

Appeal from a decision of Alaska State Office, Bureau of Land Management, approving an interim conveyance of land to a Native village corporation pursuant to 43 U.S.C. § 1611 (1976). F 14891-A and F 14891-B.

Dismissed.

1. Alaska: Generally--Alaska Native Claims Settlement Act: Conveyances--Rules of Practice: Appeals: Dismissal--Trespass: Generally

One who settles on withdrawn land in Alaska acquires no rights to or title interest in the land which is superior to a conveyance of the land to a Native village corporation pursuant to sec. 12 of the Alaska Native Claims Settlement Act, 43 U.S.C. § 1611 (1976), and the appeal against the conveyance must be dismissed.

APPEARANCES: L. Joe McVey, pro se; Bruce E. Schultheis, Esq., Anchorage, Alaska, for the Bureau of Land Management; James Q. Mery, Esq., Fairbanks, Alaska, for Doyon, Limited.

#### OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

L. Joe McVey appeals the August 5, 1983, decision of the Alaska State Office, Bureau of Land Management (BLM), which, inter alia, approved the surface rights in certain lands near Manley Hot Springs, Alaska, for interim conveyance to the Bean Ridge Corporation (Bean Ridge) in response to village selection applications, F 14891-A and F 14891-B, filed pursuant to section 12 of the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C. § 1611 (1976).

Appellant contends the decision to convey the E 1/2 sec. 2, T. 12 N., R. 16 W., Fairbanks meridian, to Bean Ridge is incorrect as it will adversely affect his life, for these reasons:

1. He has been living on the land since 1975, obtaining his living from the land by hunting, fishing, trapping, and raising a garden.
2. He has made physical improvements to the cabin which existed on the land when he moved there. He has made trails through the land to facilitate transportation and trapping.

3. He has maintained a subsistence way of life through the use of the land and the surrounding area.

4. He was not aware that Bean Ridge had filed applications to select the land under ANCSA, as he was given no notice, nor was he ever told he could not live on the land.

5. In 1978, when a BLM survey crew were marking the land selected by Bean Ridge, he tried to find out from the survey crew what effect the selection would have on him, and he reports he was told to contact Bean Ridge, which he did, to no avail. He again contacted Bean Ridge in 1983 and sought written permission to continue to live on the land, but as of August 31, 1983, he had received no response.

6. ANCSA has ignored the needs and concerns of non-Natives who live subsistence lives on the land in Alaska.

BLM has responded, saying that appellant moved onto the land in 1975 after it had been withdrawn for selection by a Native village corporation under ANCSA, and BLM is unable to find any basis to invalidate the village selection or on which to give appellant any rights in the cabin he found on the land and fixed up, or to the land on which it sets.

[1] The record does not disclose that appellant ever checked with BLM to ascertain if the land he settled on was open public land, available for settlement, and if so, to file an appropriate application to accommodate his use thereof. We must hold that appellant has no cognizable interest in the land at issue which can supersede the mandate of the Congress in ANCSA to convey lands to village corporations. His standing can only be construed as a squatter, one who settles on land without right or title or payment of rent, or as a trespasser, one who makes unlawful use of property of the United States. 43 CFR 9239.0-9(a).

Future occupancy of the land at issue by appellant can only be permitted if he can reach an agreement with Bean Ridge.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior 43 CFR 4.1, the appeal is dismissed.

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Douglas E. Henriques  
Administrative Judge

We concur:

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James L. Burski  
Administrative Judge

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Anne Poindexter Lewis  
Administrative Judge

