DESCENDANT ENROLLMENT

Alaska Bar Association Alaska Native Law Section May 11, 2011 Discussion Draft Brennan Cain

I. Authority

- 1987 ANCSA Amendments ("1991 Amendments")
 - o Regional Corporations- 43 U.S.C. 1606(g)
 - o Village Corporations- 43 U.S.C. 1607(c)

II. Implementation

- Requires shareholder approval because the corporation is amending the Articles of Incorporation to issue new settlement common stock
 - Five Regional Corporations have opened enrollment for descendants- Ahtna, ASRC,
 Doyon, NANA, and Sealaska
 - Five Village Corporations have opened enrollment for descendants- Napakiak, Olgoonik,
 Quinhagak (Qanirtuuq), The Kuskokwim Corporation, and Tyonek

III. Arguments in Support of Descendant Enrollment

- Enrolling descendants engages new generation that otherwise would receive shares through inheritance much later in life
- Having more shareholders contributes to the strength of the corporation
- As original shareholders age, descendants will take their places in leadership positions
- It is not fair to exclude from ANCSA benefits persons born after December 18, 1971

IV. Arguments against Descendant Enrollment

- Issuing new shares dilutes the value of existing shares and will decrease dividends and voting strength of current shares
- Descendant enrollment will increase administrative costs of the corporation
- Adding descendants as shareholders is not fair to those shareholders who do not have descendants
- Descendant enrollment is unnecessary because current shareholders can gift shares to descendants

V. Options

- Eligibility ("Native," as defined by ANCSA (1/4 blood quantum); lineal descendant; or descendant)
 - Most of the corporations include the ¼ blood quantum requirement
 - ASRC and The Kuskokwim Corporation do not require ¼ blood quantum
- Enrollment (perpetual or limited)
 - o The five Regional Corporations have perpetual enrollment
 - Four of the five Village Corporations have limited enrollment

- Olgoonik has conveyed to descendants all of the new settlement common stock authorized by the corporation
- Quinhagak's enrollment was limited to those shareholders born between
 December 19, 1971, and December 31, 1993
- Number of shares- (100 maximum)
 - o All of the corporations listed above issue (or issued) life estate stock
 - Most of the corporations issue 100 shares
 - Napakiak issued 25 shares
 - Quinhagak issued a maximum of 100 shares, but if the shareholder receives any other village corporation stock via inheritance or gifting, the Quinhagak life estate stock is canceled share for share
- · Age for receiving shares
 - o Five of the corporations permit descendant to receive the 100 shares at birth
 - Tyonek- 10 shares at birth; 90 shares at 18
 - Napakiak- 25 shares at age 15
 - Doyon- 30 shares at birth; 70 shares at 18
 - Sealaska- 100 shares at 18
 - Ahtna- 30 shares on enrollment (birth); 70 shares at age of 18 plus high school degree or GED (or 21 without degree)

VI. Costs to Implement

- Costs incurred by most corporations to implement descendant enrollment include shareholder surveys, educational newsletters, demographic studies, legal fees in advising the Board of Directors and in drafting the proxy statement, shareholder informational meetings, mailing and reviewing applications, etc.
 - Regional corporations- price range from over one hundred thousand dollars to over one million dollars
 - Village corporations- price range from ten thousand dollars to over one hundred thousand dollars

VII. <u>Information Sources</u>

- Alaska Natives and American Laws (2nd Edition), pages 177-79.
- Phil Blumstein and David Case, Landye Bennett Blumstein LLP
- Maver Carey, The Kuskokwim Corporation
- Steve Colt, University of Alaska Anchorage
- Sam Fortier, Fortier & Mikko, PC
- Nicole Hallingstad, Sealaska
- Millie Johnson, Chugach Alaska Corporation
- Thomas Mack, The Aleut Corporation
- Geri Simon, Tyonek Native Corporation
- Allen Todd, Doyon (outline from "Issuing Additional ANCSA Stock" presentation to Alaska Native Law Section on April 8, 2009, can be found on the Section's Website)