

RUTH AGNASAGGA  
ANDREW EKAK

IBLA 75-636, 75-658

Decided July 31, 1975

Appeals from decisions of Fairbanks District Office, Bureau of Land Management, rejecting applications for Native allotment within Naval Petroleum Reserve No. 4. F 15473, F 16283.

Affirmed.

1. Alaska: Native Allotments

Lands in Naval Petroleum Reserve No. 4 are not available for Alaska Native allotments.

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

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Andrew Ekak and Ruth Agnasagga 1/ have appealed separately from decisions of the Fairbanks District Office, Bureau of Land Management, which rejected their applications for Native allotment insofar as the applications described lands withdrawn from Naval Petroleum Reserve No. 4.

[1] Naval Petroleum Reserve No. 4 (Pet 4) was established by E.O. 3797-A of February 23, 1923. Lands in Pet 4 and others were withdrawn from appropriation under any of the public land laws by P.L.O. 82 of February 4, 1943. P.L.O. 2215 of December 8, 1960, revoked P.L.O. 82 and opened some of the previously withdrawn lands to entry, but the Order expressly stated that no lands in Pet 4 were

---

1/ Application of Andrew Ekak, F 15473, was rejected for Parcels A, C and D, in T. 17 N., R. 29 W., T. 17 N., R. 28 W., and T. 13 N., R. 34 W., respectively. Application of Ruth Agnasagga, F 16283, was rejected for Parcel A in T. 10 N., R. 33 W. The appeals do not relate to other lands described in the applications.

affected by the revocation, as all land in Pet 4 is under the jurisdiction of the Secretary of the Navy, 10 U.S.C. § 7421 *et seq.* (1970). This Department has held that from the date of establishment of Pet 4 in 1923, none of the lands therein have been open to any appropriation, including Native allotments. See e.g., *Elsie May Pikok Crow*, 3 IBLA 114 (1971).

These appellants adopt as their statements of reasons for appeal the briefs filed in connection with earlier appeals submitted to this Board by Christina A. Fischer and others in docket numbers IBLA 73-96, IBLA 73-107, IBLA 73-173 and IBLA 73-246. The arguments presented in those briefs were disposed of by the Board in *Christina A. Fischer*, 15 IBLA 79 (1974). In *Fischer*, the Board held that where a Native had not completed five years of substantial use and occupancy of lands in Pet 4 before the withdrawal order of February 23, 1923, no rights to a Native allotment are created.

In neither of these appeals is there any indication that the Native was using the land withdrawn for Pet 4 for five years, or at all, prior to the withdrawal for Pet 4 in 1923. For reasons set out in *Fischer, supra*, the decisions by the Fairbanks Office are correct.

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 affirmed.

Douglas E. Henriques  
Administrative Judge

We concur:

Edward W. Stuebing  
Administrative Judge

Frederick Fishman  
Administrative Judge

