

BEFORE THE INDIAN CLAIMS COMMISSION

THE NATIVE VILLAGE OF UNALAKLEET	)	
et al.,	)	
	)	
Plaintiffs,	)	
v.	)	Docket No. 285
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	
	)	
ALEUT COMMUNITY OF ST. PAUL ISLAND,	)	
	)	
Plaintiff,	)	
v.	)	Docket No. 352
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	
	)	
THE ALEUT TRIBE, et al.,	)	
	)	
Plaintiffs,	)	
v.	)	Docket No. 369
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant	)	

Decided: December 23, 1969

Appearances:

John W. Hendrickson, of Hendrickson, Burke & Rowland, Attorney for Plaintiffs in Docket No. 285

Donald H. Green, of Wald, Harkrader & Rockefeller, Attorney for Plaintiffs in Docket Nos. 352 and 369.

Ralph A. Barney, with whom was Mr. Assistant Attorney General Shiro Kashiwa, Attorneys for Defendant.

OPINION ON MOTIONS

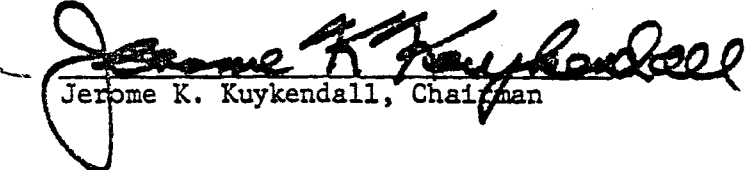
Kuykendall, Chairman, delivered the opinion of the Commission.

On August 8, 1969, the defendant moved the Commission to suspend all further proceedings in each of the above cases to and including July 30, 1970. In support of these motions, the defendant urged the Commission to take judicial notice of the pendency of certain legislation, designed to settle once and for all time all claims and demands of the natives of Alaska against the United States and which would dismiss all claims of these natives pending before this Commission. Defendant does not specify any particular bill, however. It contends that passage of such legislation by the Congress of the United States would result in the dismissal of all pending Aleut and Eskimo claims; hence, proceedings would be "a needless and useless expenditure of the time, energies and money of the Indians and their attorneys . . . ." By their opposition to these Motions to Suspend Further Proceedings, the plaintiffs and their counsel have signified their willingness to expend the requisite effort at this time.

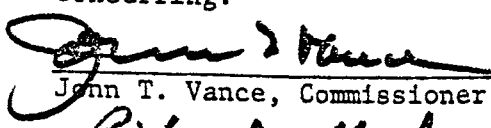
On August 28, 1969, the plaintiffs in Docket Nos. 352 and 369 renewed their motion for default judgments against the defendant or, in the alternative, to have the clerk note on the dockets that "no answers to the petitions have been filed by the United States in the above cases." The alternative proposition is an outgrowth of the history of these cases, in which the defendant's chief defense was predicated upon a want of jurisdiction. That defense having failed, (Aleut Tribe, et al. v. United States, 19 Ind. Cl. Comm. 140 (1968), aff'd. 188 Ct. Cl. 1 (1969)), the defendant is now obligated to respond to the Petitions on the merits, but has not done so to date.

It appears that the defendant's current Motions -- to suspend further proceedings pending the enactment of legislation -- represent an alternative to responsive pleading under the Commission's rules. However, in view of the speculative nature of the legislation of which the defendant would have this Commission take judicial notice, those Motions will not suffice.

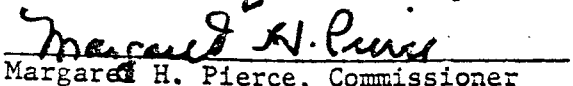
It is apparent that the defendant's several Motions to Suspend Further Proceedings must be denied, and it will be necessary for the defendant to answer the Petition in each of the cases at bar. However, since the Commission assumes the defendant was acting in good faith in filing the pending Motions instead of pleading responsively, the Aleut plaintiffs' alternative Motion to proceed with the trial of the Aleut cases without the defendant's participation or to note as a matter of record that the defendant is in default will be denied, the defendant being hereby directed to plead responsively within 30 days from the date of the Order denying these several Motions.

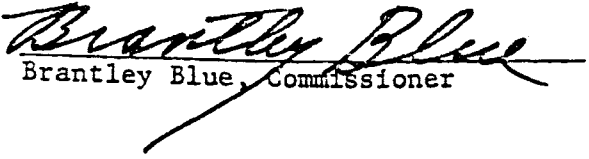
  
Jerome K. Kuykendall, Chairman

Concurring:

  
John T. Vance, Commissioner

  
Richard W. Yarborough, Commissioner

  
Margaret H. Pierce, Commissioner

  
Brantley Blue, Commissioner