

# STATE OF ALASKA

## THE LEGISLATURE

1990

### Source

HCS SJR 50 (Res)

### Legislative Resolve No.

119



Relating to the rule adopted by the United States Fish and Wildlife Service relating to sea otters.

### BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS the Native people of the state have been using sea otters for subsistence and handicraft purposes for thousands of years; and

WHEREAS the Native people of the state are the original conservationists and have historically managed resources in an ecologically sound manner; and

WHEREAS the taking and use of marine mammals, including sea otters, for handicrafts is a mainstay of the livelihood and cultural survival of Natives in the state; and

WHEREAS the United States Fish and Wildlife Service has adopted a rule that prohibits the taking of sea otters by Natives for use in creating and selling authentic Native handicrafts, including clothing; and

WHEREAS the rule will subject Natives in the state who create and sell handicraft items made out of sea otters to penalties of up to a year in prison and fines of up to \$20,000; and

WHEREAS the rule violates the intent and express language of the Marine Mammal Protection Act (16 U.S.C. 1361 - 1407), which specifically provides an exemption for Alaskan Aleuts, Eskimos, or Indians who reside on the North Pacific and Arctic Ocean coasts to take marine mammals, including sea otters, for the purpose of creating and selling authentic Native handicrafts; and

WHEREAS the United States Fish and Wildlife Service is following an inaccurate and overly restrictive interpretation of the Marine Mammal Protection Act, and has ignored the actual

language of the Act; and

WHEREAS the rule is not biologically justified because the sea otter population in the state is healthy and growing; and

WHEREAS the rule would allow the unrestricted growth of the sea otter population in the state, which would threaten the food resources that rural persons depend on for subsistence; and

WHEREAS the United States Fish and Wildlife Service's justification for the rule does not accurately reflect the historical use by Natives of sea otters in the creation and sale of handi-crafts; and

WHEREAS the rule does not take into account Native traditional practices and culture, and attempts to extinguish the rights of Natives in the state; and

WHEREAS the rule originated with the Division of Law Enforcement in the United States Fish and Wildlife Service, was written with ease of enforcement as its main objective, and reflects an antagonistic, hostile, adversarial, and dictatorial attitude toward the Native people of the state; and

WHEREAS the rule was developed in the absence of a comprehensive sea otter management plan and without the cooperation of the people who would be affected, despite their willingness to work with the United States Fish and Wildlife Service; and

WHEREAS enforcement regulations that are developed in cooperation with the people who would be affected would have broader support, would reflect a consensus of opinion among the interested parties, and, because of this agreement, would be much easier to enforce; and

WHEREAS the original notice for the rule when it was first proposed was inadequate and did not allow enough time to inform the people in the rural parts of the state about its purpose and effect; and

WHEREAS, the public comment in the state on the rule from both individuals and organizations was overwhelmingly opposed to the rule, and the opponents included the state Department of Fish and Game, the Alaska Federation of Natives, Inc., Alaska Legal Services Corporation, the Alaska Sea Otter Commission, the Alaska Village Participation Conference, the Aleutian/Pribilof Islands Association, Inc., the City of Cordova, Cook Inlet Tribal Council, Inc., Kawerak, Inc., the City of Kodiak, the North Pacific Rim, the mayor of the North Slope Borough, the Regional Resource Management Commission for the Chugach Region, the Rural Alaska Community Action Program, Inc., the Rural Alaska Resources Association, the Sealaska Corporation, the Seldovia Native Association, Inc., the United States Department of the Interior Indian Arts and Crafts Board, and others; and

WHEREAS the adoption of the rule demonstrates a disregard for the views of the persons who will be directly affected by the rule; and

WHEREAS the United States Fish and Wildlife Service may replace the rule with a final rule after a management plan for northern sea otters has been completed;

BE IT RESOLVED that the Alaska State Legislature condemns in the strongest possible terms the adoption by the United States Fish and Wildlife Service of the rule prohibiting the taking of sea otters by Natives for use in creating and selling Native handicrafts, urges the Service to reconsider its adoption of the rule, and urges the Service to work with the state's Native people, through the Alaska Sea Otter Commission and other appropriate organizations, to develop regulations that meet the concerns of both the Service and the Native people of the state and that comply with the Marine Mammal Protection Act.

COPIES of this resolution shall be sent to the Honorable George Bush, President of the United States; the Honorable Manuel Lujan, Jr., Secretary of the U.S. Department of the Interior; the Honorable Daniel K. Inouye, Chair of the U.S. Senate Select Committee on Indian Affairs; the Honorable Morris K. Udall, Chair of the U.S. House of Representatives Committee on Interior and Insular Affairs; the Honorable Becky Norton Dunlap, Assistant Secretary for Fish and Wildlife and Parks of the U.S. Department of the Interior; the Honorable Richard N. Smith, Acting Director of the U.S. Fish and Wildlife Service; the Honorable Walter Stieglitz, Regional Director of the U.S. Fish and Wildlife Service; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.