



BENJAMIN P. ARNOLD

187 IBLA 294

Decided April 12, 2016



United States Department of the Interior
Office of Hearings and Appeals

Interior Board of Land Appeals
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IBLA 2015-248

Decided April 12, 2016

Appeal from a decision of the Alaska State Office, Bureau of Land Management, concerning a village selection application. F-14907-M, *et al.*

Appeal dismissed.

1. Alaska Native Claims Settlement Act: Appeals: Jurisdiction
--Alaska Native Claims Settlement Act: Conveyances:
Reconveyances--Alaska Native Claims Settlement Act:
Native Land Selections: Village Selections

Following a section 12(c) decision to convey village selection lands, BLM issues a patent to the surface estate to the village corporation pursuant to section 14(a) of Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C. § 1613(a) (2012). Once the patent is issued, the United States no longer holds title, and therefore, the Department of the Interior, including this Board, has no jurisdiction over issues involving those patented lands because the United States no longer holds title. Therefore, there is no administrative appeal process available to claimants under section 14(c) of ANCSA, 43 U.S.C. § 1613(c) (2012), and the only recourse to challenge a reconveyance is to a judicial forum.

APPEARANCES: Benjamin P. Arnold, *pro se*, Noatak, Alaska; Steven Scordino, *Esq.*, Office of the Solicitor, Alaska Region, Anchorage, Alaska, for BLM.

OPINION BY CHIEF ADMINISTRATIVE JUDGE JONES

Benjamin P. Arnold (Appellant) appeals from an August 10, 2015, Decision of the Alaska State Office, Bureau of Land Management (BLM). In its Decision concerning an application filed on behalf of a Native village,¹ BLM approved the lands described in the application for conveyance under section 12(a) of Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C. § 1611(a) (2012). On November 10, 2015, BLM filed a Motion to Dismiss the appeal.

As we discuss herein, Appellant raises issues not under section 12(a), but rather issues arising under section 14(c) of ANCSA, 43 U.S.C. § 1613(c) (2012) (reconveyance of lands after a village corporation selection conveyance). Because the Board lacks jurisdiction to decide an appeal based on interests claimed under section 14(c) of ANCSA, we dismiss the appeal.

Statutory and Regulatory Background

Congress enacted ANCSA with goals of enhancing the standard of living of Alaska Natives by settling Native land claims and disputes, establishing a compensation fund, and permitting land selections by Native villages and regional corporations. *Copper Valley Electric Association, Inc.*, 177 IBLA 289, 293 (2009). Under ANCSA, Native villages and regional corporations could select for conveyance lands within Alaska within 3 years after December 18, 1971. *Id.* at 294; 43 U.S.C. § 1611(a) (2012). In order to facilitate the selection process, ANCSA withdrew unreserved public lands within townships enclosing Native villages, and permitted Native village corporations to select lands within townships in which any part of the Native village was located. *Copper Valley Electric Association, Inc.*, 177 IBLA at 294 (citing, *inter alia*, section 12(a) of ANCSA, 43 U.S.C. § 1611(a) (2012) (Native land selections)); 43 U.S.C. § 1610(a) (withdrawal of public lands). Under ANCSA, immediately after selection of lands by a village corporation that BLM finds is qualified for land benefits under ANCSA, the statute directs BLM to issue a patent to the surface estate to the village corporation. 43 U.S.C. § 1613(a) (2012). Once the lands are conveyed, section 14(c) of ANCSA provides for reconveyances of the land (*e.g.*, to Native or non-Native occupants, municipal corporations, or Federal and State governments). 43 U.S.C. § 1613(c) (2012).

¹ The definition of “Native village” is “any tribe, band, clan, group, village, community, or association in Alaska listed in sections 1610 and 1615 of [title 43], or which meets the requirements of this chapter, and which the Secretary determines was, on the 1970 census enumeration date . . . composed of twenty-five or more Natives.” 43 U.S.C. § 1602(c) (2012).

Factual Background

On November 14, 1974, Noatak Corporation, for the Native Village of Noatak, filed village selection application F-14907-M, as amended, under the provisions of section 12(a) of ANCSA, 43 U.S.C. § 1611(a) (2012), for certain lands in the vicinity of Noatak. Decision at unpaginated (unp.) 2. On April 16, 1976, Noatak Napaaktukmeut Corporation (Noatak Corp.) merged with NANA Regional Corporation, Inc. (NANA), which consolidated individual interests into one single constituent corporation, known as NANA. *Id.*

On August 10, 2015, BLM issued the Decision, in which BLM approved the conveyance of village selection lands pursuant to section 12(a) of ANCSA, 43 U.S.C. § 1611(a) (2012). In the Decision, BLM also explained that such conveyance is subject to the reconveyance requirements under section 14(c) of ANCSA, 43 U.S.C. § 1613(c) (2012). Decision at unp. 3.

Analysis

Because Appellant raises only issues related to any future reconveyances under section 14(c) of the statute, or otherwise unrelated to the decision on appeal, the issue before this Board is whether we have jurisdiction to hear this appeal. As explained below, we conclude that we do not have jurisdiction and thus dismiss the appeal.

Appellant makes three central arguments. First, Appellant explains he is a member of the Native Village of Noatak, which “rejected to approve 14(c)” for NANA in a meeting which was held “one or two years ago” with members of the Native Village of Noatak. Notice of Appeal/Statement of Reasons (NOA/SOR). Second, Appellant contends the Native Village of Noatak was proposed as a reservation “submitted by [his] Forefathers in 1939 to [t]he Department of the Interior.” *Id.* He states this issue is unresolved and requests the Department of the Interior to revisit the proposal. *Id.* Third, Appellant questions how NANA came to represent Noatak, and he describes events from the 1970s. *Id.*

[1] Appellant’s first argument does not provide a basis for the Board to reverse the Decision. Appellant states that he “oppos[es] the 14(c) [rec]onveyance,” NOA/SOR, but as the Board has previously held, we are without jurisdiction to decide an appeal based on interests claimed under section 14(c) of ANCSA, 43 U.S.C. § 1613(c) (2012). *James Wright*, 95 IBLA 387, 389-90 n.6 (1987); *Circle Civic Community Association, Inc.*, 67 IBLA 376, 378 (1982); *Theodore J. Almasy*, 4 ANCAB 151, 162-63, 87 I.D. 81, 86 (1980). In prior decisions we have explained our rationale: “[Section 14(c)] appeals are [at first] premature when brought prior to conveyance since no dispute arises until the village corporation refuses to reconvey appropriate land.” *Circle Civic Community*, 67 IBLA at 378; *see also Almasy*, 4 ANCAB

at 162-63, 87 I.D. at 86 (“[U]ntil the corporation has received conveyance and has in some manner refused reconveyance to a claimant, no dispute exists to be adjudicated.”). In the matter before us, conveyance has not yet occurred, and it would be speculative for the Board to predict a future, final decision of the Native corporation regarding reconveyance. *Almasy*, 4 ANCAB at 162-63, 87 I.D. at 86.

Moreover, following a section 12(c) decision to convey the village selection lands, BLM issues a patent to the surface estate to the village corporation pursuant to section 14(a) of ANCSA, 43 U.S.C. § 1613(a) (2012). Once the patent is issued, the United States no longer holds title, and therefore, the Department of the Interior, including this Board, has no jurisdiction over issues involving those patented lands because the United States no longer holds title. *Wright*, 95 IBLA at 390 n.6; *Circle Civic Community*, 67 IBLA at 378; *Almasy*, 4 ANCAB at 163, 87 I.D. at 86; *accord Germania Iron Co. v. United States*, 165 U.S. 379, 383 (1897) (cited by, e.g., *James Duley*, 164 IBLA 172, 176 (2004); *Seldovia Native Association*, 161 IBLA 279, 285-86 (2004)). Therefore, there is no administrative appeal process available to claimants under section 14(c) of ANCSA, 43 U.S.C. § 1613(c) (2012), and the only recourse to challenge a reconveyance is to a judicial forum. *Almasy*, 4 ANCAB at 162-63, 87 I.D. at 86.

We have also carefully considered Appellant’s other two arguments about matters that occurred decades ago, namely that the Native Village of Noatak was proposed as a reservation in 1939 and that NANA came to represent the Village through a process in the 1970s. While we understand Appellant feels these issues are important, they are not relevant to the Decision under appeal and were not raised timely as they occurred decades ago.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, we dismiss the appeal.

/s/

Eileen Jones
Chief Administrative Judge

I concur:

/s/

Amy B. Sosin
Administrative Judge