

Between Worlds - Lawyers and More Lawyers

Lawyers and More Lawyers

Koniag Inc. spent years mired in lawsuits that sapped profits and forward momentum. Now, it's putting that history behind it.

By CATHY BROWN
THE JUNEAU EMPIRE

It's called the Alaska Native Claims Settlement Act, but some have another name for it.

Koniag at a glance:

ANCSA land entitlement*:
2.04 million acres

ANCSA land conveyed so far:
1.2 million acres

Money from ANCSA:
\$24 million

Businesses, partnerships, investments:
Afognak Joint Venture; ICRC Energy Inc., Sonneville International Corp., Permanent Way Corp., investment portfolio.

Net Corporate Profits/Losses
per fiscal year

1973 \$(127,151) 1974 \$(287,831) 1975 \$(289,520) 1976 \$(724,504) 1977
\$(424,457) 1978 \$(295,478) 1979 \$(1,052,377) 1980 \$(1,243,862) 1981 \$(245,357)
1982 \$(1,502,300) 1983 \$(9,235,311) 1984 \$(4,798,229) 1985 \$1,004,796 1986
\$800,848 1987 \$1,356,226 1988 \$2,110,608 1989 \$10,837,207 1990 \$1,020,197 1991
\$3,639,874 1992 \$513,296 1993 \$536,625

1994 \$1,012,482 1995 \$2,627,069 1996 \$13,934,752 1997 \$8,340,398 1998
\$8,381,368

Shareholder Dividends

per 100 shares

1973 \$0 1974 \$0 1975 \$0 1976 \$0 1977 \$0 1978 \$0 1979 \$0 1980 \$0 1981 \$0
1982 \$0 1983 \$0 1984 \$0 1985 \$0 1986 \$0 1987 \$0 1988 \$0 1989 \$0 1990 \$0 1991 \$0
1992 \$0 1993 \$0

1994 \$0 1995 \$100 1996 \$171 1997 \$185 1998 \$2,556 Dollar amounts not
adjusted for inflation.

Number of jobs provided by corporation and its subsidiaries:

About 40

Number of corporation jobs held by shareholders:

About 5

Total shareholders:

3,400

* These figures include land to which the corporation has partial title.

ALL NUMBERS COMPILED IN LATE 1998.

"We jokingly refer to it as the attorneys' perpetual employment act," said
retired Juneau anthropologist Wallace Olson.

Attorneys found plenty of work in the early 1980s at Koniag Inc., the regional
corporation for Kodiak Island.

Shareholders from village corporations sued the regional corporation, Koniag
directors sued each other, and the village corporations sued Koniag's lawyers
and accountants.

"The attorneys just fed like sharks," said Larry Carroll, a former senior
securities examiner at the state Division of Banking Securities and
Corporations.

Most members of the board of directors were voted out midway though the court
battle and the new board fired its law firm and brought in a new one.

By the time the battle was over, more than three years after it began, legal bills mounted to \$2.5 million, more than a tenth of the entire \$24 million Koniag had received from the Alaska Native Claims Settlement Act.

"When I came on board (in 1984) we were broke, really didn't know how we were going to ... stay out of bankruptcy. We spent the next three years trying to ... unwind ourselves from the litigation," says Koniag CEO Uwe Gross.

PHOTO BY BRIAN WALLACE

That, along with devastating losses in fisheries investments, brought Koniag to the brink of bankruptcy.

"It was a dark part of the history of the Kodiak area," said Arnold "Ole" Olsen, who played a central role in the merger battles.

The litigation frenzy began when Koniag tried to get the village corporations in the region to merge with it in 1980.

The idea, according to some, was to cut administrative costs for all involved, promote unity and share the wealth equally among Koniag shareholders.

"There was timber in the north and there wasn't in the south and no one knew of any minerals," recalled current board member Richard Frost. "It seemed to be better for the greater good."

Koniag was also in financial trouble at the time.

In six years, Koniag, which was heavily invested in fisheries, spent virtually all the money it had received from the settlement act, said Uwe Gross, Koniag's CEO.

The company had few natural resources and stood to benefit from getting access to valuable timber on some of the village corporations' land.

The regional corporation developed a merger proposal that the majority of regional and village shareholders voted for.

Unity, however, was short-lived.

Ole Olsen, a shareholder of Afognak Native Corp., one of the merged village corporations, did some math and decided unity wasn't going to be such a good deal for Afognak. He immediately filed a lawsuit to stop the merger.

Koniag had misled Afognak shareholders, he said, by not telling them the value of the timber they were voting to give up before they cast ballots. Koniag denied it.

By 1982, shareholders of three other village corporations within the Koniag region had also sued to get out of the merger. A year later dissident shareholders tossed out more than half the board of directors.

In January 1984, an Anchorage jury found that J.F. Morse, who had by then resigned as president, had indeed misled village shareholders about the value of their land. The jury also found that the law firm of Duncan, Weinberg, Miller & Hensley aided him & and the attorneys' negligence had hurt the corporation financially.

The lawyers and former Koniag directors were required to pay the village corporations that sued \$600,000.

By that time, Koniag was near financial ruin.

The corporation had also suffered severe losses in its fisheries investments & a marine supply company, fish cannery, fishing vessels and related businesses that had been purchased to provide jobs for shareholders.

"When I came on board (in 1984) we were broke, really didn't know how we were going to pay the bills and stay out of bankruptcy." Gross said. "We spent the next three years trying to keep our heads above water."

Leaders of a more prosperous Native corporation, Arctic Slope Regional Corp., agreed to help Koniag get a \$250,000 line of credit. Arctic Slope also helped Koniag negotiate an oil lease deal that brought in a little much-needed income. Koniag later repaid the debt.

Koniag limped along for years, slowly rebuilding and paying off debts. A couple of things helped.

A federal law that let Native corporations sell their losses to companies that wanted to use them for tax write-offs brought Koniag more than \$15 million.

The company was also receiving payments from more profitable Native corporations, which are required to share a portion of their mineral and timber

profits with other Native corporations.

Also, federal legislation had allowed Koniag and its village corporations to trade land on the Alaska Peninsula for more valuable, timbered land on Afognak Island, where it set up a logging operation.

A loader lifts a bundle of logs belonging to Afognak Joint Venture, a Koniag Inc. concern, onto a truck in a sort yard on Afognak Island.

PHOTO BY MICHAEL PENN

By 1994 the company had regained all the original settlement money it had lost and in 1995 paid dividends for the first time.

Since then, Koniag made millions of dollars selling land in the Kodiak National Wildlife Refuge. A fund set up to buy habitat affected by the Exxon Valdez oil spill gave Koniag more than \$28 million for that land and will pay another \$25 million for Koniag property on Afognak Island.

Today Koniag is in the best financial shape in its history and contributes money to scholarships, cultural programs and a museum in Kodiak. The corporation has liquid assets of \$53 million now, compared to less than zero in 1981.

A few of Koniag investments have drawn criticism, however. Most of the corporation's money comes from stocks, bonds and timber harvesting, but it's been trying to diversify with real estate investments and business investments in the Lower 48.

Those include partnerships in ICRC Energy Inc., a Virginia company that provides energy efficiency work for the federal government, and Sonneville International Corp. and Permanent Way Corp., companies that design and manufacture low vibration railroad systems.

Sonneville was profitable last year; but ICRC Energy and Permanent Way weren't.

Some shareholders wonder why Koniag doesn't cut its losses.

"Why would our board members approve of such losing investments when there are other, sure investments in the stock and bond area?" asked Frank Peterson Sr.,

who tried to get the board recalled last fall.

Immediate profits weren't the goal of the investments, Gross said.

"New companies don't make money in their first years," he said. "We invested in those businesses based on what we feel they can do in the future, not what we feel they can do for us today."

The downside of merging

The Russian Orthodox Church in Ouzinkie on Kodiak Island gets a fresh coat of paint regularly, courtesy of the local Native village corporation.

The Russian Orthodox Church in Karluk is said to be one of the oldest Russian Orthodox churches in Alaska, but it is in serious disrepair.

PHOTO BY MICHAEL PENN

In Karluk 60 60 miles away ˜ it's a different story. Last spring the floor in the Orthodox Church was buckling, and streams of water slid down the interior walls when it rained. There's no village corporation here to pay for repairs.

The churches are one example of the different fates experienced by the Kodiak Island communities after a bitter 1980s battle over whether the village corporations here would merge with the regional Native corporation, Koniag.

Jerome Selby, former Kodiak Island Borough mayor, said the economic differences between villages that merged and those that didn't are becoming more obvious.

Some village corporations that opted out of the merger, like Ouzinkie and Old Harbor, have provided their people with healthy dividends through selling timber, land or investing in stocks and bonds. Ouzinkie Native Corp. shareholders have received dividends of more than \$20,000 some years.

Karluk and Larsen Bay, meanwhile, have no resources to sell. They did receive 100 extra shares of Koniag stock, so they get double the Koniag dividends of

those in non-merged corporations. Until 1994 that was double of nothing. Shareholders recently received a one-time dividend of \$4,000, the biggest ever.

But the source of that dividend is a sore subject. It came from Koniag's \$28 million sale of land in the Kodiak National Wildlife Refuge & land that belonged to Karluk and Larsen Bay's village corporations until they merged.

Karluk's very survival is in question. There are few jobs, and in the quarter century since ANCSA passed, the village has lost half its population. It's down to about 45 people now, and the school is in danger of closing because too few students are left. Only seven students attended last fall.

"When you take the school away, you do basically tell the village it's a dead village," teacher Jerry Sheehan said.

The merger with Koniag is not the only reason for Karluk's decline, but the lack of a local village corporation takes away an important economic tool, Selby said.

Village corporations in other Kodiak Island communities can justify making investments in local businesses as long as they can make even a small profit because most shareholders will benefit from the economic activity.

Karluk and Larsen Bay depend on Koniag to invest in their communities, but Koniag has to show it's benefiting all shareholders, not just those in Karluk or Larsen Bay. Village investments must show they'll generate more profit than, say, the stock market.

"That probably doesn't mean a lot of money's going to get invested in those two little villages," Selby said.