

Transcript Summary

UAF Oral History Call No: 2024-01-03 PT. 1

Date of Recording: 03-02-1981

Length of Recording: 01:33:56

Narrator: John Shively

Interviewer: N/A

Others Present: N/A

Recording Location: Presumed to be the University of Alaska Fairbanks Campus

Transcriber: Micki Sievers

Transcription Date: (3/27/2024 MS, 4/1/2024 MS)

(00:00:09)

John Shively is talking to the class and then begins to introduce himself and why he is there to speak to the class. He begins asking if any students know what the Alaska Federation of Natives is. Shively writes down on the chalkboard and students cannot be understood answering, some context is lost.

(00:02:55)

Shively states the Alaska Federation of Natives (AFN) started in October of 1966 and mentions it was started by Emil Notti. They had the idea that Natives around the state should get together and talk together, other attempts had failed to accomplish this. Project Chariot was an attempt to blast an atomic harbor in Alaska, and they wanted to try and make a harbor with an atomic bomb and where better than Alaska where no one lived, but the land was occupied by Eskimos. That was one of the early issues, and another was the Barrow duck issue where they arrested a man for shooting a duck, and they were going to fly him out to try him in Fairbanks. The town decided to shoot another duck, so almost everyone went and turned themselves in for shooting a duck, and the government wasn't going to fly the entire town to try them in court. The spring duck hunting issue has always been there, but there has not been another major issue to do anything about it since.

(00:05:20)

Another issue was the Rampart Dam, which was a dam that would have made the biggest lack in the world. It would have flooded all the way back to Canada, the plan was to create electrical power, but it would have wiped out at least 6 Native villages. Probably the biggest threat that brought Natives together was the Statehood Act, which gave the state the right to select 103 million acres of land, it also said that someday somebody had to deal with Native land rights. The state started selecting around Native villages, so there was a concern in Native leadership about how this had to be dealt with. Albert Kaloa Jr was chief of the Tyonek's, and they had received oil revenue for oil leases on their reservation, they financed a lot of the first meeting and Land Claims Settlement. Nick Gray had been involved in trying to organize statewide meetings in Alaska before, and he died shortly after the first meeting in which he was a passionate speaker promoting the Native alliance. Willie Hensley had written an

important paper on land rights and motivated Native people that they needed to make a change. Al Ketzler who was head of the Tanana Chiefs Conference had been active for many years. The meeting was a week long and they discussed all major topics involving Native lives.

(00:09:55)

Shively states there was a statewide election coming up, and there was a big fight between Governor Egan and some of the younger Native leaders about who should control the statewide community action program that eventually became RurAL CAP. Republicans made an effort to wine and dine Native leadership at that meeting. There were a lot of things that AFN did to get the settlement, and the majority of their efforts went into it. In the spring of 1967, they adopted a constitution and then Emil Notti became president and held office for 4 years.

(00:11:30)

Shively discusses many things that contributed to obtaining a settlement, and the creation of AFN is why there is a settlement. AFN had to deal in many areas people had never dealt with, most of the men were young and inexperienced, and so there was a lot of learning early on. If you look at Native selections around the state, almost all of them are in key locations such as waterways, harbors, coastline, and more that the state would have absolutely taken. In order to get the settlement, they had to persuade Secretary Stewart Udall to put a land freeze on all land transactions in Alaska. There would be no more land transfer until the Native Land Claims had been settled, this was not a very popular maneuver for the secretary. That led to probably one of AFN's biggest victories in the fight was when Wally Hickel was nominated to be secretary of interior. Hickel had always opposed the land freeze, he said Natives have no legal rights in his mind but they ought to do something for them. Hickel didn't care that Udall had placed a land freeze and said he could undo it. Shively thinks if Hickel had undone the land freeze that would have been the end to settle any claims.

(00:16:10)

Shively says there was a split in Native leadership as to whether to oppose Hickel because of this or to endorse him because he is an Alaskan and understands the problem. Native leadership worried if he went unrestrained that he would lift the freeze, so they said he should not become secretary unless he agreed to keep the freeze. Hickel was likely Nixon's most controversial appointment, he wasn't liked by the conservationists or Natives. So Hickel agreed to keep the freeze. Later there was a lawsuit on the freeze and they claimed Udall acted outside his power by putting the freeze on, and eventually sued Hickel because he was keeping the freeze, even though he didn't like it. The courts agreed that Udall did have the authority, the Supreme Court refused to hear it, which essentially meant the Natives had won.

(00:18:03)

Shively states AFN had always had a rocky history, they had to bring people from all kinds of backgrounds, and holding that together was always a struggle. When AFN decided they wanted to hire national attorneys, prior to that decision, AFN had generally been represented by lawyers totally from Alaska. There had been many old organizations around the state who had been involved, and most places had one representative and an attorney. Most of the attorneys signed agreements that said they would be glad to help the Natives and wouldn't charge them, but would take a percentage later, but the government later threw that agreement out stating there was only so much money the attorneys could get. Shively is known for not having a high opinion of the Alaska bar, and he doesn't believe it attracts the best lawyers, especially lawyers needed to handle such a complex topic in Washington DC.

(00:21:20)

Shively states in about 1968-69 the AFN board decided to hire Arthur Goldberg and Ramsey Clark who were both members of national law firms. The Alaska attorneys went bananas and the lawyers claimed it'd cost too much and they'd rip off the Natives. Goldberg even resigned because of the Alaska attorneys, but he was convinced to come back. By having Goldberg and Clark, they could immediately walk up to top leaders in DC and be noticed, but the Alaska attorneys wouldn't be able to. AFN had to tell Clark he needed to listen to the position of Natives and not try to undersell deals to have easier solutions.

(00:24:05)

Shively begins discussing how AFN was almost split apart because of the Claims Act [Alaska Native Claims Settlement Act]. There were two ways to claim land, one was based on the number of people you had, and the other based on how big the region is. AFN believed everything should be distributed based on the number of people, others like Arctic Slope disagreed and said it wasn't based on people but a real estate deal. In late 1970, congress was close to dealing with the issue, but Arctic Slope walked out of the deal and said it was not fair to their people. AFN met with them and they upped the amount of land in order to accommodate what became known as the land lost formula. That compromise was pretty critical in AFN's history, but unfortunately, that episode was repeated later in history with Arctic Slope and other regions leaving AFN.

(00:27:08)

The oil industry realized if something wasn't done, they weren't going to get the oil out of Prudhoe Bay. One issue was the land freeze and the other was the Stevens Village lawsuit which said the government couldn't take any land from around Stevens Village until the land claims were settled. Prior to 1971 no congressional committee had dealt with more than 10 million acres of land. The Natives went from asking for 40 to 60, and congressional committees said no. In 1971 Spiro Agnew met with the National Council of American Indians and he chaired Nixon's committee on Native Affairs. He was persuaded they ought to support 40 million acres, and he did persuade the president that they needed to agree to it so they could get to the oil. Democrats were in control of Congress and meant to help minorities, but they had Nixon looking far more liberal than them, so they quickly helped pass it.

(00:30:18)

A student asks what was behind Hickel leaving. Shively states it wasn't about the settlement, but that he had an ego and he realized being secretary of interior was limiting compared to his previous title. Hickel had multiple sons likely close to being drafted into Vietnam, and he sent Nixon a letter and leaked it to the press about his issues with Nixon's Vietnam views. Soon after he went home, leaving Alaska.

(00:32:00)

A different student asks about an injunction on the pipeline. Shively says he wasn't involved but could discuss it. One lawsuit was a Native suit that said you couldn't let the pipeline in Alyeska go across this land until the Natives land has been confirmed. Congress said almost none of it is on Native land, they carved it out and said they couldn't get any of the land. The other pipeline that was sued was from conservationists who had multiple issues such as the environmental impact statement wasn't sufficient. Congress said the environmental impact statement was sufficient and had to be accepted.

(00:34:12)

Another student asks an unclear question. Shively responds that the Natives wanted an unlimited 2% royalty on all mineral development in perpetuity forever, and they wanted between half a billion and a billion dollars in cash from the federal government. They said in reality the government gave 462 million

dollars and there was a 2% royalty, but it stopped when it reached \$500 million. The federal payment was spread out over 11 years, and the 2% royalty was dependent upon when oil was developed. The student asks if that 2% had already been distributed. Shively says they prepaid the rest of it last June, and that they will discuss the issue more later. The student asks another question that is hard to make out. Shively says they distribute everything based on population to the regional corporation who then have to take half of it and distribute it to their villages based on population.

(00:35:38)

Shively asks the class if they think the provisions of the Settlement Act [Alaska Native Claims Settlement Act] is fair. A student answers she doesn't think it is a good deal since it's been 10 years and a lot of the corporations haven't given half of it back. Shively says overall of 44 million acres involved in the Settlement Act only about 17 million have been transferred. The student asks isn't that why you could go ahead and throw away the Act and do another. Shively says no because it isn't a matter of the government saying the Natives can't have the land, but a processing issue that takes time. If the state was busy taking the land back, then the student's point is well taken, but the land isn't going anywhere. The student worries when another 10 years passed by that they'd be paying tax for land they still don't have. Shively explains that had been addressed already in the D2 Bill, so taxes don't begin until 20 years after you've obtained the land. Shively explains where students can get more information and elaborates on the 20 year rule for a student.

(00:40:05)

Shively returns to his question of reasons people might not agree with the Settlement Act. A student mentions how inflation has occurred and there's more money that is owed now. Shively says it's a good point and elaborates on the fact people didn't know what would happen to oil prices. Another student mentions the Native blanket land claims, and Shively says they claimed virtually the whole state. In the US Indian Claims give a title based on use and occupancy, but Congress has a right to claim what to do with that title. The government could have done anything like negotiate treaties, or even just said yeah they're claims but we're going to buy them for one dollar. They ultimately said let's ignore that and here's the deal we're giving the Natives, if there are any claims they're done.

(00:43:45)

A student asks a question but it is indiscernible. Shively responds that is a different law, she is talking about the Allotment Law of 1906. She continues speaking but Shively states he wasn't discussing that part. The 160 acres in the allotment was like a homestead, but you had to cut down trees and farm, but that isn't what it's like in Alaska, so the government gave new criteria of proving you use the land in different ways.

(00:45:00)

(Recording suddenly cuts off while Shively is speaking)

(00:46:38)

Recording returns and Shively is discussing RurAL CAP and their importance helping land claims. They knew Congress was going to try and remove the Allotment Claim, so they warned everyone to go file as fast as possible. A student in the room mentions they don't think the verdict is in yet, that no one really knows how the long term effects are going to be as of right now. AFN has been able to deal with a number of substantive problems, and Shively agrees that he believes the verdict is not in on what the final results would be but he thinks it's a lot better than people would have guessed. If you take it from the perspective of Congress, it was the most generous agreement they ever made with any Native

group, but to say it's the best, is to say it's the best of the worst. Shively explains even though it wasn't a great deal, he believes it would have been worse as the desire for oil increased and likely more steps to ignore the land claims would have occurred.

(00:54:30)

Shively asks the students if they know what Section 7(l) is, and no one knows in the class. 7(l) is a section of the Act that says if a region develops its timber resources, they get to keep 30% of their revenue, and share the other 70% with all the regions including themselves based on population. A student asks how much would go to villages, and Shively says it's being litigated, because one village says 0 and one village says half. It's clear half of this goes to villages. Some villages can lease the surface lot of the land in oil leases, but it is also being litigated. 7(l) went to court in 1974 to determine what this money was and it's a big mess, and he thinks they're in worse shape than when they started. Shively begins discussing all revenue, and he says revenue is often more a tax term than a business term. The one court decision they have says all isn't really all, and then fights begin on what is deductible. This is ultimately a problem of the Settlement Act.

(00:58:45)

(Shively begins giving class instruction and is no longer presenting the discussion.)

(00:59:35- 01:23:00)

(Shively begins teaching again but the audio is incomprehensible)

(01:23:30)

Shively is discussing that the land belongs to them and it's their right to say if it's open to people but also their right to say if it isn't. By the time Shively left AFN it was still a discussion being battled over. Shively is drawing on chalkboard so some context is lost. All along the waterways there are stopping areas which were essentially recreation areas where people could pull up on the land and rest. In addition, the federal government tried to deal with the issue of energy and transportation development. The Bureau of Land Management made a big map of Alaska and they developed the Multi-Modal Transportation Quarter System. The BLM didn't really know where anything should go and the BLM saw no problem with the fact their planning was insufficient and that they could build whenever and wherever they wanted.

(01:27:30)

A student states that in most cases they could force you're into selling your land. Shively agrees but he says in this plan they expected to take it for free. So AFN went to court and they pushed that if there's a problem like you can't figure out something because Congress wasn't specific, you should take the position that is the most beneficial for the Natives but is still in the tone of the law. So the court told BLM they are throwing their regulations out, if they didn't know where stuff was going to be built, too bad get it later and pay for it. The purpose of easements was access across Indian lands and Congress agreed that easements were necessary and it was Congress's decision to make on how they functioned, not the government's. The court came to that decision because it was Indian legislation and it was the government's responsibility to decide things in favor of the Native. This decision was not appealed, which was a big surprise to AFN.

(01:32:20)

Shively states there's another area that AFN has been very active in but then the recording stops.