

An outside look at Alaska villages and IRAs

By Alex Scala

For the Tundra Times

Alaskan Natives find themselves faced with a critical situation. How do they survive as a cultural, social entity in light of 1991, the year Native lands become taxable and stock in ANCSA corporations becomes transferable? Many indigenous Alaskans feel the only way to protect themselves, their land and their culture is through the Indian Reorganization Act (IRA) and the self governing powers the Act grants those Native American Tribes which organize under it. But there are a profuse number of legal and political barriers Alaskan Natives must confront before they can exercise their inherent sovereign right of self-government.

Does Indian Country exist in Alaska? If it does what powers will Alaskan IRA councils have? Will they have jurisdiction over the activities of non-tribal members? In the light of the lack of a State position on IRA's, and the seemingly negative IRA position of the State's senior U.S. Senator; will the Secretary of the Interior act favorably on the pending 33 IRA applications currently before the BIA? Can the ANCSA created village corporations transfer their land to the IRA Councils? Will this transfer give the IRA's a jurisdictional base over which to govern?

The questions could go on and on but through all of this puzzling array of legal questions, we must not forget what Alaskan Natives are striving for. No matter which path they take, the goal of the Alaskan Native People is the guarantee that they will have some sought of distinctly Native regulatory control over their land base in order to preserve their subsistence lifestyle; if this is truly what Alaskan Natives want.

A historic gathering of American Indian leaders and former federal policy makers in Idaho last month offered the opportunity to discuss a wide range of issues affecting Alaskan Tribal Sovereignty.

What is the legal status of the Village Corporation land, 1.8 million acres, that was deeded to the Venetie IRA Council to be held in trust for the enrolled members of the Venetie Tribe?

Robert Bennett, former Indian Commissioner under President Lyndon Johnson, feels

very strongly that Venetie is "Indian Country", in the legal sense of the term. Bennett says the area surrounding Venetie was withdrawn from settlement of any kind by Assistant Secretary Oscar Chapman some 40 years ago for the sole purpose of having it being set aside as an Indian Reservation.

He says the final steps needed to classify Venetie as a reservation did not occur because of political opposition in Alaska, at that time, to the creation of reservations.

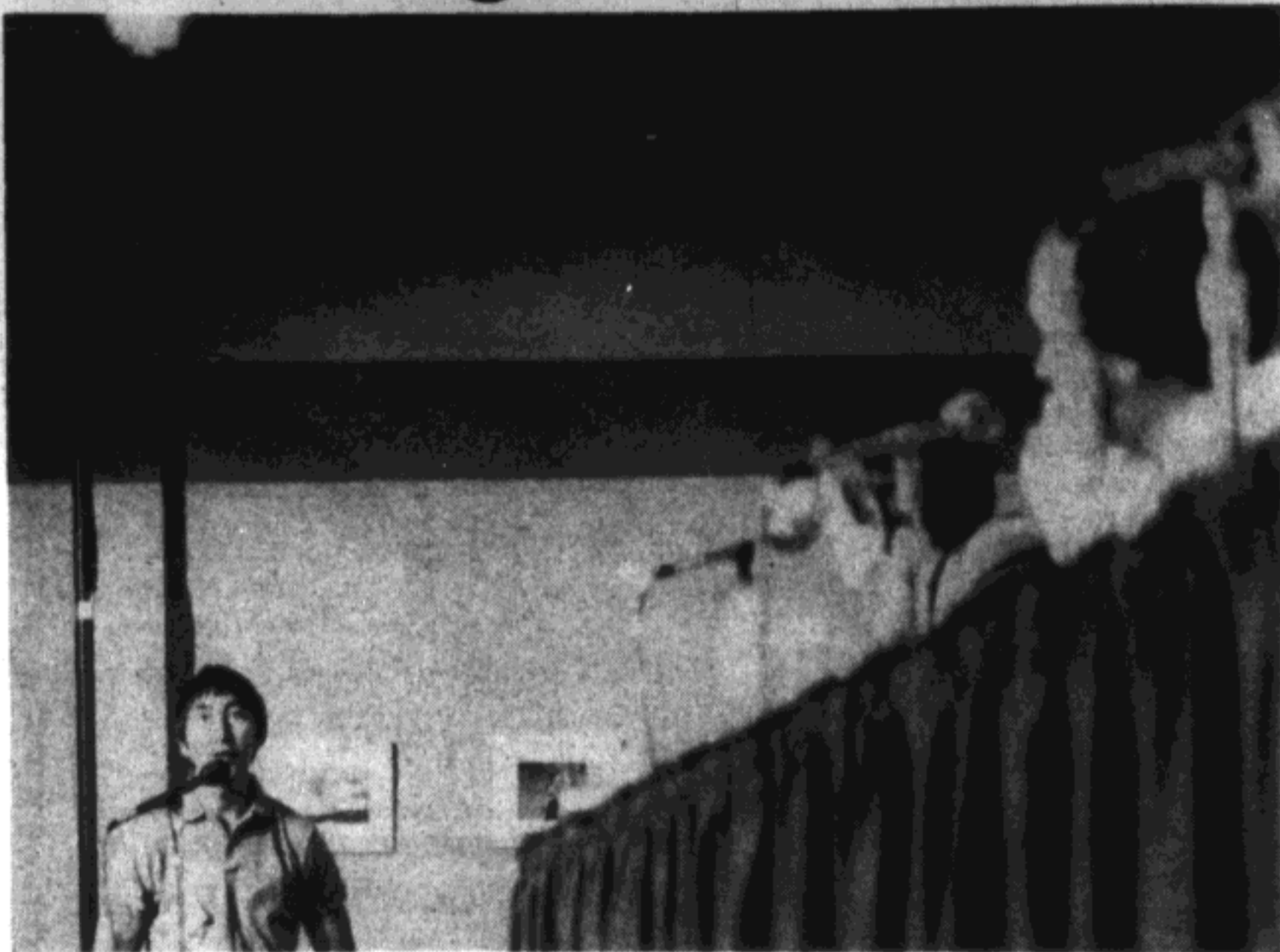
He says while ANCSA specifically revoked the various reserves established in Alaska prior to 1971, he still feels that Venetie is Indian Country and subject to all the legal connotations the term implies. One cannot hide the fact that on the Venetie question, as well as on questions regarding the legal status of the Native Village of Tyonek and its court battles to define its jurisdiction, the legalities of both are deep and complex.

But time is quickly running out before Alaska Natives face the possibility of losing their land base in 1991, as was said many times at the four-day conference. Alaskan Natives need to define what it is they want and act soon or perhaps not have a chance to act at all.

This seemed to be what Dr. Floyd O'Neil, historian and Associate Director of the American West Center, suggests to Alaska Natives. He says remote Alaskan Villages have a unique opportunity. Because of their isolation they have a chance to take the initiative and act to establish their sovereignty. He says "political power despises a vacuum", he suggests while such a vacuum exists, "why in the hell don't Alaska IRA Villages move into it."

Is Tyonek Indian Country as defined by a "dependent Indian community" in 18 U.S.C. Section 1151? No one was prepared to say. Although both former Indian Commissioner Bennett and former Commissioner (under President John F. Kennedy), Phileo Nash reflected on the creation of the Moquawkie Reservation created by presidential order in 1915 for the use and benefit of the Tyonek Tribe.

In light of Section 19 of ANCSA that revoked the various Federal Indian Reserves established in Alaska, none of the participants at the conference could say, whether Tyonek is Indian Country.



Ted Katcheak of Alaska speaks to national Indian leaders at a recent conference held to discuss the Indian Reorganization Act and its effect on Alaska. Photo by Alex Scala

Commissioner Nash reflected on how his department used the Presidential Order of 1915 in helping the Tyonek Tribe in a court case over an oil and gas lease sale being held on Tyonek lands. The tribe won the case and was awarded some \$16 million from the proceeds of the sale.

The two Alaska Native representatives at the conference in Sun Valley, Dalee Sambo, special assistant in Alaska for the Inuit Circumpolar Conference and Ted Katcheak, Stebbins IRA President and Co-Chairman of the United Tribes of Alaska, listened in earnest to panel discussions as well as discussions held outside the formal conference proceedings, to issues regarding the similarities between the current plight of Alaska Natives and what the Lower 48 tribes went through in the past.

The Menominee Tribe of Wisconsin was terminated as a federally recognized tribe in the late 1950's and early 60's. The Termination Act set up a tribal corporation, Menominee Enterprises Inc., which controlled the tribal assets and land. The results were anything but successful. Termination brought the loss of thousands of acres of tribal lands; an imminent threat of bankruptcy of the tribe's only successful business; a local government in serious financial difficulties; bitter and damaging divisions within the tribe and the likelihood of loss of the tribally owned timber resources.

The Menominees were restored as a federally recognized tribe in 1973. The restoration effort was led by Menominee Indian, Ada Deer. Deer draws analogies between her tribe and Alaska Natives.

She says "most Native people do not understand the operations of a corporation, it is very easy for a board of directors and others to manipulate and exploit the majority of Native People". She warns Alaska Natives and the American people as a whole to wake up to this fact or we will see a great disaster happening in Alaska in 1991.

Charles Wilkonsin is Professor of Law at the University of Oregon and was the attorney for the Menominees during the restoration fight. Wilkonsin believes that Alaska Natives achieved a major victory in ANCSA but feels "there are many elements in ANCSA which closely parallel termination and, have every potential of destroying the promise that held out by the Claims Act in 1971." He says Alaska Natives could be in a position not so different than that of the terminated tribes in the Lower 48.

Wilkonsin says the movement towards IRAs is healthy. He says that the right of self-government is inherent to America's indigenous people and, in light of ANCSA, the creation of IRAs is the right way to establish jurisdiction and ownership over Native Land.

He says "only in this way can one have Native government in Alaska and not state government". He further says that based on what happened to the Menominees, Alaskan Natives must very strongly guard against stock alienation in 1991.

LaDonna Harris is a Comanche and currently with Americans for Indian Opportunity, as well as a former candidate for vice president of the United States. She agrees that Alaska Natives could be faced with termination if they do not act to protect themselves from the possible disaster in 1991, but she says Alaskan Natives have a chance to set a precedent for all indigenous people.

She feels the 33 pending IRA constitutions could be drawn up in such a way that they reflect the cultural tribal way of life of Native people. She says the constitutions should be written to include the various cultural patterns and spiritual beliefs of the tribe. She says Native people live their lives holistically and do not separate politics, religion and culture as the whites do.

She says "Alaska Natives can be the political philosophers of the Western Hemisphere. They can develop their own precepts of self-governance. If Alaska Natives can see this as a blessing in disguise in having to deal with the crisis they are in, the outcome would be beneficial to all indigenous people in the hemisphere, much less in America."