

Tanana IRA Council defends memorial potlatch

By Bill Hess

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The Tanana village council has gone to federal court to protect the right of tribal members to take game for Nuchalawoyya. Last June, five tribal members were charged with illegal possession of game when they were found cutting moose meat for a memorial potlatch.

Mike Walleri of the Tanana Chiefs Conference, the attorney for the council formed under the Indian Reorganization Act of 1934, said the purpose of the civil lawsuit is to get an injunction to stop prosecution of the five individuals.

A strongly worded Tanana Council resolution called for tribal jurisdiction over the tribal members' use of "custo-

mary and traditional fish and wildlife habitat resources."

Walleri said the resolution was drafted up and passed in a hurry, and did not represent the "full view" of the tribal council. The council's intention, said Walleri, was to "stop state interference with Nuchalawoyya and ceremonial potlatches," and not to "re-assume jurisdiction" over resources or

interfere with state jurisdiction.

"The village doesn't have to re-assume anything," Walleri said, "the village has been doing this a long time under the IRA council. It's generally understood that this is an IRA function . . . the village is just doing what they've been doing for the last few thousand years. They are simply saying they

have a right to do this, and that the state does not have the right to interfere with something that is so much a part of the culture of the Athabascan people."

"Our big problem is that they were interfering with our potlatch," said Al Grant, President of the IRA council. He explained that the potlatch,

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Sovereignty declared to defend potlatch

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Nuchalawoyya, is more than a feast but is a religious ceremonial which has been observed by the Athabascan people since long before there was a State of Alaska or any fish and game agency to enforce its laws on Native people. The American Indian Religious Freedom Act protects the spiritual beliefs of Native Americans.

"We were having a memorial potlatch," said Grant. "For a person who died a year before. We felt it interfered with our religious practices because it is part of our cultural heritage that regardless of how long ago a person has died, we still have a potlatch for them. It can be three years. It can be five years." The confiscated moose was later turned over to

Grant and was used at the potlatch.

Grant expressed optimism Tanana will succeed.

"It is the law, you know. It hasn't been practised by anybody for a while; it's just been lying there. But it is the law, and it should be recognized."

Opponents of tribal government jurisdiction in Alaska frequently claim that the Alaska Native Claims Settlement Act of 1971 abrogated or weakened IRA powers in this state.

The resolution states that neither ANCSA nor the subsequent Alaska National Interest Lands Act were jurisdictional acts. Neither mention or place limitations on the powers of tribal governments.

Ray Kramer, the regulation coordinator with the Alaska

Department of Fish and Game in Anchorage, contended that while even state law recognizes certain rights to game connected with a potlatch, there are limitations. "There's a difference between a memorial potlatch and a funeral potlatch," he said. "A funeral potlatch can't be predicted or planned for. A memorial potlatch can be predicted. It can be planned for."

Kramer argued that instead of holding a potlatch when there was no fresh game available, participants could wait "a week or so" until there had been a road kill or a kill "in defense of life and property." He also suggested that perhaps something other than moose could sometimes be used, pointing out the recent shooting of three bison by a Delta farmer.

"There's three hunks of bison meat right now," he said, "waiting to be distributed to needy families or for some other purpose." Tribal governments frequently argue that the federal trust relationship they operate under sets them apart from state regulations which interfere with their practices. It is unlikely that many Athabascans would agree with the concept of replacing moose with other meat although other types of traditional meat are served at Nuchalawoyya.

"Moose is (the) mainstay of livelihood of the entire Athabascan Tribe," the resolution stated.

The resolution recalled past cases of the U.S. Supreme Court to back up their posi-

tion. They cited a case with Arizona's White Mountain Apache where the court ruled "Indian tribes are unique aggregations possessing attributes of sovereignty over both their members and their territory."

Over the past decade, the White Mountain Apache have assumed total jurisdiction over fish and game within their 1.6 million acre reservation, for both Indian and non-Indian users. They establish their own seasons, bag limits and, for non-members, fees, and do not recognize state regulations nor let state game and fish officers onto the reservation.

Kramer argued that such powers may not necessarily be valid in Alaska. No one can

say, he stated, until the issue is legally defined. "I'm afraid — many of us are afraid — that such issues may be determined by individual groups suing in court . . . this could ultimately result in the resources of the state being managed by a judge, not a professional, who may not even be a hunter or a fisher. I believe this could cause great anxiety and confusion among people who should be working together."

Grant is looking forward to the outcome. "I think a lot of villages will just wait and watch this as a test case," he said, "to see if federal law will recognize us. If they do, then I think a lot of villages will jump on the band wagon."