

# 'Indian country' status remains clouded

by **G.D. Renkes**  
for the Tundra Times

The concept of "Indian country" has become controversial within Alaska, and recent statements by federal and state officials appear to cloud the issue of whether it exists in the state.

In a recent letter to Interior

Secretary Donald Hodel, Gov. Bill Sheffield claimed that the Aug. 11 publication of the new Village of Minto Liquor Ordinance "appears to be a significant change of position from past Department of Interior policy."

"It declares Minto to be Indian country and even goes so far as to extend that label to all lands selected by Minto's ANCSA village corporation.

In our opinion, there is no legal basis for such a position," Sheffield said.

The governor has not yet received a response to his letter from the Interior Department.

Anchorage attorney David Case, author of a book on Alaska Natives and American law, said he is certain Indian country exists in Alaska.

"At least since 1877, there has

never been any doubt that there has been Indian country in Alaska for the purposes of the federal Indian liquor laws," he said.

Yet, debate continues about whether particular areas in Alaska are Indian country and just what the implications of such a pronouncement may be.

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# 'Indian country' like sovereignty

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"Indian country is like sovereignty," Case said. "it means many things to many people."

The term "Indian country" appears in a number of federal criminal and civil statutes and defines the territorial scope of state, federal and tribal jurisdiction. The phrase has a long legislative and judicial history dating back to the early federal Indian trade and intercourse acts.

Indian country described the Indian-occupied lands within the then territorial boundaries of the United States west of the Mississippi and certain Indian-occupied lands not within the boundaries of the states east of the Mississippi.

Indian country is now defined by federal law as the land within Indian reservations, Indian allotments and dependent Indian communities. All three definitions have some application to Alaska, but the "dependent Indian community" concept is the one that is the most significant.

It is unclear whether lands selected under the Alaska Native Claims Settlement Act can be considered Indian country for the purpose of defining the territorial jurisdiction of Alaska Native

traditional or IRA council governments.

The Interior Department has gone so far as to conclude that ANCSA selected lands are "Indian country," at least for the purposes of villages exercising federally delegated powers under the federal Indian liquor laws.

A 1980 memorandum from the Interior Department solicitor to the commissioner of Indian affairs concerning a proposed liquor ordinance for Allakaket concluded that the "continued existence of Indian country in Alaska, in our view, does not conflict with the purposes of the settlement act, and, consequently, that act should not be construed to have abolished Indian country or the possibility that Native villages might qualify as 'dependent Indian communities.'"

The 1980 Interior memorandum found that Allakaket:

- Had qualified for village land benefits under ANCSA.
- Had a population that was at least 70 percent Native.
- Was eligible to receive federal Indian services available to Alaska Native villages.
- Covered a land area which was the village townsite and lands owned by the village corporation.

The memorandum concluded that "these factors are sufficient to support a presumption that the area is a dependent Indian community and therefore Indian country for the purposes of the liquor laws."

At least with respect to a liquor regulation, it appears that many villages could establish a definition of the area governed by the ordinance, and that definition could be recognized by federal government as "Indian country" for the purposes of a liquor law.

However, the Alaska regional office of the Interior solicitor suggested in a July memorandum to the Bureau of Indian Affairs in Juneau that even this conclusion "may be subject to some doubt in view of the department's recently demonstrated reluctance to approve any IRA constitutions specifically describing the territorial limits of 'Indian country' over which the tribal governing body could exercise even limited sovereign authority."

The recent Minto liquor ordinance may be a sign that Interior is again willing to recognize that Alaska Native traditional and IRA council governments can have some regulatory authority in Indian country.