




United States Department of the Interior  
OFFICE OF THE SECRETARY  
1849 C Street N.W.  
Washington, DC 20240

September 25, 2025

Memorandum

To: Acting Solicitor  
Assistant Secretaries  
Bureau and Office Heads  
Acting Chair, National Indian Gaming Commission

From: Deputy Secretary 

Subject: Withdrawal of Solicitor Opinion M-37079, "Partial Withdrawal of Solicitor's Opinion M-36975, 'Governmental Jurisdiction of Alaska Native Villages Over Land and Nonmembers,' and Clarification of Jurisdiction Over Alaska Native Allotments"

On February 1, 2024, former Solicitor Robert Anderson partially withdrew Solicitor Opinion M-36975, "Governmental Jurisdiction of Alaska Native Villages Over Land and Nonmembers" ("M-Opinion 36975"), and issued M-37079 in place of the withdrawn portions addressing the existence and extent of tribal jurisdiction over Native allotments in Alaska. M-Opinion 36975 was published in 1993. It was the result of a years-long effort to develop the legal position of the United States on the nature and scope of federally recognized tribes' governmental powers over lands in Alaska, following passage of the *Alaska Native Claims Settlement Act* in 1971.<sup>1</sup> M-Opinion 36975 controlled the position of the Department for over thirty years, and its conclusions have been confirmed by multiple courts, including the Supreme Court of the United States.<sup>2</sup> In contrast, Solicitor Opinion M-37079 takes a very different approach and is contrary to law and judicial precedent.<sup>3</sup>

---

<sup>1</sup> Pub. L. No. 92-203, 85 Stat. 688 (1971).

<sup>2</sup> *Alaska v. Native Village of Venetie Tribal Government*, 522 U.S. 520 (1998); *Confederated Tribes of the Chehalis Rsr. v. Mnuchin*, 976 F.3d 15, 18, 26 (D.C. Cir. 2020), *rev'd on other grounds*, 594 U.S. 338 (2021); *Alaska ex rel. Yukon Flats Sch. Dist. v. Native Village of Venetie Tribal Gov't*, 101 F.3d 1286, 1303 (Fernandez, J., concurring), *rev'd on other grounds*, 522 U.S. 520 (1998); *Native Village of Eklutna v. U.S. Dep't of the Interior*, 2021 WL 4306110, at \*4 (D.D.C. September 22, 2021); *Native Village of Venetie I.R.A. Council v. Alaska*, 1994 WL 730893, at \*12 (D. Alaska Dec. 23, 1994).

<sup>3</sup> In a district court order issued a few months after publication of M-37079, the district judge unfavorably commented on M-37079, stating that she was "trouble[ed]" by the Department's "abrupt change of position" and its "conclusion that a still-valid district court opinion holding that Alaska Native allotments lack tribal territorial jurisdiction is wrong...." *Alaska v. Newland*, 2024 WL 3178000, at \*9 n.95 (D. Alaska June 26, 2024); *see also Native Village of Eklutna*, 2021 WL 430611, at \*4 ("[M-Opinion 36975] was valid in the first instance and remains so today.").

On February 28, 2025, Gregory Zerzan, Senior Advisor exercising the delegated authority of the Solicitor, suspended M-37079, along with other M-Opinions by the prior administration, until such time as M-37079 could be reviewed and a determination made as to whether it reflected the best interpretation of applicable law and should be reinstated, modified, or revoked. In concert with the Office of the Solicitor, I have reviewed M-37079 and it has been determined that it does not reflect the best interpretation of applicable law.

Accordingly, Solicitor Opinion M-37079 is hereby overruled, and M-Opinion 36975 is hereby reinstated in its entirety, based on my authority in the Departmental Manual to overrule or modify M-Opinions. 209 DM 3.2 A. (11) (“[M]-Opinions [. . .] may be overruled or modified only by the Solicitor, the Deputy Secretary, or the Secretary.”). All relevant Department bureaus and offices are instructed to treat M-Opinion 36975 as binding and authoritative. In addition, any Department action, including any action by the National Indian Gaming Commission, taken in reliance on Solicitor Opinion M-37079, should be reevaluated in accordance with this revocation.

cc: Secretary