

## ORAL HISTORY 88-49-102

John Borbridge, Tim Wallace, Byron Mallott

Moe Wassillie, moderator

1977

Moe Wassillie said he attended the Tanana Chiefs Conference held in Fairbanks March 15-17, 1977. John Borbridge was the key speaker. He is the president of the Alaska Regional Corporation. He is also a commissioner of the American Indian Policy Review Commission.

John Borbridge said Indians and Alaska Natives were and are involved in every phase of the implementation of the American Indian Policy Review Commission. The findings of the commission will reflect the feelings and analysis of the Alaska Native communities. The primary emphasis was and is on tribal participation and tribal consultation. He said it is an effort by the government itself with the most basic Indian involvement to pose the question what changes should be made and how should those changes best be achieved. He said the commission offers them an opportunity to lead in these changes. He read some of the findings and the recommendations: although the Alaskans were not located on reservations the status of their traditional tribes and their relationship to the United States are the same as other American Natives. They still need and are entitled to the special services that the United States customarily makes available to Natives based on their status as such. The Alaska Native Settlement Act was not intended to affect and did not affect the sovereign powers existing in the Alaska Native tribes. The Alaska Natives should be eligible along with all other American Natives to receive the benefits of all existing and future legislation and programs designed generally to promote the development and welfare of American Natives. There is a need to establish an order of preference among competing applications of organizations that seek contracting opportunities. The Tlingit-Haida Indians constitute a single tribal entity of which the central council is the general and supreme governing body. The authority given the Interior Secretary by the Settlement Act where necessary to reserve easements across lands to be granted to Native corporations and at periodic points along the main courses of major waterways was intended to be exercised strictly for the purpose of providing access to remaining public lands and discharging international treaty obligations. In undertaking to reserve easements for other types of purposes the secretary is grossly exceeding his authority. Since Congress itself mandated the conveyance of 40 million acres of land to the Natives and Native corporations and defined the areas from which the land is to come, the secretary prior to making the grants should not be required to prepare environmental impact statements. The Settlement Act contemplated that all lands to which the Natives and Native corporations are entitled would be conveyed not later than early 1976 and now more than a year after Congress provided that it should be complete only a fraction of the land has been conveyed. The delay is attributable to bad administration of the former Secretary of the Interior. This will likely continue unless Congress itself takes a hand and compels it. The Buckley amendment passed by Congress should be funded. He is impressed with the love of the land by Native Americans, the importance that all Native Americans attach to who they are, and he is inspired by the knowledge that they are tied together by spiritual ties, the love for the land and a timeless reverence for life.

Song by Kenny Rankin

Moe Wassillie said that Tim Wallace, president of Doyon, talks about taxation of Native land set up under the Alaska Native Claims Settlement Act, Senate Bill 35 and where some of the conflicts are. Tim Wallace said there is a conflict whether the term unimproved land defined in Senate Bill 35 is the same as real property or not developed or leased to third parties under ANCSA. Senate Bill 35 in defining unimproved land uses standards of current physical additions or alterations to the land which would affect the value or income producing potential of the land. There is a possibility that the tax as proposed is in violation of the equal protection clause of the United States Constitution. He said it would appear that the state would be treating one type of property different than other properties of similar characters. The only property that is being taxed is property in the unincorporated borough. There are no taxes levied by the state on identical property in incorporated boroughs. This tax cannot be said to be a substitute for such borough taxes since there are assessment rates that are varied from borough to borough. While variance in the millage rate is acceptable from one borough to the next the fact is the state which is acting as a taxing authority may require the tax to be struck down unless all land in the state are subject to it. Under the bill it calls that the proceeds of the tax be deposited in a special account of the general fund and that an amount derived in the preceding year be appropriated for the benefit of the unorganized boroughs. Article 9 Section 7 of the Constitution provides that the proceeds of any special tax shall not be dedicated to any special purposes. He said the provisions of Senate Bill 35 strongly indicate that creation of a special fund which is dedicated in its use. He said this certainly would appear to be the intent but the language of the bill is sufficiently vague as to arguably allow the funds to be utilized in any manner as long as the benefit would be the unorganized borough. Under the Alaska state constitution it says that when you tax somebody you cannot set up a special fund in which you can use that tax. It has to be put into a general fund and used on a broad base as determined by the legislature. The whole tax structure is basically one that will shift the tax burden to the Native enterprises for Native services provided in the rural areas. The decision of the tax rate, exemption and use of the funds will be made by a body in the excess of 75% of whose members are elected by persons neither subject to the tax nor the intended recipients of its benefits. He said close attention should be paid to having such a body setting the tax policies especially in the legislature. This type of situation closely parallels the one man one vote case of the 50s and 60s in which the state senates were required to be apportioned on a population base. The section which provides for a return of the tax dollars paid in services to the unorganized borough is very weak and a two-fold danger exists with it. The money may never be spent for services in the rural areas and the money may be utilized to provide existing services which the state is required to provide anyway. One might see the tax dollars being applied to reimburse the state for school foundation money, existing welfare programs and other services which the state is also providing to a greater extent in the urban areas. In the long run if the state is going to tax the unorganized boroughs, which may be the case next year or the year after, then Doyon and the villages should explore the creation of borough governments in order to provide for local control on allocations and decisions as well as the appropriate taxing levels.

Song by Helen Reddy

Byron Mallot, incoming president of Alaska Federation of Natives, talks about the legislation pertaining to D2 lands and what the highest priority is. Mallot said the highest priority is to protect subsistence and they also want to maximize the economic capabilities on their own land. He said that some people have already pointed out that it is a huge inconsistency. They don't view it that way. He said the way they are going to protect their future as Alaska Native people and the way they are going to have the strength and the capability to ensure that their goals and objectives are those that are determined by them and achieved by them is to make those corporations both now and for the future strong economic profit making structures. He said if they are not they are going to suffer because they aren't going to have a different kind of structure. They can't go back to Congress and start the process over. More than that they don't think there is an inconsistency between subsistence and economic development. He said the difficulty between economic growth and subsistence the way Native people define it and the way Native people use it is more a matter of management than it is definition. He used one example. They want adequate access and egress to and from Native land and at the same time they want to protect subsistence resources. In order to do that they set up management and decision making mechanism that are responsive to their number one priority and that is subsistence. If they want to build a road on Native lands that is necessary for some economic profit making project they make the decision based upon whether or not that will adversely over the long run really impact subsistence use of those same lands. For example the cheapest way to route a road is through a river valley but that is also a place that Natives use most heavily for subsistence uses then under their system of priorities they would reroute the transportation route some other way. If it is done properly -- if economic development decisions are made in a manner that are sensitive to subsistence and cultural requirements of Native corporations and their shareholders then it is workable. The history of our U.S. in the past in terms of conservation, the environment and preservation of natural resources has been a disaster. They are looking to Alaska to salvage environmental conscience with respect to conserving lands and resources for the future. AFN recognizing that the D2 issue is probably going to be the most important legislation they have to deal with and has hired Stewart Udall to be their legislative representative in Washington specifically for D2. Mr. Udall is a former Secretary of the Interior and a former congressman during the statehood act. He pointed out clearly at that time one of the unresolved issues at statehood were the Native claims. He imposed the state land freeze in 1966 which started the ball rolling towards the passage of the Alaska Native Claims Settlement Act. His brother Morris Udall is chairman of the House Interior Committee which will have full responsibility for development of D2 legislation at the House level. Mallot said your villages and your corporation from time to time talk about subsistence. He said if you have specific ideas they want to hear about them. He encourages their input every step of the way.

Song by Kenny Rankin