

Statewide IRA organization formed

Editor's Note:

The recent statewide IRA meeting in Anchorage brought to light a number of interesting factors concerning tribal governments in Alaska. The *TLINGIT AND HAIDA TRIBAL NEWS* would like to share this information with its subscribers so the March-April issue is reprinting the chronology of articles regarding the IRA meetings authored by Bill Hess from the *TUNDRA TIMES*.

Along with that, in this issue, is our coverage of the second annual Native Festival in Sitka. We hope you enjoy it.

By Bill Hess

Tundra Times

In what many participants hailed as a major moment in Alaskan history, delegates representing Indian Reorganization Act (IRA) and Native traditional village governments gathered together in Anchorage last week and laid the foundation for forming a statewide IRA organization.

The action took place at a two-day conference sponsored by the Alaska Federation of Natives (AFN) to look at issues surrounding the IRA governments. Legally, Alaska Native villages find their powers the center of much dispute. Different speakers at the conference agreed that the sovereign powers held by aboriginal groups have never been lost by Alaska's Indian, Eskimo and Aleut peoples.

The problems arise, it was argued, when villages in Alaska seek to exercise that authority. Reservations in the Lower 48 have definite land bases over which to exercise their jurisdiction. After the Alaska Native Claims Settlement Act, most of the Alaska lands which remained in Native hands were turned over to state-chartered regional and village corporations.

IRA and traditional governments have a special relationship with the U.S. Federal government independent of the state. Putting Native lands in state-chartered corporations presents some complex problems.

Don Wright, an Interior Indian who played a major role in the original ANCSA negotiations, told a receptive audience that there is an answer: remove corporate lands from their state charters and



Victor Haldane makes a public comment at the IRA meeting in Anchorage.

instead charter them under the Native governments themselves. Then, said Wright, the governments will have a land base over which to govern, and the lands will be free from takeover by non-Native interests after 1991. Other speakers, some who were received with virtually no enthusiasm, argued that it was not that easy.

•Part two

Tribal governments in Alaska which wish to preserve their rights of sovereign self-government should exercise them before it is too late. If they believe it is their right and in their best interests to establish tribal courts, police departments, to levy taxes, charter corporations or carry out any other activities commonly undertaken by governments, then they should do so.

This was the message Bert

Hirsch, an attorney who has represented different Outside tribes, delivered to participants from villages throughout Alaska who gathered in Anchorage recently for a special conference on Indian Reorganization Act (IRA) governments.

Before the conference ended, participants laid the foundation for a new statewide organization to represent tribal governments in Alaska.

There has been a great deal of dispute over what powers and authority have been left to the tribes since the passage of the Alaska Native Lands Claim Act in 1971. Opponents of tribal government argue that the law virtually stripped Alaska Native governments of the powers enjoyed by governments on reservations in the Lower 48, where many tribes levy their own taxes, manage their own fish and game, conduct their own business and run their own law enforcement and judicial systems.

"Nonsense!" said Hirsch. "Do it!" Hirsch noted that although the courts have repeatedly ruled that the failure of a sovereign to exercise its authority does not mean it loses that inherent power, as a practical matter, the power can be lost.

He cited Public Law 280, which gives certain states the authority to exercise law enforcement and other stated jurisdictions in Indian country within their boundaries. This was done, said Hirsch, during a time in which there was a breakdown in law and order in Indian country.

Alaska is one of the states which has been given P.L. 280 authorities, although there was a great deal of argument during the conference as to just what this really means. One thing is clear, Hirsch emphasized. There are some very influential and formidable people in government and industry "who are hell-bent on termin-

ating Alaska Natives!"

They would end the special government-to-government relationship between Native villages and the United States, said Hirsch, as they stand to reap great profits from oil, mineral and other exploration by doing so.

Once the village governments had taken actions exercising their sovereignty, then, said Hirsch, any parties disagreeing with them could react and challenge them in court or do whatever they felt necessary to make their arguments. This would be better than having the village governments always being the ones to react to other people's actions, or to sit around waiting for someone's legal opinion on what rights they do or do not have.

Several presenters at the conference agreed with Hirsch that ANCSA does not terminate the authority of IRA and traditional village governments.

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Sovereignty rights will be preserved through organization and planning

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Nowhere does the act address such powers. Therefore, it stands to reason that the powers were never taken away, they argued.

Problems arise in determining over what territory a government can exercise its domain. As one presenter pointed out, tribal governments on reservations have a definite land base on which to exercise their jurisdiction. Cross the reservation boundary, and you are in Indian country, and subject to Indian law. Step back out, and you are in state territory.

What ANCSA did in Alaska was to take the equivalent of the lands held in trust in res-

ervations by the federal government for the tribes, and place these lands instead in State of Alaska chartered village and regional corporations. This has resulted in a great deal of confusion and turmoil between tribal governments and those they deal with.

Although Alaska does business with the tribes, the state does not formally recognize them. The tribes, in turn, have a trust relationship with the federal government wherein Uncle Sam is committed to protect their interests.

Don Wright, who has worked with the Venetie IRA government as it has set up its own

boundaries and lands, told those gathered that the answer is to take those state chartered lands and make them tribally chartered lands. Wright, who was president of the Alaska Federation of Natives and chief negotiator with the government during the days that ANCSA was being worked out, claimed that Congress never intended to wipe out village sovereignty.

"It was the intent of Congress . . . and our intent . . . regardless of the form of local government . . . if it was a traditional village or an IRA, they would get it (the land), and therein lies your initial land base!"

The village of Venetie took all of its fee simple lands and turned them over to the village government. Since that time, the council has exercised its authority in a number of ways. When a state game officer confiscated caribou from villagers last spring, the village confiscated his airplane. Recently, Venetie announced its own oil-lease sale.

Wright also noted that the village had successfully resisted all state easements for campgrounds and trails on its land, and had laid claim to half the rivers bordering its territory.

Further, Wright added, Venetie holds 1,800,000 acres of land and has a Native popula-

tion just over 300. On a per-capita basis, Wright said, that leaves Venetie in control of as much of Alaska as it would have been if the total acreage of the state had been divided equally among all Alaska Natives. "And not one easement!" he boasted.

Wright said that by turning the land over to the village council, the federal government was obligated to protect it in trust just as it must for reservations in the Lower 48. Even after 1991, when lands held by the state-chartered corporation become subject to purchase by non-Natives and to taxation, the lands of Vene-

tie will be protected, said Wright.

Other presenters, including Lawrence Jensen, the Associate Solicitor with the Division of Indian Affairs out of Washington, D.C. had earlier argued that the case of Venetie might not be so secure as some wanted to believe, and would have to be tested in court.

Wright held fast to his argument that the land was in trust forever. Lawyers could disagree, he said, but if the U.S. ever attempted to remove the land, "we could get it to a world forum."

Noting that a corporation does not have to be char-

tered by Alaska to do business in Alaska, Wright urged the villagers to "cast off the shackles" of the state and charter themselves instead under their IRA or traditional governments.

"No kind of corporation exists that has more flexibility than a federally chartered, Section 17 chartered corporation." Such a corporation is authorized by Congress, Wright said, and is free from many taxes incurred by state chartered corporations.

Section 17 is the portion of IRA which authorizes tribal governments to incorporate.

Jensen, who often received

a less than enthusiastic reception from the audience, had argued that it might not be as easy as some hoped to turn corporate lands over to tribal governments. For one thing, he said, there was no guarantee the Secretary of the Interior would accept such lands in trust.

Further, any stockholders who did not want to turn their shares over to the village would have to be bought out before it could happen. If a major corporation began competing with the village for the shares, the village could find itself in need of a great deal of cash to win out, it was argued.