incorporating both under the laws of Alaska.[8] Once these procedures are completed, the Village Corporations may elect to receive a monetary share from the Alaska Native Fund[9] to be distributed to the Regional Corporations according to the "relative numbers of Natives enrolled in each region,"[10] or opt to acquire fee title to the surface and subsurface land in any

1. 569 F.2d 491 (9th Cir. 1978).
2. 43 U.S.C. §1601 *et seq.* (1970).
3. 43 U.S.C. §1602(b) (1970) defines "Native" as a citizen of the United States who is a person of one-fourth degree or more Alaska Indian . . . Eskimo, or Aleut blood, or combination thereof." However, 43 U.S.C. §1604 (1970) limits eligibility for benefits under ANCSA to those Natives who were born on or before, and who are living on, December 18, 1971, the effective date of ANCSA.
4. 43 U.S.C. §1602(d) (1970) defines "Native group" as "any tribe, band, clan, village, community, or village association of Natives in Alaska composed of less than twenty-five Natives, who comprise a majority of the residents of the locality."
5. 43 U.S.C. §1601(a) (1970).
6. *Id.* §1606(a).
7. *Id.* §1606(d).
8. *Id.* §1607.
9. *Id.* §1605; $962,500,000 will ultimately be deposited in the fund.
10. *Id.* §1605(c).

reserve set aside for the use or benefit of its stockholders or members prior to the effective date of ANCSA.[11]

Pursuant to ANCSA, three Village Corporations of the Doyon Region and Bering Straits Region opted to acquire title to reserved land. In December 1973, Rogers C. B. Morton, then Secretary of the Interior, calculated the distributive shares of the Alaska Native Fund that the two aforementioned Regions were entitled to receive. Because the Secretary's computations excluded the Natives from landed villages, the Doyon and Bering Straits Regions filed suit in the United States District Court for the District of Alaska.[12] The District Court reversed the Secretary and held that Natives from landed villages were not excludable from the distributable shares of the Alaska Native Fund.[13]

Disagreeing with the District Court's interpretation of ANCSA, the Secretary of the Interior, along with the other Regional Corporations, appealed to the Ninth Circuit[14] to consider the unprecedented issue of whether Native members of villages which opted to acquire fee title to reserve lands in lieu of all other benefits under ANCSA may be included in Regional Corporations' membership rolls for purposes of calculating their proportional shares of the fund. The *Doyon* court agreed with the appellants and reversed the District Court, holding that Congress did not intend Native members of villages which elected to acquire reserve lands to be computed as members of the Regional Corporations for purposes of dividing the shares of the Alaska Native Fund.[15]

In making its decision, the court construed section 1605(c) of ANCSA which provides "(A)fter completion of the roll prepared pursuant to section 1604 of this title, all money in the Fund, . . . shall be distributed . . . *on the basis of the relative numbers of Natives enrolled in each region*" (emphasis added).[16] Appellees had argued unconvincingly that the court should apply the "plain meaning rule"[17] in construing this statutory language and, thus, Natives opting for reserve land should also be included in the Secretary's calculations. The Ninth Circuit, however, following a recent Supreme Court decision, *Train v. Colorado Public Interest Research Group,*

11. *Id.* §1618(b).
12. Aleut Corp. v. Artic Slope Regional Corp., 417 F. Supp. 900 (D. Alaska 1976).
13. *Id.* at 904-06.
14. Doyton, Ltd. v. Bristol Bay Native Corp., 569 F.2d 491 (9th Cir. 1978) *cert. denied,* 99 S.Ct. 3521 (1978).
15. *Id.*
16. 43 U.S.C. §1605(c) (1970).
17. The "plain meaning rule" prohibits introducing extrinsic evidence to determine the meaning of a statute when the statutory language appears to be clear on its face.

Inc.,[18] chose to ignore its traditional approach of construing statutory language which appeared clear on its face, i.e., "plain meaning rule," and instead, examined the relevant legislative history of ANCSA. After examining this history, the court concluded that Congress had intended regions to share equally and it would be unequal for land reserve Natives to benefit in a disparate manner, i.e., receiving both land and distributive shares.[19]

Much emphasis was also placed by the court on section 1618(b) of ANCSA which provides in part:

> (T)he Village Corporation shall not be eligible for any other land selections under this chapter or to any distribution of Regional Corporation funds pursuant to section 1606 of this title, and the enrolled residents of the Village Corporation shall not be eligible to receive Regional Corporation stock.[20]

The *Doyon* court reasoned that since these villages are ineligible to receive stock in the Regional Corporations, accordingly, they forfeit their right to receive distributive shares from the Alaska Native Fund.[21] In essence, then, the court was holding that only stockholders could participate in the Alaska Native Fund distribution scheme.

The court next considered the appellee's second contention. Basically, appellees relied on section 1606(1) and (m) of ANCSA,[22] which enables Regional Corporations to compel villages to enter into joint ventures in hopes of benefitting the region generally. The appellees argued that the inclusion of landed villages into such joint ventures would impede the success of these ventures unless appellee regions received a greater per-share-holder distribution than regions without such landed villages. In rejecting this argument, the *Doyon* court stated that neither of the above provisions applied to landed villages since the Regional Corporations owe no duty nor have any authority to impose conditions on these villages.[23] The court also ruled that such village Natives are not eligible to receive distributive shares from the Alaska Native Fund.[24]

Realizing that their claim was being rejected, the appellees urged that the court not give "great weight" upon judicial review to the Secretary of the Interior's statutory construction of ANCSA, es-

18. 426 U.S. 1 (1975).
19. Doyon, Ltd. v. Bristol Bay Native Corp., 569 F.2d 491, 494-5 (1978).
20. 43 U.S.C. §1618(b) (1970).
21. Doyon, Ltd. v. Bristol Bay Native Corp., 569 F.2d 491, 493, 495 (1978).
22. 43 U.S.C. §1606(l), (m) (1970).
23. Doyon, Ltd. v. Bristol Bay Native Corp., 569 F.2d 491, 496 (1978).
24. *Id.*

pecially when the Secretary has no particular expertise in interpreting the Act. The Ninth Circuit once again rejected the Doyon and Bering Straits Regions' argument, ruling that as the principal administrator of ANCSA, the Secretary's statutory interpretation deserves "great weight" on judicial review regardless of whether he has previously construed the Act.[25]

In summary, the court concluded on the basis of the legislative history of the Alaska Native Claims Settlement Act that only Alaska Natives of non-land villages are to receive distributable shares from the Alaska Native Fund. Noting that Congress' intention was that the Act serve all Natives equally, the court did not feel compelled to apply the "plain meaning rule" in construing what otherwise appeared to be clear statutory language. The Ninth Circuit, in essence, refused to permit Native non-stockholders, i.e., those Natives that opted to acquire fee title to surface and subsurface land, to receive distributable shares from the Alaska Native Fund in addition to their land settlements, which in effect would have reduced the amount of the Native stockholders' distributable shares under the Alaska Native Fund. Not only does this opinion seem sound, but since the Supreme Court has denied review[26] it is final.

LARRY M. KASEN

25. *Id.* at 496-497.
26. 99 S.Ct. 352 (1978).