

MARY T. AKOOTCHOOK ET AL.

IBLA 75-86

Decided September 16, 1974

Appeals from Bureau of Land Management decisions, F 16286 etc., rejecting Native allotment applications covering lands within the Arctic National Wildlife Range.

Affirmed as modified.

1. Alaska: Native Allotments

Lands in Arctic National Wildlife Range are not available for Alaska Native allotment where settlement was initiated after the land was withdrawn or less than five years prior to such withdrawal.

APPEARANCES: William D. Rives, Esq., of Davis, Wright, Todd, Riese & Jones, Seattle, Washington, for appellants.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

This is a consolidated appeal from Bureau of Land Management decisions rejecting Alaska Native allotment applications, listed in the Appendix hereto, because the lands under application are within the Arctic National Wildlife Range. The subject lands were "withdrawn from sale, location, selection and entry under the public land laws" on January 22, 1943, by Public Land Order 82, and were conveyed into the Arctic National Wildlife Range by Public Land Order 2214 of December 8, 1960. Thus, the lands involved here have been segregated from entry under the public land laws, and not open to settlement for native allotments, at all times since January 22, 1943.

[1] Each appellant asserted in his application that settlement had been effected on lands within the Wildlife Range after the lands had been withdrawn in 1943, or that settlement had been initiated less than five years prior to that withdrawal. Situations of this type were fully considered in Christian G. Anderson et al., 16 IBLA 56 (1974), which held that land in the Arctic National Wildlife Range is not available for Alaska Native allotments, where settlement or

occupancy was initiated after the land was withdrawn or less than five years prior to such withdrawal. For reasons therein stated the action by the Bureau of Land Management to reject these applications was correct.

Appellants, however, have requested leave of this Board to submit additional evidence to show that use and occupancy was initiated more than five years prior to the initial withdrawal of the lands. We believe that the parties should be permitted to submit further evidence to substantiate their claims.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are modified to allow appellants to submit additional evidence in support of their applications. The evidence must be submitted to the Alaska State Office, Bureau of Land Management, in Anchorage, on or before November 1, 1974, (or within a further reasonable period as may be allowed by the State Director), failing in which the decisions below will be allowed to stand.

Douglas E. Henriques
Administrative Judge

We concur:

Martin Ritvo
Administrative Judge

Joan B. Thompson
Administrative Judge

APPENDIX

F 16286 Mary T. Akootchook
F 16291 Betty Brower
F 16296 Ethel Gordon
F 16307 Evelyn M. Gordon
F 16320 Nolan P. Solomon
F 16323 Philip Tikluk
F 16324 Riley Tikluk
F 16623 Daniel Akootchook
F 16632 Tommy O. Gordon
F 16635 Alice A. Killbear
F 16636 Ruby Linn
F 16637 Eunice Marx
F 16646 Frank Oyagak
F 18779 George Akootchook
F 18784 Harold Killbear
F 18795 Isaac Akootchook

