

Lawsuit seeks ballots for Yup'ik speakers

VOTING RIGHTS ACT: Lawyers for elders, tribal councils say current translation practices are insufficient.

Re-published courtesy of Anchorage Daily News

By [LISA DEMER](#)
ldemer@adn.com

Published: June 12th, 2008 01:45 AM

The state of Alaska was in federal court in Anchorage on Wednesday, battling demands that it provide ballots and other election materials in Yup'ik as well as English to residents of the Bethel area.

Lawyers from the [Native American Rights Fund \(NARF\)](#) and the [American Civil Liberties Union \(ACLU\)](#) who represent four Yup'ik elders and four tribal councils in Western Alaska say the need for precise written translations is clear. They are suing the state and the city of Bethel.

But lawyers for Bethel and the state say Yup'ik is not covered in that way by the federal Voting Rights Act. Poll workers in the area already help non-English speakers adequately, they say.

As evidence that current practices are not good enough, lawyers for the Yup'ik speakers asked a couple of poll workers to translate the language of a 2002 ballot initiative to create a gas pipeline development authority. The results were incomprehensible, Natalie Landreth, a lawyer in Anchorage with the Native American Rights Fund, told the judge.

An example:

"This thing that needs to be made, this, that needs to be followed, this the path for the gas, this the gas, the one that is not water, but is a ... gas in the stomach, that can be used to the point where it can become fire," reads part of one translation presented in court Wednesday.

Another translator, who has a master's degree, also struggled. Without comparable Yup'ik words, the translator was stuck

with using a good bit of the original English phrasing, such as "tax exempt revenue bonds" and "imminent domain."

"I would be careful to add that we are in no way criticizing the translators -- they are obviously talented people who have been asked to perform an impossible task, namely to translate a college level ballot into Yup'ik on the fly with no training, no glossary and no model ballot," Landreth wrote in a follow-up e-mail.

[The Native American Rights Fund and the American Civil Liberties Union filed the suit last year on behalf of elders Anna Nick of Akiachak, Billy McCann and Arthur Nelson of Bethel, and David O. David of Kwigillingok.](#) All are in their 70s. The councils suing are: Kasigluk Traditional Council, Kwigillingok IRA Council, Tuluksak Tribal Council, and Tuntutuliak Traditional Council.

In the end, the case known as Nick v. Bethel may boil down to whether Yup'ik is a historically unwritten language. The state argues that would make it exempt from requirements for written translations.

Lawyers for the elders and the tribal groups say the two governments are violating the Voting Rights Act of 1965 by failing to provide ballots and other materials in Yup'ik to voters who don't speak English well or at all.

Voters struggle especially to understand ballot measures that are often too complicated even for people who grew up speaking English. But other information needs to be translated too, such as voting instructions. As it is, people who speak mainly Yup'ik may not vote, because they are afraid of voting the wrong way, their lawyers say.

The state responds that when language rules were added to the 1965 law a decade later, members of Congress said they did not expect states to produce written translations for languages with no written tradition.

U.S. Sen. Ted Stevens, R-Alaska, addressed the matter on the Senate floor in 1975, assistant attorney general Sarah Felix told U.S. District Judge Tim Burgess in court on Wednesday.

Few Natives would benefit if the state translated voting material in writing, Stevens said back in 1975.

"The problem is that only a few Natives are able to read their language," Stevens said on the Senate floor. "Those are the very old people, who are not able to read the language, who may be more reliant upon the oral language." Younger people maybe could read it, he said, but they also were fluent in English.

"The people for whom the bilingual ballot was printed would not be able to read it," Stevens declared.

At any rate, the state is already improving its programs to help Yup'ik speakers at the polls, Felix said. For instance, it plans to provide a glossary and a written translation of ballot measures to poll workers.

But it won't print sample ballots in Yup'ik, she said.

"The statute does not require it," she said.

Currently, the state only provides translations of election materials in Tagalog, spoken by Filipinos, and only in Kodiak, which has a high proportion of Filipinos, she said after the hearing.

Lawyers for Bethel told the judge Wednesday that the case against it should be thrown out. No one has shown they were injured, argued Stephen Smith, a Seattle lawyer representing Bethel.

"That injury is that they are unable to meaningfully understand the ballot," responded Jason Brandeis, a lawyer with the ACLU of Alaska Foundation.

The case sprang from a study of how the Voting Rights Act was working in Alaska, Landreth said. Advocates kept hearing from Yup'ik speakers in Western Alaska that "most people here don't vote." In the city of Bethel in a 2004 election, for instance, turnout was 22 percent below the statewide average. Advocates then monitored elections in 2006 and 2007 to see if

the state improved its translation efforts. It didn't, she said, so they sued.