

Natives have been allowed to receive the benefits of their lands' resources. This has been true in Alaska where mineral resources which were found under the lands reserved for the Tyoneks have been the source of that village's capital.

Indeed, on only one occasion in our history -- the Papago Reservation established by Executive Order of February 1, 1917 -- has the Federal Government failed to recognize an aboriginal right to minerals underlying lands held by Natives in the first instance by virtue of aboriginal title. Even this exception to the general rule was eliminated when Congress by the Act of May 27, 1955 (69 Stat. 67) declared that such minerals henceforth were to be held in trust by the United States for the Papago Tribe. The policy thus is clear that for Natives, as well as other citizens, ownership of subsurface resources should accompany ownership of the surface.

There is an additional reason why the Natives should retain nothing less than fee simple title. If the Natives do not control their lands fully, the persons who exploit the minerals will have no contractual obligations to the Natives who own the surface; this could only make it more difficult for the Natives to use and subsist from the surface patented to them. For example, if an oil company is exploring for oil on village lands, there is every reason to assume that it will take greater pains to