

Cowper issues order:

# Villages accorded tribal status

by Jeffrey R. Richardson  
for the Tundra Times

Gov. Steve Cowper last week issued an administrative order on Native sovereignty that extends unprecedented recognition to Alaska Native villages as tribes.

Though full implications of the order will not be known for some time, Native rights expert Lloyd Miller says the policy statement makes a dramatic departure from previous state administrations.

Known as the "Policy of the State of Alaska on the Existence of Tribes in Alaska," Administrative Order 123

states in part:

"The state believes that it should treat as a tribe any Alaskan Native group that could qualify (for federal recognition), even if it has not actually gone through the formal process.

"The state will treat as a tribe any Alaskan Native group that meets the common sense of the word. For example, we believe that the Native residents of a majority of communities listed as a Native village in the Alaska Native Claims Settlement Act should be considered a tribe. . . we believe Native groups should be accorded the dignity of being treated as tribes

whenever possible."

According to Miller, the order caps a gradual evolution of thinking in the Cowper administration on the subject.

"That's a substantial step, maybe a small step in the eyes of some, but I see that as an important step," Miller said.

The Cowper order follows fresh federal statements on the tribal status of Alaska Native villages which sovereignty advocates view positively.

Two weeks ago, responding to an unusual request for clarification from the U.S. Supreme Court, the Justice

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Department stated that Alaska Native villages have tribal status.

"It was the first statement in the last few years from the federal government that unequivocally embraces the concept that Alaska villages are tribes and are to be dealt with as such," Miller said.

The Supreme Court is attempting to decide whether to hear an appeal of a lower court decision upholding the sovereign immunity of Tyonek in a case arising from the eviction of two non-Natives from the community.

Though the Justice Department statement and Cowper's order are not directly linked, they are powerful tonics to a sovereignty movement which found few friends in the Reagan administration or in state government.

According to Miller, an attorney who works with Native corporations and other Native organizations and was involved in persuading the Justice Department to file its supportive brief, the federal statement ends confusion fostered during the Reagan years about tribal status for Alaska Native villages.

"The federal government has contributed to this confusion. The Reagan administration caused considerable confusion. They tried not to deny villages were tribes, but tried not to overtly recognize them either. This became a serious problem. They made a deliberate effort to keep the issue confused," said Miller.

Because those antagonistic to Native interests have capitalized on the problem, the Tyonek brief "is a very significant development," Miller said, marking the Bush administration's break with Reagan on Indian policy.

According to Miller, Bush has signaled Congress his displeasure with legislation intended to benefit Indians and Natives in general, rather than tribes and tribal members, holding that the broader measures create improper special privileges for minorities.

With the Tyonek brief, Miller said, the Bush administration has stated a policy that narrowly defines federal Indian responsibility, but still fully embraces the long-standing special relationship with tribes and clearly includes Alaska Native villages in the definition of tribal status.

Miller noted that while Cowper has been making encouraging statements for several years about the sovereignty issue, the state has continued to contest most federal sovereignty determinations on a village-by-village basis.

He said while the order is helpful and deserving of high praise, a further clarification of the state's view on which villages meet the tribal test outlined by Cowper would also have been helpful.

While Cowper has parted ways with previous governors by dispensing with the contention that most villages are not tribes and focusing on what specific powers tribal villages have, the policy still falls short of the new federal declaration, leaving ample room for further doubt and debate.

"One wonders if this generous and encouraging statement will be translated into action on a specific village level," Miller said. He also cautioned that Cowper's handiwork could be undone by a new administration.