

JOE J. GOODLATAW

IBLA 74-138

Decided January 22, 1974

Appeal from rejection of application to amend Alaska Native Allotment A-062458.

Vacated and remanded.

Alaska--Native Allotments

A qualified applicant is limited to a single Alaskan Native Allotment, but an allotment which was granted for less than 160 acres may be amended to include additional tracts not exceeding 160 acres.

APPEARANCES: Saul R. Friedman, Esq., of Alaska Legal Services Corporation, for appellant; Loretta C. Douglas, Esq., Office of the Solicitor, for Bureau of Land Management.

OPINION BY MR. FRISHBERG

Appellant was issued a certificate of allotment embracing 37.56 acres on July 11, 1968. He timely filed (i.e., prior to December 18, 1971) an application for amendment to enlarge his allotment. In its decision of October 30, 1973, the Alaska State Office, in effect, held that once an allotment has issued no amendment could be permitted because 43 CFR 2561.0-8(a) provides that a native is limited to a single allotment not exceeding 160 acres.

Appellant contends that an issued allotment may be amended to include additional land. Counsel for the government, with whom we agree, states that a native may be properly allotted a total of 160 acres consisting of several tracts of land before it is considered that he has acquired a single allotment pursuant to the Alaska Native Allotment Act of 1906, as amended.

We have previously considered the identical issue presented here. In IBLA 74-14, Dick Anahonak et al., Anchorage 053493, 053495 and 053499, the Board, in its Order of October 29, 1973, stated that a single allotment under the regulation may be amended

to include additional lands, and directed that the applications for amendment should be adjudicated in accordance with the Secretarial guidelines of October 18, 1973, "Adjudication of Pending Alaska Native Allotment Applications." In line therewith, counsel for the Government has requested that we vacate the decision below and remand this case for appropriate adjudication in accordance with the Secretarial directive.

Therefore, pursuant to the authority delegated by the Secretary of the Interior to the Board of Land Appeals, 43 CFR 4.1, the decision below is vacated and the case remanded for appropriate action.

Newton Frishberg, Chairman

We concur:

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Douglas E. Henriques, Member

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Anne Poindexter Lewis, Member

