



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

**Alaska Board of Game**

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The Honorable Jahna Lindemuth  
Attorney General, Department of Law  
1031 West 4<sup>th</sup> Avenue, Suite 200  
Anchorage, AK 99501

Dear Attorney General Lindemuth:

I want to express a sincere appreciation on behalf of the board for you taking the time out of your schedule to speak to the Board of Game this Friday on the topic of tribal lands into trust. It is a very important topic to the Board and having your comments will be extremely helpful in our understanding of the issues and process. I am providing a list of potential questions that I believe Board members may ask you, if not already covered in your presentation.

Again, thank you for your time and we look forward to seeing from you.

Sincerely,

Handwritten signature of Ted Spraker in cursive script.

Ted Spraker, Chairman  
Alaska Board of Game

Enclosure

1. Do you agree that land put into trust by a tribe gives them the sovereign authority in a government to government relationship to avoid local taxes, establish their own court system, and to tax and regulate activities on their land including fish and game regulations?
2. Do you agree that non-tribal members are frequently subjected to the rules and regulations of the tribes in Indian Country and adverse rulings by the tribal courts are not reviewable by the U.S. Supreme Court.
3. Do you agree that the tribes and tribal members are immune from prosecution?
4. Does this immunity include activities of tribal members off of Indian Country?
5. Can you give us some idea how the state would manage its fish and wildlife if 225+ tribes in Alaska transferred their land to be held in trust as Indian Country and then established their own hunting and fishing regulations.
6. My understanding is that a tribe whose land is approved as federal trust status land is exempt from State regulations on those lands.
  - a. If the 1.4 million acre Venetie-Arctic Village tribal land is placed in trust, can the State of Alaska make and implement management and allocation regulations for the Porcupine Caribou Herd on those reservation lands?
  - b. Can the U.S. Dept. of Interior/F&WS make and implement management and allocation regulations on those Venetie-Arctic Village reservation lands? If so, under what law or laws?
7. If a tribe's trust reservation lands overlap or lie within the boundaries of a Federal Conservation System Unit where hunting and trapping are allowed (NPS Reserve, USFS Refuge, BLM Recreation Area), could the tribe claim off-reservation hunting and trapping rights even if those uses were under state regulation?
8. Are you aware that off-reservation fishing and hunting rights have been granted by the federal courts in other states?
9. Could the Federal government unilaterally establish cooperative or co-management with a tribe that would affect a game population the management of which is the State's responsibility? If so, how?
10. The Alaska Department of Law regularly and appropriately cites protection of State sovereignty as one of its 3 major responsibilities. But almost simultaneously, Governor Walker has expressed approval, or at least non-objection, to the Department of Interior's memorandum of understanding with Ahtna interests pushing state game management aside in the Nelchina Basin and surrounding areas--with allocation of harvests tilted toward a racial preference for residents of Native villages in that area.
  - a. How do you explain that seeming contradiction of direction?

11. The state has indicated it will review trust land applications on a case-by-case basis. Are you aware that BIA has approved every “trust” land transfer from 2001 to 2011? What basis do you have to believe the state can successfully oppose tribal transfer of land to “trust?”
12. What assurances can you give the Board that the following statement by 9<sup>th</sup> Circuit Court of Appeals Judge Fernandez (related to the Venetie case) will not occur in Alaska?

““We have been asked to blow up a blizzard of litigation throughout the State of Alaska as each and every tribe seeks to test the limits of its power over what it deems to be its Indian country. There are hundreds of tribes, and the litigation permutations are as vast as the capacity of fine human minds can make them. They can include claims to freedom from state taxation and regulation, claims to regulate and tax for tribal purposes, assertions of sovereignty over vast areas of Alaska, and even assertions that tribes can regulate and tax the various corporations created to hold ANCSA land. The latter assertion would give the tribes the power to control, regulate and tax those corporations out of existence and would provide a fruitful area for intertribal conflict. This is no imaginative parade of horrors.”

13. If AHNTA were to consolidate all of its land under the various tribes and transfer them to BIA to be held in trust creating “Indian Country”, what would the state use as its legal argument that would preclude a federal judge from using the same logic as exercised in the Boldt decision on the Columbia River? Isn’t it possible that the Copper River could be subjected to the same premise allowing the fresh water and salt water fisheries to be managed by the courts for the benefit of the tribes at the expense of all other Alaskan residents?
14. Venetie and Tetlin tribes hold about 1.4 and .7 million acres respectively. What would stop them from transferring their land to BIA to be held in trust and managing fish and game on their land? What would be the legal arguments against such an action?
15. If a tribe transfers all of its land to be held in trust it most likely would allow them to manage fish and game on their land. Based on the subsistence provision in federal law, would a co-management agreement with the adjacent federal public land owner allow the same tribe to exclusively participate in regulating fish and game harvest on the adjacent federal lands absent state participation?
16. Has the state government advised the municipalities like Fairbanks and Anchorage that should CIRI end up transferring all their land into trust that major segments of those two cities property would be untaxable?