

SUBSISTENCE

Miscellaneous

(FILE 4)

Jeff Parker

276-4048

Kie call a.m. —

Pre-Match —

Cool headed

Tom Elias

Russ Reddyk

① Bob Hunter → ASA

② Jim Pyoni - Good Native Relations ✓

③ Jeff Parker ✓

④ Dave Cline Natl Audubon ✓

wildlife above the sub/
Spot.

⑤ Bud Hudson - Golden Horn
Lodge -

⑥ Ron Somerville as Fupe Andrews
Wood Duck - check

⑦ Vernetta Z. Lys - Rural Cap.

⑧ Don Mitchell - AFN

⑨ Bob Childers - Former
Rural Cap;
works on Carbon Treaty
issues. Ties to Conservation
groups.

(PEO) Flocculant Mining

US Bureau Minis

Ross - Denton - Sims etc

all stated about potential

Ross says EPA - funding

showed allow for \$1.5 -

150-200,000.

So put ant to write
write letter - ask keep me advised

cc Jenkins - ^{John} Sims - Denton

[Com. Ross.]

① Carl Ross

Stamps to be
sent to
the
mining
bureau
for
filing

Sitka Block Trade Deen: Proceeding of cont in Tejuwan, Al.
O.C. Walimo & J.W. Schen Editors U.S. Dept of Ag. Forest Service
At in coop w F&A Science R10-UR 5/77

Jeff Pankon.

concerned primarily on targeting -

2 opinions on Madison

- strongest possible pro -

- strongest possible con. Lisa McCrahen, Henry Powers

Tom Doerflinger.

what cost & trade use means.

what survival means?

> leg history

does pro demand total exclusion
pro / ~~pro~~ by catch
con

can state cap sub. users - from out state, areas,
sub take

probes of real pub also provide for decline

Sustainable wild resources only?

hatchery - transplanted

opportunity - what does this mean?
continued viability

what is sustained yield / ~~subsidizing~~ makeup
#15.

Lewellen

Congressional Rep. 96-413

151 sec 3, add trapping all forms

151 (b) 4-6 and consistent w/
of this bill ^{very high} ~~test~~ ^{dis. ~~that~~ ^{special} ~~auth~~} ~~considers~~ ^{sub's} ~~amounts~~

"surplus" probs w/

(b)(1) ^{wh} whether the subsists needs of
an organ can reasonably
be met

(b)(2) whether adequate quantity
- - - exist to allow for adding
amount.

Subsist
Agency

absence

for the per month results

as defined and consistent w/ the
next obj. of from the agency
Each month end rep.

PS^{2, 21} The board in charge w/ the
Regional Councils,

PS 3 - Boards shall report for Dept Care Syst units
as provided by Dept of Ind.

Lew Waller - Subs Coord.
Park Service
271-2685

Page 1

In 17) childrens fishing area.

possible divide

sect 13) pers. use fishing
get def.

include def of personal use fishing
Leg Authority - no allocation grants

Line 23 do we need to define

pg. 2
line 1

"taken and"

fish jumps

customarily taken + used

defining Sustained Yield =
- include principles of
sound management

MGMO FROM WCA SERV. =

- full applicability

= harvestable surplus -

- harvest consistent w/
sustained yield -

Ash Ed Hein - research
word - reasonable =

- Administrative Remedies

44.62 / 220
230
2.50

futile

cut + trend
use
def??

if a portion of the stocks and
populations identified under (A) of this
section may be harvested

new contracts, ~~for~~ executed after
February 15, 1986, ~~for~~ and
that has not been previously
sold.

for gas sold under new contracts

••• for gas, which has not been subject
to any previous contract, and is
sold under a new contract
executed after February 15, 1986.

If the convention were to veto
this bill because it says it poses
arguments - we would win all
the way around.

→ prospective - a void sep of powers | ^{case} remains

→ if keep may - leave in - in kind -

→ is there some way to word so
doesn't abrogate

→ aa ~~after~~ neutral to price price

↳ Sect 3 - undercuts price

cleanest to keep aa minus words
may to shall - do away w/ in kind

Sensory

The Legislature ^{finds that} sport fishing is of substantial economic importance to the state.

The Legislature finds that ~~the~~ sport fishing by both residents ~~and~~ non-residents ~~constitutes an important part of~~ Alaska's economy and that sport fishing is deeply important to many Alaskans.

The Legislature further finds that many of the state's popular sport fishing rivers and especially overharmed, which may equally productive streams and rivers ~~do~~ receive very little fishing pressure due to the difficulty of access.

It is the intent of this legislation to establish a state policy and a program to develop access to productive streams and rivers located near major population centers. 2

ATTACHMENTS

1. SCS CSHB 288(SA)
2. Analysis of SCS CSHB 288(SA) by
Assistant Attorney General Larri Spengler
3. Analysis of SCS CSHB 288(SA) by
Don Mitchell for A.F.N.
4. Subsistence based Socioeconomic Systems in
Alaska: an Introduction
5. Historical Changes in Hunting and Fishing
Patterns in the Copper River Basin, Alaska
6. Kodiak Island Area Local Fish and Game
Resource Guide
7. Recent news articles

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2. Letter from Bill Horn, U.S. Dept. of Interior, dated 9/23/85, re: ANILCA compliance.
3. Title VIII of ANILCA.
4. Draft of SC CSHB 288 (RES) dated 2/26/85 with drafting changes marked.
5. Draft of SC CSHB 288(RES) dated 3/4/85 incorporating the above draft's changes.

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SEND REQUEST ACCEPTED

Date: 03/11/86

Time: 12:34

Input device LJQB

Distribution Document Name: LAA FAIKSCAN0043

Document LADN: 1986031112342273LAA

----- ANALYSIS OF INPUT -----

KEYPAD INPUT:

1 #777 #222

From:

SENATOR FAIKS

777

LAA

FAIKSCAN

To:

ANCHORAGE LIO

222

LAA

LIOSCAN1

SEND REQUEST ACCEPTED

Date: 03/11/86

Time: 12:27

Input device LJQB

Distribution Document Name: LAA FAIKSCAN0042
Document LADN: 1986031112240826LAA

----- ANALYSIS OF INPUT -----

KEYPAD INPUT:

1 #777 #222

From:

SENATOR FAIKS

777

LAA

FAIKSCAN

To:

ANCHORAGE LIO

222

LAA

LIOSCAN1

Subsistence

```
*****
*
* DELIVER TO: LTUJ
*
* ORIGINAL
* SENT: 02/26/86 TIME: 13:47
* FROM: LIOGLN
* SUBJECT: PARTICIPANT LIST
* PRINT DATE: 02/26/86 TIME: 13:47
*
```

TO JUNEAO MODERATOR BILL:

SENATE REC TO
SUBSISTENCE #3 288

GLENNALLEN HAS TWO PARTICIPANTS, TO OBSERVE
TO OBSERVE:

1. KEN ROBERTSON NOFOG GLENNALLEN
2. AL ROHFURT COPPER CENTER

EDM

* DELIVER TO: LTCJ
*
* ORIGINAL
* SENT: 02/26/86 TIME: 13:57
* FROM: LIDD:G
* SUBJECT: S RESOURCES COMM TNC NOTICE
* PRINT DATE: 02/26/86 TIME: 13:30
*

TO: LTCJ

FROM: TWE IN SULLINGHAM

I WON'T BE DIALING INTO THE SENATE RESOURCES COMMITTEE TNC ON
SUBSISTENCE UNLESS SOMEONE SHOWS UP TO PARTICIPATE. NAKNEK,
NEWHALEN, TEGIAK, AND ST. PAUL WILL BE STANDING BY AT THEIR
OFFICES 'TILL UNTIL 2PM BUT WILL NOT DIAL IN UNTIL REQUESTED.
IF THIS IS A PROBLEM LET ME KNOW.....
EOM

```

*****
*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 02/27/86 TIME: 14:10
* FROM: LIOKOD
* SUBJECT: SAND POINT FINAL STATS
* PRINT DATE: 02/27/86 TIME: 14:10
*
*****

```

*** FINAL T/C STATS ***

```

DATE: _____ FEBRUARY 26, 1986 _____
SITE: _____ SAND POINT TELECONFERENCE CENTER _____
SPONSOR: _____ SENATE RESOURCES COMMITTEE _____
SUBJECT: _____ SUBSISTENCE - HB 288 _____
LOCAL MODERATOR: _____ SUSAN SPARGO _____

```

SAND POINT HAD NO PARTICIPANTS AND DID NOT DIAL INTO THE BRIDGE

UNALASKA TELECONFERENCE - FEBRUARY 26, 1986

DELIVERED TO: TOLNU

ORIGINAL
X SENT: 02/27/86 TIME: 14:58
X FROM: LICKED
X SUBJECT: UNALASKA FINAL STATS
X PRINT TYPE: 01/27/86 TIME: 09:02

*** FINAL T/C STATS ***

DATE: FEBRUARY 26, 1986
SITE: UNALASKA TELECONFERENCE CENTER
SPONSOR: SENATE RESOURCES COMMITTEE
SUBJECT: SUBSISTENCE - HR 288
LEGAL OPERATOR: CYNNA DUGGAN

UNALASKA HAS NO PARTICIPANTS AND DID NOT DIAL INTO THE BRIDGE

```

*
* DELIVER TO: JPOM
*
* ORIGINAL
* SENT: 02/27/86 TIME: 13:42
* FROM: TCFBX
* SUBJECT: 2/26 SEN RES HB 288, SUBSISTEN
* PRINT DATE: 02/27/86 TIME: 13:54
*
*****

```

FINAL T/C STATS

DATE: 2-26-86
SITE: EAIBBANKS MODERATOR ERANK ZARLING

SPONSOR: SENATE RESOURCES
SUBJECT: HB 288, SUBSISTENCE

NAME/REPRESENTING	ADDRESS	PHONE
TESTIFIED:		
1. BRUCE CAMPBELL	BX 82245, FBX 99708	479-3233
2. DAVE LACEY	BX 81705, FBX 99708	456-2871
3. THOMAS SCARBOROUGH	1676 TAROKA DR., FBX 99709	479-3412
4. MARY BISHOP	1555 GUS'S GRIND, FBX 99709	455-6151

OBSERVED

1. TOM ALTON	1426 4TH AVE., FBX 99701	456-7826
2. RON SILAS	201 1ST AVE., FBX 99701	452-8251
3. OSCAR FRANK JR.	201 1ST AVE., FBX 99701	452-8251
4. MITCH DEMIENTIEFF	1300 COLLEGE RD., FBX 99701	479-6211
5. GARY KNUEPFER	PO B. 75326, FBX 99707	NONE
6. MARK REGAN	BOX 309, FBX 99707	852-2311
7. BYRON HALEY	1002 PIONEER ROAD, FBX 99701	456-4426
8. BILL CALDWELL	AK LEGAL SERVICES	452-5181

TESTIFIED: 4 TIME START: 1:30 PM TIME END: 3:35 PM
OBSERVED: 8
TOTAL: 12

```

*****
* DELIVER TO: FEJNU *
* ORIGINAL *
* SENT: 02/27/86 TIME: 11:43 *
* FROM: TCMAT *
* SUBJECT: FNL STTS SWD 2/26 SUBSTNC S/RS *
* PRINT DATE: 02/27/86 TIME: 11:47 *
*****

```

*** FINAL T/C STATS***

```

DATE: 2/26/86
SITE: SEWARD
SPONSOR: S/RES
SUBJECT: SUBSISTENCE
LOCAL MODERATOR: VICKY

```

TESTIFIED:

NAME/REPRESENTING	ADDRESS	PHONE
-------------------	---------	-------

OBSERVED:

NAME/REPRESENTING	ADDRESS	PHONE
1. JAN VARDARSON	POB 689 SEWARD 99664	224-3140
2. JANE SUATHN	POB 815 SEWARD 99664	224-3350
3. PAULA SHAFRO	POB 944 SEWARD 99664	224-5640

```

TESTIFIED: 0
OBSERVED: 3
TOTAL: 3

```

```

TIME START: 1:30
TIME END:

```

*
* DELIVER TO: TENDU *
*
* ORIGINAL *
* SENT: 02/26/86 TIME: 16:12 *
* FROM: LIGSOL *
* SUBJECT: FINAL STATS *
* PRINT DATE: 02/26/86 TIME: 16:33 *
*

* * * FINAL STATS * * *

DATE: 2/26/86
SITE: HOMER
SPONSOR: SENATE RESOURCES
SUBJECT: HB 203 SUBSISTENCE

TESTIFIED:

1. MARTIN FREEDMAN BOX 337, HOMER, 99603 235-8085
2. LARRY SMITH BOX 337, HOMER, 99603

TOTAL TESTIFIED: 2

```

*****
*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 02/26/86 TIME: 14:50
* FROM: JUNE GALLEY
* SUBJECT: SUBSISTENCE T/C FINAL STATS
* PRINT DATE: 02/26/86 TIME: 16:53
*
*****

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*** FINAL T/C STATS ***

```

DATE: FEBRUARY 26, 1986_____
SITE: WRANGELL_____
SPONSOR: SENATE RESOURCES_____
SUBJECT: HB 000 SUBSISTENCE_____
LOCAL MODERATOR: MABEL FENNIXORE_____

```

TESTIFIED: 0

OBSERVED:

NAME/REPRESENTING	ADDRESS	PHONE
1. JIM GOVE, CITY OF WRANGELL, BOX 531, WRANGELL, AK. 99929 (974-2391)		
2. PENNY BRISKAR, NO ADDRESS, NO PHONE.		

```

TESTIFIED: 0
OBSERVED: 2
TOTAL: 2
TIME START: 1:30PM
TIME END: 3:30PM

```

```

*****
*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 02/26/86 TIME: 17:07
* FROM: JUNE GALLEY
* SUBJECT: T/C SUBSISTENCE
* PRINT DATE: 02/26/86 TIME: 17:07
*
*****

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*** FINAL T/C STATE ***

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DATE: FEBRUARY 26, 1986
SITE: KETCHIKAN
SPONSOR: SENATE RESOURCES
SUBJECT: HB 202 SUBSISTENCE
LOCAL MODERATOR: KETCHIKAN

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*****
TESTIFIED: 0
OBSERVED: 0
TESTIFIED: 0 TIME START:
OBSERVED: 0 TIME END:
TOTAL: 0
NOTE: KETCHIKAN WAS NOT ON LINE FOR THIS T/C

```

* DELIVERED TO: TCJNU *
* * * * *
* ORIGINAL *
* SENT: 02/26/86 TIME: 10:00 *
* FROM: ELAINE SUNDE *
* SUBJECT: 2/26 S-RES SUBSISTENCE *
* PRINT DATE: 02/26/86 TIME: 10:00 *
* * * * *

TO MODERATOR

FR ELAINE, SITKA

FINAL STATE 2/26 S-RESOURCES SUBSISTENCE

TESTIFYING IN SITKA:

1. ROSWELL L. SCHAEFFER, NANA AREA, BOX 273, KOTZEBUE, AK.
442-3229

OBSERVING IN SITKA:

- 1. OSCAR WALKER, BOX 57, KOTZEBUE
- 2. DOLLY GARZA, UNIV OF ALASKA COOP MARINE AGENT, BOX 2630, SITKA
747-3988
- 3. PAUL CLEMENTS, BOX 2273, SITKA 747-5702

WAINES: NO WITNESSES OR OBSERVERS

TOTALY 4 WITNESS 3 OBSERVERS.

*
* DELIVER TO: TEJNU *
* *
* ORIGINAL *
* SENT: 02/24/86 TIME: 15:03 *
* FROM: KAREN JOHNSON *
* SUBJECT: FINAL STATE TLO SUBSISTENCE *
* PRINT DATE: 02/24/86 TIME: 16:31 *
*

*****FINAL STATE*****

DATE: 2-26-86
SITE: KOTZEBUE
SPONSOR: SENATE RESOURCES
SUBJECT: HB200 SUBSISTENCE
LOCAL MODERATOR: KAREN JOHNSON

TO OBSERVE:

DUANE KUJALA, MANIILAQ ASS., BOX 256 KOTZEBUE AK. 99752, 442-3311
FRANK KENWORTHY, BOX 322 KOTZEBUE AK. 99752, 442-3497
MATY J. SCHEAFFER, MANIILAQ ASS., BOX 256 KOTZEBUE AK. 99752,
442-3311
WALTER SAMPSON, NANA, BOX 49 KOTZEBUE AK. 99752, 442-3301
JIMMY EVOK, BOX 149 KOTZEBUE AK. 99752, 442-3311
ALLEN W. MARQUETTE, BOX 661 KOTZEBUE AK. 99752, 442-3192
CHUCK GREENE, BOX 335 KOTZEBUE AK. 99752, 442-3611
SUZY ERLICH, BOX 565 KOTZEBUE AK. 99752, 442-5301

TO TESTIFY:

DWIGHT KRANER, SELF, BOX 1145 KOTZEBUE AK. 99752, 442-3521
PAUL HANSEN, MANIILAQ, BOX 256 KOTZEBUE AK. 99752, 442-3311
BERT GRIEST, NANA, BOX 49 KOTZEBUE AK. 99752, 442-3301

TOTAL OBSERVED: 8
TOTAL TESTIFIED: 3
TOTAL: 11

TIME START: 1:30
TIME END: 3:45
EOM

*
* DELIVER TO: TOUNU *
*
* ORIGINAL *
* SENT: 02/26/86 TIME: 15:56 *
* FROM: LICKOS *
* SUBJECT: KODIAK FINAL STATS *
* PRINT DATE: 02/26/86 TIME: 16:28 *
*

*** FINAL T/C STATS ***

DATE: _____ FEBRUARY 26, 1986 _____
SITE: _____ KODIAK L.I.O. _____
SPONSOR: _____ SENATE RESOURCES COMMITTEE _____
SUBJECT: _____ SUBSISTENCE - HB 209 _____
LOCAL MODERATOR: _____ LORNA STEELMAN _____

KODIAK HAD NO PARTICIPANTS AND DID NOT DIAL INTO THE BRIDGE

```

*****
*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 02/27/86 TIME: 10:25
* FROM: LIOBAR
* SUBJECT: FINAL STATS
* PRINT DATE: 02/27/86 TIME: 10:49
*
*****

```

*****FINAL STATS*****FINAL STATS*****FINAL STATS*****FINAL STATS*****

BARROW LIO
2/26/86
SENATE RESOURCES
HE 288: SUBSISTENCE

-----TESTIFY/OBSERVE

BARROW PARTICIPANTS:

1) MARIE ADAMS, BOX 629, BARROW	X	
2) JEAN AYERS, NORTH SLOPE BOROUGH, BOX 69, BARROW		X
3) TONY SUSOOK, ATQASUK	X	

TESTIFIED: 2 OBSERVED: 1 TOTAL: 3

```

*****
*
* DELIVER TO: TOLNU
*
* ORIGINAL
* SENT: 02/26/86 TIME: 13:50
* FROM: HARRY HANDBRIGAN
* SUBJECT: FINAL ST/13 T/O 02/26/86
* PRINT DATE: 02/26/86 TIME: 14:07
*
*****

```

*** FINAL T/O STATS ***

DATE: __FEBRUARY 26TH, 1986_____
 SITE: __ANCHORAGE, ALASKA_____
 SPONSOR: __SENATE RESOURCES_____
 SUBJECT: __SCPSNB-288(RES) SUBSISTENCE_____
 LOCAL MODERATOR: __HARRY TRACY HANDBRIGAN_____

 TESTIFY:

NAME/REPRESENTING	ADDRESS	PHONE
1. RUSS REDICK (ALASKA SPORTFISHING ASSN.)	3605 ARCTIC #600 ANCHORAGE 99503	344-5037
2. JEFF PARKER	1201 HYDER ANCHORAGE, ALASKA	274-5413

 OBSERVE:

NAME/REPRESENTING	ADDRESS	PHONE
1. LOU WALKER (NSP)	2525 GAMBLE ANCHORAGE, ALASKA	271-2685
2. DAVE MCCARTNEY/KENI RADIO		
3. GENTLEMAN THAT DIDN'T SIGN IN		

TESTIFIED: ___2_____
 OBSERVED: ___3_____
 TOTAL: ___5_____

TIME START: __1:40 PM_____
 TIME END: __2:57 PM____

```

*****
*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 02/26/86 TIME: 15:35
* FROM: TCMAT
* SUBJECT: 2/26 SURST TO FNL STTS
* PRINT DATE: 02/26/86 TIME: 16:04
*
*****

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*** FINAL T/C STATS***

```

DATE: 2/26/86
SITE M-S LIO
SPONSOR S/RES
SUBJECT HB 288 - SUBSISTENCE
LOCAL MODERATOR MARY

```

TESTIFIED:

	NAME/REPRESENTING	ADDRESS	PHONE
1.	EARNEST E LINE	SR BOX 5014 WASILLA	99687 376-6709
2.	JIM PAGE	SR 2091-F WASILLA	99687 376-7721

OBSERVED:

NAME/REPRESENTING	ADDRESS	PHONE

```

TESTIFIED: 2
OBSERVED: 0
TOTAL: 2

TIME START: 1:
TIME END:

```

*
* DELIVER TO: TCJNU *
*
* ORIGINAL *
* SENT: 02/26/86 TIME: 15:28 *
* FROM: LIOBET *
* SUBJECT: FINAL STATS *
* PRINT DATE: 02/26/86 TIME: 16:00 *
*

FINAL STATS

T/C: SENATE RESOURCES
SUBJECT: SUBSISTENCE
DATE: 2-26-86
TIME: 1:30P
SITE: BETHEL

IN BETHEL NO PARTICIPANTS

* DELIVER TO: TC:WJ *
* ORIGINAL *
* SENT: 02/26/86 TIME: 16:08 *
* FROM: LESOL *
* SUBJECT: FINAL STATS *
* PRINT DATE: 02/26/86 TIME: 16:32 *
*

* * * FINAL STATS * * *

DATE: 2/26/86
SITE: SOLDOTNA
SPONSOR: SENATE RESOURCES
SUBJECT: HB 288 SUBSISTENCE

NO PARTICIPANTS FOR THIS TELECONFERENCE.

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*****
*
* DELIVER TO: TOLNU
*
* ORIGINAL
* SENT: 02/27/86 TIME: 09:59
* FROM: LIOVAL
* SUBJECT: TC HB 288: SUBSISTENCE
* PRINT DATE: 02/27/86 TIME: 10:26
*
*****

```

*** FINAL T/C STATS ***

```

DATE: _____ FEB. 26, 1986 _____
SITE: _____ VALDEZ _____
SPONSOR: _____ SENATE RSOURCES _____
SUBJECT: _____ HB 288: SUBSISTENCE _____
LOCAL MODERATOR: _____ DONNA GRENIER _____

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*****
TESTIFIED: 0
NAME/REPRESENTING ADDRESS PHONE

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*****
OBSERVED: 0
NAME/REPRESENTING ADDRESS PHONE

```

```

*****
TESTIFIED: _____ 0 _____ TIME START: ___1:30 PM___
OBSERVED: _____ 0 _____ TIME END: _____?_____
TOTAL: _____ 0 _____
***NOT ON LINE***

```

*
* DELIVER TO: LTCJ *
*
* ORIGINAL *
* SENT: 02/26/86 TIME: 14:06 *
* FROM: LIDSET *
* SUBJECT: SELLO *
* PRINT DATE: 02/26/86 TIME: 14:06 *

BILL, THIS IS BETHEL HERE. I BELIEVE MY PARTICIPANTS AREN'T GOING TO SHOW. SHE DID ASSURE ME THAT SHE WOULD. SINCE THEY HAVENT MAY I PLEASE HAND UP?

```

*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 02/26/86 TIME: 15:57
* FROM: TCGLN
* SUBJECT: FINAL STATS-SUBSISTENCE
* PRINT DATE: 02/26/86 TIME: 16:29
*
*****

```

LEGISLATIVE TELECONFERENCE NETWORK
FINAL STATS

```

DATE: 02-26-86
SITE/MODERATOR: GLENNALLEN-REBA
SPONSOR: SEN. RES.
SUBJECT: HB 288 SUBSISTENCE

```

```

0 TESTIFIED TC BEGAN: 1:30
15 OBSERVED TC ENDED: 3:30
15 TOTAL MODERATOR AIIIM BILL

```

```

NAME-REPRESENTING ADDRESS-PHONE
*****

```

OBSERVED:

- 1. KEN ROBERSON ADFIS BOX 47 GLENNALLEN 99588 822-5520
- 2. AL ROTHFUSS BOX 4 COPPER CENTER 99573

COPPER CENTER - JEAN HUDDLESTON

- 3. CARLY KRITCHEN BOX 1255 CORDOVA
- 4. KEN KRITCHEN BOX 1255 CORDOVA
- 5. WILLY KEPPEL BOX 183 COPPER CENTER 99573
- 6. GUY BEEDLY BOX 2234 CORDOVA
- 7. BRUCE DEHMEN GEN. DEL. CORDOVA
- 8. CECILIA WEISE BOX 49 CORDOVA
- 9. MAX WEISE BOX 49 CORDOVA
- 10. BILL GILES 1800 PKWY ANCHORAGE
- 11. ED FLUETTE 7040 CRAWFORD ANCHORAGE
- 12. RAY VROVLE BOX 101 COPPER CENTER
- 13. LYLE KRITCHEN CORDOVA
- 14. TERRY FOSTER BOX 283 COPPER CENTER
- 15. JOEY VIRGIN GLENNALLEN

```

*****
*
* DELIVER TO: TOUNU
*
*
* ORIGINAL
* SENT:          02/08/86  TIME: 16:46
* FROM:          LIODJT
* SUBJECT:       2/26 FINAL STATE
* PRINT DATE:   02/08/86  TIME: 16:46
*
*****

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***** DELTA FINAL STATE *****

```

SPONSOR:  SENATE PERIODIC
SUBJECT:  SUBSISTENCE ISSUES
DATE:     FEBRUARY 26, 1986
SITE:     DELTA
LOCAL MODERATOR:  LIZ SARVER
          NONE

```

DOT LAKE:

TESTIFIED:
 1. WILLIAM MILLER, P.O. BOX 262, DOT LAKE, AK 99737

OBSERVED:
 NONE

DELTA	TESTIFIED:	0
	OBSERVED:	0
	TOTAL:	0

DOT LAKE VTS:	TESTIFIED -	1
	OBSERVED -	0
	TOTAL -	1

Subsistence

```

*****
*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 03/12/86 TIME: 15:49
* FROM: HARRY MANDREGAN
* SUBJECT: FINAL STATS T/C 03/12/86
* PRINT DATE: 03/12/86 TIME: 15:51
*
*****

```

*** FINAL T/C STATS ***

```

DATE: __MARCH 12TH, 1986_____
SITE: __ANCHORAGE, ALASKA_____
SPONSOR: __SENATE RESOURCES_____
SUBJECT: __HB 288 - SUBSISTENCE_____
LOCAL MODERATOR: __HARRY TRACY MANDREGAN_____

```

```

TESTIFY:
NAME/REPRESENTING ADDRESS PHONE

```

```

OBSERVE: NAME/REPRESENTING ADDRESS PHONE

```

```

TESTIFIED: ___0___ TIME START: ___1:14 PM___
OBSERVED: ___0___ TIME END: _____
TOTAL: ___0___

```

*
* DELIVER TO: TCJNU *
*
* ORIGINAL *
* SENT: 03/12/86 TIME: 15:01 *
* FROM: ELAINE SUNDE *
* SUBJECT: FINAL STATS *
* PRINT DATE: 03/12/86 TIME: 15:02 *
*

TO JUNEAU T.C.
FR ELAINE, SITKA

FINAL STATS 3/12 S-RESOURCES

***SITKA - NO PARTICIPANTS

***HAINES - NO PARTICIPANTS.

```

*****
*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 03/12/86 TIME: 15:00
* FROM: JUNE GALLEY
* SUBJECT: T/C FINAL WRG--HB 288
* PRINT DATE: 03/12/86 TIME: 15:01
*
*****

```

*** FINAL T/C STATS ***

DATE: MARCH 12, 1986_____

SITE: WRANGELL_____

SPONSOR: SENATE RESOURCES_____

SUBJECT: HB 288 SUBSISTENCE_____

LOCAL MODERATOR: MABEL FENNIMORE_____

```

*****
TESTIFIED: 0
*****
OBSERVED:
NAME/REPRESENTING ADDRESS PHONE
1. RANDY TIMOTHY, BOX 200, WRANGELL, AK. 99929 (874-3853)
*****

```

TESTIFIED: ___0___ TIME START: ___NOON___

OBSERVED: ___1___ TIME END: ___1:00PM___

TOTAL: ___1___

```

*****
*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 03/12/86 TIME: 14:56
* FROM: JUNE GALLEY
* SUBJECT: T/C FINAL---KTN HB 288
* PRINT DATE: 03/12/86 TIME: 14:56
*
*****

```

*** FINAL T/C STATS ***

```

DATE: KETCHIKAN_____
SITE: MARCH 12, 1986_____
SPONSOR: SENATE RESOURCES_____
SUBJECT: HB 288---SUBSISTENCE_____
LOCAL MODERATOR: BONNIE POTTER_____

```

```

*****
TESTIFIED: 0
*****
OBSERVED:
NAME/REPRESENTING ADDRESS PHONE
1. KAY ANDREW/SUNNY COVE HOME AND LAND OWNERS, PO BOX 7211,
KETCHIKAN, AK. 99901. (225-2463)
*****

```

```

TESTIFIED: ____0____
OBSERVED: ____1____
TOTAL: ____1____

```

```

TIME START: ____NOON____
TIME END: ____1:00PM____

```

*
* DELIVER TO: TCJNU *
*
* ORIGINAL *
* SENT: 03/12/86 TIME: 14:45 *
* FROM: LIOSOL *
* SUBJECT: FINAL STATS *
* PRINT DATE: 03/12/86 TIME: 14:46 *
*

* * * FINAL STATS * * *

DATE: 3/12/86
SITE: SOLDOTNA
SFO'SOR: SENATE RESOURCE
SUBJECT: HB288 SUBSISTENCE

OBSERVED:
1. CHERYL SUTTON BOX 546, SOLDOTNA, 99669 262-2492

TOTAL OBSERVED: 1

```

*****
*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 03/12/86 TIME: 14:43
* FROM: LIOBAR
* SUBJECT: FINAL STATS
* PRINT DATE: 03/12/86 TIME: 14:44
*
*****

```

*****FINAL STATS*****FINAL STATS*****FINAL STATS*****FINAL STATS*****

BARROW LIO
3/12/86
SENATE RESOURCES
HB 288 - SUBSISTENCE

-----TESTIFY/OBSERVE

BARROW PARTICIPANTS:

- | | |
|---|---|
| 1) BEN NAGEAK, NORTH SLOPE BOROUGH, BOX 69, BARROW | X |
| 2) ELAINE MELLO, SAME AS ABOVE | X |
| 3) MERRILL LOWDEN, SAME AS ABOVE | X |
| 4) MARK REGAN, ALASKA LEGAL SERVICES, BARROW | X |
| 5) JOHN TRENT, DEPT. OF FISH AND GAME, STATE OF AK. | X |

TESTIFIED: 0 OBSERVED: 5 TOTAL: 5

*
* DELIVER TO: TCJNU *
*
* ORIGINAL *
* SENT: 03/12/86 TIME: 14:24 *
* FROM: TCGLN *
* SUBJECT: FINAL STATS - SUB. *
* PRINT DATE: 03/12/86 TIME: 14:24 *
*

LEGISLATIVE TELECONFERENCE NETWORK

E_I_N_A_L____S_I_A_I_S

DATE: 03-12-86
SITE: MODERATOR: GLENNALLEN-REBA
SPONSOR: SEN RES
SUBJECT: SUBSISTENCE

0 TESTIFIED TC BEGAN: 1:20
1 OBSERVED TC ENDED: 2:00
1 TOTAL MODERATOR AIIN LYNN

NAME-REPRESENTING ADDRESS-PHONE

OBSERVED:
1. KEN ROBERSON ADF&G GLENNALLEN 99588 822-5520

*
* DELIVER TO: TCJNU
*
*
* ORIGINAL
* SENT: 03/12/86 TIME: 14:11
* FROM: LIOBET
* SUBJECT: FINAL STATS
* PRINT DATE: 03/12/86 TIME: 14:11
*

*
*
*
*
*
*
*
*
*
*

FINAL STATS

T/C: SEN.RESOURCES
SUBJECT: SUBSTANCE HB 288
DATE: 3-12-86
SITE: BETHEL

IN BETHEL NO PARTICIPANTS

.....
* * * * *
* DELIVER TO: TCJNU *
* * * * *
* ORIGINAL *
* SENT: 03/12/86 TIME: 14:09 *
* FROM: LIODLG *
* SUBJECT: FINAL STATS 3\12\86 HB 288 *
* PRINT DATE: 03/12/86 TIME: 14:09 *
* * * * *

DATE: MARCH 12, 1986 - WEDNESDAY
SITE: DILLINGHAM, ANNA MAY
SPONSOR\SUBJECT: SENATE RESOURCES: HB 288: SUBSISTENCE

-0- TESTIFIED T\C STARTED 1:15 P.M.(DIALED IN AT 12:15 P.M.)
-1- OBSERVED T\C ENDED 1:55 P.M.
-1- TOTAL

NAME\REPRESENTING ADDRESS\PHONE

OBSERVE
1. THOMAS TILDEN, P.O.BOX 3050, DILLINGHAM, AK.99576 842-5201

---LISTEN ONLY---

EOM

*
* DELIVER TO: TCJNU *
*
* ORIGINAL *
* SENT: 03/12/86 TIME: 14:05 *
* FROM: KAREN JOHNSON *
* SUBJECT: FINAL STATS 3-12-86 HB 288 *
* PRINT DATE: 03/12/86 TIME: 14:05 *
*

*****FINAL STATS*****

DATE: 3-12-86
SITE: KOTZEBUE
SPONSOR: SENATE RESOURCES
SUBJECT: HB 288; SUBSISTENCE
MODERATOR: KAREN JOHNSON

TO OBSERVE:

PETE SCHAEFFER, KOTZ ADV. COMM., BOX 6, KOTZEBUE AK. 99752,
442-3305

BERT GRIEST, NANA, BOX 49, KOTZEBUE AK. 99752, 442-3301

WALTER SAMPSON, NANA, BOX 620, KOTZEBUE AK. 99752, 442-3605

VICTOR KARMUN, FISH AND GAME BOARDS, BOX 16, KOTZEBUE AK. 99752,
442-3570

OBSERVED: 4
TESTIFIED: 0
TOTAL: 4
TIME START: 12:00 NOON
TIME END: 2:00 P.M.

 * DELIVER TO: TCJNU *
 * ORIGINAL *
 * SENT: 03/12/86 TIME: 15:34 *
 * FROM: TCFBX *
 * SUBJECT: 3/12 SEN RES SUBSISTENCE *
 * PRINT DATE: 03/12/86 TIME: 15:34 *

FINAL T/C STATS

DATE: 3/12/86_____
 SITE: FAIRBANKS_____MODERATOR PAULA GRAY_____

SPONSOR: _____SENATE RESOURCES COMMITTEE_____

SUBJECT: _____HB 288, SUBSISTENCE _____LISTEN ONLY

NAME/REPRESENTING ADDRESS PHONE
 TESTIFIED:

OBSERVED

- 1. RON SILAS 201 1ST AVE, FBX 99701 452-8251
- 2. OSCAR FRANK 320 2ND AVE., FBX 99701 452-8251

TESTIFIED: _____ TIME START: 1:00_P TIME END: 2:00_PM

OBSERVED: ___2_____
 TOTAL: ___2_____

*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 03/12/86 TIME: 15:33
* FROM: LIKOD
* SUBJECT: KODIAK FINAL STATS
* PRINT DATE: 03/12/86 TIME: 15:33
*

*** FINAL T/C STATS ***

DATE: ___MARCH 12, 1986_____
SITE: ___KODIAK L.I.O._____
SPONSOR: ___SENATE RESOURCES COMMITTEE_____
SUBJECT: ___HB 288 - SUBSISTENCE_____
LOCAL MODERATOR: ___LORNA STEELMAN_____

KODIAK HAD NO PARTICIPANTS AND DID NOT DIAL INTO THE BRIDGE

* * * * *
* DELIVER TO: TCJNU *
* * * * *
* ORIGINAL *
* SENT: 03/13/86 TIME: 08:40 *
* FROM: LIODJT *
* SUBJECT: 3/12 SUBSISTENCE FINAL STATS *
* PRINT DATE: 03/13/86 TIME: 08:41 *
* * * * *

***** DELTA FINAL TC STATS *****

DATE: MARCH 12, 1986

SPONSOR: SENATE RESOURCES

SUBJECT: HB 288 - SUBSISTENCE

SITE: DELTA

LOCAL MODERATOR: LINDA HARRIS

TESTIFIED:
NONE

OBSERVED:
NONE

TESTIFIED: 0
OBSERVED: 0
TOTAL: 0

```

*****
*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 03/13/86 TIME: 10:58
* FROM: TCMAT
* SUBJECT: SUBSISTENCE T-C
* PRINT DATE: 03/13/86 TIME: 10:58
*
*****

```

*** FINAL T/C STATS***

```

DATE: 3-12-86
SITE: CORDOVA
SPONSOR: SEN. RESOURCES
SUBJECT: SUBSISTENCE HB288
LOCAL MODERATOR: BARKLEY KOPCHAK-JONES

```

TESTIFIED:

NAME/REPRESENTING	ADDRESS	PHONE
-------------------	---------	-------

OBSERVED:

NAME/REPRESENTING	ADDRESS	PHONE
-------------------	---------	-------

1. JERRY MCCUNE P.O. BOX 372 CORDOVA AK 99574 424-7488
2. TABOR ASHMENT P.O. BOX 989 CORDOVA AK 99574 424-7327

TESTIFIED: 0	TIME START: 12:00
OBSERVED: 2	TIME END: 1:00
TOTAL: 2	

*
* DELIVER TO: JFOM *
* *
* *
* ORIGINAL *
* SENT: 03/12/86 TIME: 16:06 *
* FROM: LIOSOL *
* SUBJECT: FOM *
* PRINT DATE: 03/12/86 TIME: 16:06 *
* *

* * * FINAL STATS * * *

DATE: 3/12/86
SITE: HOMER
SPONSOR: SENATE RESOURCE
SUBJECT: HB288 SUBSISTENCE

OBSERVED:
1.LARRY SMITH BOX 15337,FCB HOMER,AK 99604 235-8085

TOTAL OBSERVED: 1

Subsistence

```
*****
*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 03/05/86 TIME: 15:51
* FROM: TCFBX
* SUBJECT: 3\5 - SUBSISTENCE T/C
* PRINT DATE: 03/05/86 TIME: 15:51
*
*****
```

***** FINAL T/C STATS *****

DATE: 3/5/86
SITE: FAIRBANKS, ALASKA MODERATOR: MAXINE WALTON

SPONSOR: SENATE RESOURCES
SUBJECT: SUBSISTENCE

NAME/REPRESENTING TESTIFIED:	ADDRESS	PHONE
OBSERVED		
1. DICK BISHOP	1300 COLLEGE RD, FBKS, 99701	456-5156
2. ROB SILAS	201 1ST AVE, FBKS, 99701	452-8251
3. OSCAR FRANK	320 2ND AVE, FBKS, 99701	452-8251
4. STAN RYBALICK	BOX 5798, N.P. 99705	488-6453
5. HERB MELCHIOR	2721 HORSETAIL TR, FBKS, 99709	455-6615
6. BRIDGET QUIGLEY	BOX 0, NORTH POLE, 99705	488-2216
7. BRUCE GERACHTY	303 DROZ DR, FBKS, 99701	456-7209
8. JULIE ARESTAD	BOX 0, NORTH POLE, 99705	488-2219
9. TOM ALTON	201 1ST, FBKS, 99701	452-8251
10. STEVE RENZ	400 B ST, FBKS, 99701	452-3786
11. BYRON HALEY	1002 PIONEER RD, FBKS, 99701	456-4426
12. JOE VOGLER BOX 40, FBKS, 99707	479-2344	
13. DORIS VOGLER BOX 40, FBKS, 99707	479-2344	

TESTIFIED: 0 TIME START: 1:30 P.M. TIME END: 3:30 P.M.

*****EOM*****

```
*****
#
# DELIVER TO: TOLNU
#
# ORIGINAL
# SENT: 02/05/96 TIME: 15:45
# FROM: 10001
# SUBJECT: FINAL STATE
# PRINT DATE: 02/05/96 TIME 15:45
#
*****
```

*** FINAL STATE ***

DATE: 3/5/96
SITE: SLDOTNA
SPONSOR: GEN. RESOURCES
SUBJECT: MR. ORR SUBSISTENCE

NO PARTICIPANTS FOR THIS TELECONFERENCE.

*
* DELIVER TO: TOJNU
*
*
* ORIGINAL
* SENT: 03/05/86 TIME: 15:49
* FROM: LIOBOL
* SUBJECT: FINAL STATE
* PRINT DATE: 03/05/86 TIME: 15:49
*

* * * FINAL STATE * * *

FILE: 1111
SITE: 1111
SPONSOR: GEN. RESOURCES
SUBJECT: NO 000 EXISTENCE

OBSERVED:
CLARRY SMITH GEN. RESOURCES

```

*****
*
* TO: SUBJECT TO: TO:MM:
*
* ORIGINAL
* SENT: 03/05/86 TIME: 15:44
* FROM: KAREN JOHNSON
* SUBJECT: FINAL STATS, 3-5 SUBSISTENCE
* PRINT DATE: 03/05/86 TIME: 15:44
*
*****

```

*****FINAL STATS*****

```

DATE: 3-5-86
SITE: KOTZEBUE
SPONSOR: SENATE RESOURCES
SUBJECT: 48026 SUBSISTENCE
OPERATOR: KAREN JOHNSON, RESERVE MODERATOR

```

TO RECEIVE:

```

PETE SCHAEFFER, NANA MUELLER, BOX 6 KOTZEBUE AK. 99752, 442-3793
GRANT HILDRETH, KANITLAG, BOX 799 KOTZEBUE AK. 99752, 442-3311
SUANE KULALA, KANITLAG, BOX 256, KOTZEBUE AK. 99752, 442-3311
WALLYE BOOTHEN, KIC, BOX 279, KOTZEBUE AK. 99752, 442-3165
PAUL HANSEN, KANITLAG, BOX 256, KOTZEBUE AK. 99752, 442-3311

```

```

TESTIFIED: 0
OBSERVED: 5
TOTAL: 5
START: 1:30 P.M.
TIME END: 3:30 P.M.

```

TO: JIM FINAL STATE

FROM: INEZ IN BELLICUM

***** FINAL STATE

DATE: MARCH 5, 1964

TIME: 15:43

TIME: 15:44

SENATE RECORDS COMMITTEE

PUBLIC HEARING ON

NO. 200. SUBSISTENCE

LOCAL REPRESENTATIVE: JIM FINAL STATE

* BELIEVED TO BE *

DATE: 03/01/86 TIME: 10:17
TOOL:
FINAL STATE - SUSPENSE
START DATE: 03/01/86 TIME: 10:17

LEGISLATIVE TELECONFERENCE NETWORK

CONFERENCE

DATE: 03-05-86
DATE MODERATED: SLENNALLEN-ROSA
REASON: SEN. RES.
SUBJECT: SUSPENSE

TE BEGAN 1:30
TE ENDED 1:35
MODERATED BY: BILL

NAME - REPRESENTATIVE ADDRESS - PHONE

- 1. ALIENA HUGHES BOX 2 SAKONA 77824 822-3896
- 2. NER ROBERSON ADP-5 SLENNALLEN 89500 822-5520

- MENTASTA - DUNCAN MADOLEAN
- 3. ERIC MADOLEAN SAKONA 89504
 - 4. DUYEN LINSCHMECKER WANA 89506
 - 5. BILL STAFF MO. PO BOX 20000, SAKONA 89504

- SAKONA - ALAN LEMASTER
- 6. VALT FREONT SAKONA 89504
 - 7. DIXIE BROWN SAKONA 89504
 - 8. SANDY LAPP SAKONA 89504
 - 9. BOB COOPER SLENNALLEN 89504

- COPPER CENTER - JEAN HUBLEFTON
- 10. C. BRADY ANTON COOP. COPPER CENTER 89577
 - 11. J. BROWN COPPER CENTER 89577
 - 12. W. SCHNEIDER COPPER CENTER 89577
 - 13. BERTHA SCHNEIDER COPPER CENTER 89577

*
* DELIVERED TO: TELMU *
*
* ORIGINAL *
* SENT: 03/05/04 TIME 16:07 *
* FROM: ELAINE JENSE *
* SUBJECT: FINAL STATE SUBSISTENCE *
* PRINT DATE: 03/05/04 TIME: 16:08 *
*

TO JUNEAN TLO
FR ELAINE JENSE

FINAL STATE SUBSISTENCE

OBSERVING IN SITKA:

1. DEAN VALER, BCM, ET, KITZIELE, ALASKA 812-2015 (PRESENTLY ENROLLED AS SHELDON JACKSON COLLEGE STUDENT).

2. GILL CARL A. MARINE ADVISORY PROGRAM, BOX 2630, SITKA, AK, 947-4788

-----TOTAL: 2 OBSERVING

```

*
* DELIVER TO: TELNO
*
* ORIGINAL
* SENT: 02/05/06 TIME: 16:33
* FROM: TOMAT
* SUBJECT: SEN RESOURCES - SUBSIST
* PRINT DATE: 02/05/06 TIME: 16:33
*
*****

```

*** FINAL T/O STATE ***

```

DATE: 2/26/06
SITE: CORONA
PURPOSE: SENATE RESOURCES
PROJECT: SEN - SUBSISTENCE
LOCAL OPERATOR: BARCLAY JONES-KOPCHAK

```

NAME REPRESENTING	ADDRESS	PHONE
1. TOM MAGOLINE P O BOX 100 CORONA NY 11374		424-7409
2. LINDA WELLS P O BOX 100 CORONA NY 11374		424-7409

```

REGISTERED: 0
CORRECTED: 0
TOTAL: 0
TIME START:
TIME END:

```


DATE: MARCH 27, 1984
TIME: 09:13
MODERATOR: HARRY MANDREGAN
PHONE: 377-2654
ADDRESS: 1400 N. 14TH AVE. ANCHORAGE, ALASKA 99501

*** LOCAL T/O STATE ***

DATE: MARCH 27, 1984
SITE: ANCHORAGE, ALASKA
SPONSOR: SENATE RESOURCES COMMITTEE
SUBJECT: BROWNIE BOO (RES) SUSPENSION
LOCAL MODERATOR: HARRY TRACY MANDREGAN

TESTIFY:

NAME/REPRESENTING	ADDRESS	PHONE
WANTED TO TESTIFY BUT HAS LISTEN ONLY		
1. JOE DURKEN BOX 440752	99514	337-1593
2. STAN SMITH 1411 EAST 4TH ANCHORAGE	99501	338-1974

OBSERVE:

NAME/REPRESENTING	ADDRESS	PHONE
1. PHOENIX BARNUM 4201 WEST 14TH AVE. ANCH.	99501	277-2075
2. LYNN ROBERTS WENDY WENDEL FOREST PARK DR.	99502	278-3035
3. RACHEL A.L. TRETON 332 N. FLOWER ST.	99508	
4. ALAN P. MEMBERSHIP 4000 HERITAGE DR.	99516	745-0546
5. BILL WELCH DEPT JANZELL		274-2654
6. STEVEN KAYAKUK 209 SARGENT ST.	99503	(M) 274-2512
7. PATTI HARPER P.O. BOX 100880 ANCH.	99501	277-1307
8. JANIE LEASH (AFN) 344 N. 14TH AVE.	99501	274-7411
9. JEFF PARKER 1202 HYDER ANCHORAGE	99504	374-5410
10. DAN STROMM 4714 14007 N. BIRD ANCH.	99510	
11. THOSE OTHER WHO DON'T COME BY		

RECEIVED: _____
TOTAL: _____

TIME START: 4:28 PM
TIME END: 11:30 PM

 W000 2 ----- ONE DAY
 W000 1 ----- TWO DAY

 (LINE END: 10000 MY NUMBER 1000 WAS ON 1000 IS 1000 NO)

ERRORS
 000000
 000000
 000000

 LOCAL NUMBER 10000
 000000
 000000
 000000
 000000
 000000
 000000
 000000

*** SINGLE DAY TYPES ***

 *
 * 02-00 1000 90/90/00 1000 1000
 * 00-00 1000 90/90/00 1000 1000
 * 00-00 1000 90/90/00 1000 1000
 *
 *
 *
 *
 *
 *
 *

RECEIVED BY TO DATE

DATE	03/08/04	TIME	5:00	
BY	LEEDAR			
REASON	FINAL STATE			
REPORT DATE	03/08/04	TIME	1:00	

*****FINAL STATE*****FINAL STATE*****FINAL STATE*****

BARROW
 TIME
 PRIVATE RESIDENT
 NO. 000

TESTIFY/OBSERVE

BARROW PARTICIPANTS

BY MARK REGAN, ALASKA LEGAL SERVICES, BARROW	X
BY BEN NAFDAN, NORTH SLOPE BOROUGH, BARROW	X
BY MARCEL LONDER, NORTH SLOPE BOROUGH	X

TESTIFIED	3	OBSERVED	3	TOTAL	3
-----------	---	----------	---	-------	---

***** LINE NO 101 *****
ONE ENCL
LEVEL ENCL

***** LINE NO 102 *****

***** LINE NO 103 *****

***** LINE NO 104 *****

***** LINE NO 105 *****

***** LINE NO 106 *****

***** LINE NO 107 *****

***** LINE NO 108 *****

***** LINE NO 109 *****

ALASKA DEPARTMENT OF FISH AND GAME
SUBSISTENCE HUNTING PERMIT (TIER II) APPLICATION AND CERTIFICATION
[A SEPARATE FORM MUST BE FILLED OUT FOR EACH SUBSISTENCE HUNT]

1. NAME: _____
 First Middle Initial Last

2. MAILING ADDRESS: _____
 P.O. Box/Street

 City/Town State Zip

3. ADDRESS WHERE YOU LIVE (Primary Residence/Domicile*)

 Street or Property Description

 City/Town or Closest Community

(* See 5 AAC 92.990)

4. LIST THE HUNT NUMBER FROM THE EMERGENCY SUBSISTENCE PERMIT (TIER II) HUNT SUPPLEMENT FOR THE HUNT YOU WISH TO APPLY FOR: [LIST ONLY ONE] HUNT NUMBER: _____

OR

5. IF YOU ARE UNABLE TO PROVIDE THE HUNT NUMBER, PLEASE LIST THE TYPE OF ANIMAL YOU WISH TO HUNT (caribou, moose, etc.) AND THE GAME MANAGEMENT UNIT, SUBUNIT, AND AREA DESCRIBED IN THE CURRENT GAME REGULATIONS:

<u>Animal</u>	<u>Game Management Unit, Subunit, and Area</u>
_____	_____

6. WHICH OF THE FOLLOWING DESCRIBES WHERE YOUR PRIMARY RESIDENCE/ DOMICILE IS LOCATED (see instructions)? [CHECK ONLY ONE]

a. I live within the hunt area.	_____
b. I live within the same game management unit(s) as the hunt for which I am applying, but do not live within the hunt area.	_____
c. I live in a game management unit immediately adjacent to the game management unit in which the hunt is held.	_____
d. I live in an area not described in a, b, or c.	_____

7. You may be given one point for each year you legally killed an animal(s) in this hunt (same species of animal in the same area as the hunt you are now applying for). A maximum of 10 points may be claimed.

PLEASE LIST THE YEARS IN WHICH YOU LEGALLY KILLED AN ANIMAL(S) IN THIS HUNT.

19__ 19__ 19__ 19__ 19__ 19__ 19__ 19__ 19__ 19__

8. HOW DIRECTLY DEPENDENT ARE YOU ON HUNTING THIS GAME POPULATION AS A PRINCIPAL MEANS OF SUPPORT FOR YOURSELF , AND/OR YOUR FAMILY? (Principal means of support means that harvesting this animal is important because the harvest of wild resources is the primary way you feed yourself and/or your family.) [CHECK ONLY ONE]

a. Greatly dependent _____
 b. Moderately dependent _____
 c. Slightly dependent _____
 d. Not dependent _____

9. IN YOUR USUAL HUNTING AREA, HOW AVAILABLE ARE OTHER KINDS OF BIG GAME AND/OR FISH WHICH ARE REASONABLE SUBSTITUTES FOR THE ANIMAL LISTED IN THIS APPLICATION?

a. Not available _____
 b. Slightly available _____
 c. Moderately available _____
 d. Greatly available _____

10. IS YOUR HOUSEHOLD'S INCOME LARGE ENOUGH TO PURCHASE FOOD AND OTHER ITEMS AS REASONABLE ALTERNATIVES TO TAKING WILD FISH AND GAME? [CHECK ONLY ONE]

YES _____
 NO _____

(Please keep in mind your assets, debts, family or household size, and other obligations. "Reasonable alternatives" are things which can be used instead of wild fish and game.)

11. I AM AT LEAST TWELVE (12) YEARS OLD AND QUALIFY FOR A RESIDENT ALASKA HUNTING LICENSE.

YES _____
 NO _____

No more than two individuals from a single household may apply for a caribou subsistence permit. For all other species, no more than one individual from a single household may apply for a permit.

12. WHICH ONE OF THE FOLLOWING STATEMENTS APPLIES TO THIS APPLICATION? [CHECK ONLY ONE]

a. This application is for caribou hunting. No more than two members of my household are applying for a permit for caribou. _____
 b. This application is not for caribou hunting. I am the only member of my household applying for a permit for this species. _____

13. I have enclosed payment for the \$5.00 (bison and muskox \$10) application fee.

YES _____
 NO _____

WARNING: Making false statements on this application is a class A misdemeanor, punishable by a fine of not more than \$5,000 and/or imprisonment of not more than one year.

CERTIFICATION

I, _____, do hereby certify that all of the information contained in this application is complete, true, and correct to the best of my knowledge. I further acknowledge that I am responsible for the truthfulness of the information.

SIGNED: _____

DATE: _____

 Telephone Number

 Social Security Number

4/11/85

OPTION A

- 1) Subsistence use is the preferred use, subject to conditions below.
- 2) Neither sport, personal use, nor commercial use is assigned a priority over the other.
- 3) Boards set resident sport hunts and fisheries throughout state by stock and by area or sub area. Boards set regulations for seasons, bag limits and gear types.
- 4) If the Boards judge that local residents have subsistence needs, based on ANILCA criteria of:
 - a) customary and direct dependence upon the (specific fish and wildlife) populations as the mainstay of livelihood,
 - b) local residency, and
 - c) availability (lack) of alternative resources,

And that these specified needs can not be met by a particular sport or personal use hunt or fishery;

The boards shall establish a special subsistence hunt or fishery for that particular stock, if that can be done in accordance with principles of maximum sustained yield.

Call
Clive

586-2964

8-20 2.40

OVERVIEW

Game Board Meeting
June 1985

I. Eluska: The Game Board must adopt separate subsistence hunting regulations consistent with Madison, or the "subsistence defense" can be used and many regulations will be unenforceable.

II. Madison: A. Unless sustained yield will be jeopardized, subsistence hunting must be authorized on any game population that has been hunted in the past and used for food, shelter, fuel, clothing, tools, transportation, customary trade, barter, or sharing; subsistence hunting means hunting by any Alaskan for these purposes.

B. If subsistence hunting of a game population must be restricted (significantly impaired) to protect the resource, then non-subsistence uses (non-state resident hunting) must be eliminated first.

C. If subsistence hunting on a game population must still be restricted (significantly impaired), then the board must use the three criteria listed in AS 16.05.255(b) to determine how hunting opportunities are to be distributed among Alaskans:

(1) customary and direct dependence upon the resource as the mainstay of one's livelihood;

(2) local residency; and

(3) availability of alternative resources.

★ III.

Therefore, in order to have enforceable regulations, for each game population which has been hunted for food, etc., by Alaskans, the board should:

A. Adopt separate subsistence regulations.

B. Examine the current regulations to see if they prohibit any Alaskan from subsistence hunting, fail to provide the same legal subsistence hunting opportunity to all Alaskans, or otherwise significantly impair subsistence uses.

C. If so, eliminate non-state residents, and see if it is still necessary to significantly impair subsistence uses, to protect the resource.

D. If so, apply tier 2 standards.

RURAL ALASKA RESOURCES ASSOCIATION
P.O. Box 200908
Anchorage, Alaska 99520

Kie-
Iran 12
copies of this
C.

RESOLUTION 86-1

ENTITLED: IN SUPPORT OF THE ORIGINAL GOVERNOR'S BILL
ON SUBSISTENCE.

WHEREAS, ^{twelve}~~ten~~ non-profit and governmental agencies are
members of the Rural Alaska Resources Association;
and

WHEREAS, the Rural Alaska Resources Association is an
organization whose primary purpose is to help
rural areas in need; and

WHEREAS, the Alaska State Senate is considering legislation
to amend the State Subsistence Law; and

WHEREAS, this Subsistence bill, if ratified, would have a
great impact on the way of life in rural areas; and

WHEREAS, rural areas live a majority of their lives through
subsistence; and

WHEREAS, the original Governor's Bill on Subsistence with the
words "rural" and "personal use" included in the
language is compatible with the Rural Alaska
Resources Association;

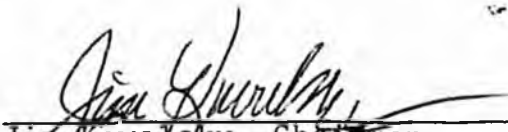
NOW, THEREFORE, BE IT RESOLVED

that the Rural Alaska Resources Association supports
the original Governor's Bill with the language
"rural" and "personal use" included; and

BE IT FURTHER RESOLVED

that any legislation adopted be consistent with
legislation introduced by Governor Sheffield to the
first session of the 14th Legislature.

ADOPTED in Juneau, Alaska on February 27, 1986 by
members of the Rural Alaska Resources Association.



Jim Kowalsky, Chairman
RURAL ALASKA RESOURCES ASSOCIATION

February 27, 1986

Date

ALASKA JOINT BOARD OF FISHERIES AND GAME
RESOLUTION #85-14-JB

WHEREAS, the Alaska Board of Fisheries and Alaska Board of Game have been delegated responsibility and authority by the Alaska Legislature to regulate the taking of fish stocks and game populations for the maximum benefit of all of the people of Alaska; and

WHEREAS, prior to the decision of the Alaska Supreme Court in Madison v. Alaska Department of Fish and Game the boards developed procedures which provided adequate regulatory flexibility, both to protect opportunities for subsistence hunting and fishing in rural communities and areas, and to provide hunting and fishing opportunities for recreational, commercial, and other uses; and

WHEREAS, it is unclear to what extent the boards may restrict subsistence harvest after the Madison ruling and as a result, substantial and significantly disruptive reallocations of opportunities to harvest fish stocks and game populations may be necessary. For example:

1. The commercial gill net fishery which is an important component of the Prince William Sound economy may need to be significantly restricted in 1985 or, eventually, even closed. Prior to the Madison decision the Board of Fisheries had adequate regulatory flexibility to accommodate both the historic commercial fishery and other users.
2. Sport fishing for king and other species of salmon on the Kenai and Naknek rivers and in the Susitna drainage may need to be significantly restricted in 1985 or, eventually, even closed. Prior to the Madison decision the Board of Fisheries had adequate regulatory flexibility to prevent that result.
3. Non-subsistence hunting, including commercial guiding activities may be significantly restricted and, in many cases, eliminated. Prior to the Madison decision the Board of Game had adequate regulatory flexibility to accommodate these users reasonably.

WHEREAS, prior to the Madison decision the State of Alaska was in compliance with Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). As a result of the Madison decision the federal government may now take control over game populations on public lands and fish stocks on public lands and within navigable waters; and

WHEREAS, if the State of Alaska is no longer in compliance with ANILCA, the state will lose the ongoing million dollar per year federal appropriation for the state's public participation system which is essential to the success of the state's regulatory and management activities; and

WHEREAS, the Alaska Board of Fisheries and Board of Game strongly believe that the potential restrictions, closures, reallocations and loss of funding described above are not in the best interest of the fish and wildlife resources and the people of Alaska;

NOW THEREFORE BE IT RESOLVED, that the Alaska Board of Fisheries and Board of Game meeting in joint session respectfully, but strongly urge the Alaska Legislature to enact legislation during the current legislative session which returns to the boards the regulatory authority and flexibility which they exercised before the Madison decision; and

THEREFORE BE IT FURTHER RESOLVED, that the Alaska Board of Fisheries and Alaska Board of Game have reviewed SB 231 and HB 288, the legislation introduced by the Governor to accomplish this purpose, and urge that this legislation be enacted into law as expeditiously as possible.

Ron Jolin, Chairman
Alaska Board of Fisheries and Game

Adopted March 26, 1985
Anchorage, Alaska
VOTE: 13/1

SUBSISTENCE USES MAY BE REASONABLY REGULATED

Under the 1978 state law, it was never intended that subsistence fishing and hunting would be unregulated, nor have they been unregulated.

- ° The legislature noted in the intent section of the 1978 subsistence bill that "beneficial use of those [fish and game] resources by all state residents should be carefully monitored and regulated...." § 1 ch 151 SLA 1978.
- ° Although the 1978 state subsistence law says that subsistence uses may not be restricted unless non subsistence uses have been cut back or, if necessary eliminated, "restricted" means "significantly impaired," rather than "regulated." State v. Eluska, 698 P 2d 174, 182 (Alaska App. 1985).
- ° In fact, Eluska specifically acknowledges that subsistence uses are subject to reasonable "regulation of time, place and manner." Id. at 182.

Under ANILCA, reasonable regulation of subsistence hunting and fishing is expected.

- ° Bill Horn, Assistant Secretary, Department of the Interior, testified to the Alaska Senate Resources Committee on March 5, 1986, that the version of HB 288 being considered by the committee was consistent with ANILCA. It contained a provision specifying that all takings authorized under the bill, including subsistence, are "subject to reasonable regulation of seasons, catch or bag limits, and methods and means."
- ° Gale Norton, Associate Solicitor, in a April 4, 1986, letter to the Alaska Attorney General noted that under ANILCA "all taking of the [fish or game] population for nonsubsistence purposes must be eliminated before subsistence uses may be restricted." However, that does not mean that subsistence uses could not be regulated under ANILCA.
- ° In fact, ANILCA § 814 specifically notes that the Secretary of the Interior "shall prescribe such regulations as are necessary and appropriate to carry out his responsibilities under this title."
- ° Further, ANILCA legislative history clarifies that reasonable "regulations concerning such subjects as seasons and methods of taking" may be adopted under ANILCA. 126 Cong Rec. H10547 (daily ed. Nov. 12, 1980). Congress expected that subsistence uses would be "consistently... respected and adequately protected by state regulation." Id. at 10546. Another example of Congressional intent relates to subsistence uses in national parks, which Congress intended to "continue subject to reasonable regulation." S. Rep. No. 413, 96th Cong., 1st Sess. 169 (1979).

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The state effort to implement a subsistence priority in the management of fish and game is structured on a several tiered system of citizen qualification. This requires certain citizens being excluded from some tiers of resource use on a variable basis keyed to resource abundance.

This situation presents some administrative and enforcement problems. The first is a complex qualification system followed by the problem of identifying qualified subsistence users in the field. One recurring question is whether "rural" is a community or individual citizen designation for purposes of subsistence use qualification.

QUESTION: To be equitable and legally defensible, should state regulation of subsistence use be on the basis of an individual's personal qualifications or on the basis of a person's residency in a community? In other words, are we regulating individuals or communities?

Much of the testimony reaching the legislature urges the adoption of "rural" residency as a primary qualification for the subsistence priority. There has been pressure to adopt "rural" into statutory language without first defining the term. Given the history of years of controversy over who qualifies for rural subsistence, a definition of this critical term seems essential to settling the issue. Adopting a controversial ~~term~~ but undefined term seems analogou to signing a contract without first reading it.

Question: Do you recommend adopting the term "rural" as a subsistence user qualification without first defining the term so that its meaning is clear to all citizens?

Recommendations from your staff place great weight on state compliance with ANILCA and its requirement that rural subsistence receive priority among resource uses.

Question: Given the ANILCA language, will state compliance with with the federal "rural" category also require rural priority in in the use of timber, grass and water?

ALASKA BOARD OF FISHERIES FINDINGS
SUBSISTENCE REGULATIONS FOR THE 1985 FISHING SEASON
#85-111-FB

The Alaska Board of Fisheries, meeting in Anchorage, Alaska on March 26, 1985, finds that the Alaska Supreme Court decision in Madison v. Alaska Department of Fish and Game will require a revision of certain subsistence, personal use, sport, and commercial fishing regulations. However, the board finds insufficient time exists before the smelt, herring, bottomfish, shellfish, and salmon seasons to allow for an orderly, comprehensive review of all regulations which may be impacted, considering the need to provide an adequate opportunity for public comment and review. Therefore, to ensure an orderly process allowing the opportunity for all members of the public to participate in the review process, and implement the court's decision in Madison in the interim, the board requests that the commissioner take the following actions:

- 1) Authorize by emergency regulation, access by all Alaska residents to existing Tyonek, Port Graham, and English Bay subsistence fisheries. Existing bag and possession limits, time, gear, area regulations, and overall guideline harvest will not be changed for the 1985 season. The board finds that such regulations promote an orderly harvest which will reasonably satisfy anticipated subsistence uses. Modification of these regulations at this time is not in the best interest of the public given the inadequate opportunity for public comment, and uncertainty about 1985 participation levels.
- 2) During 1985, continue the following presently authorized personal use fisheries in Cook Inlet as personal use fisheries:

The spring Kasilof River salmon gill net fishery, the Kasilof and Kenai River, China Poot, and Bear Creek sockeye salmon dipnet fisheries, and the shellfish, herring, and smelt fisheries.

The board cannot reasonably modify or eliminate these fisheries without an opportunity for public comment, which is not possible under the present time frame.

- 3) Change the Kenai River fall coho set gill net personal use fishery by emergency regulation to a subsistence fishery, as required by Madison, and manage it under the regulations used during the 1981 season, except the current reporting requirements will apply. Any Alaska resident may participate in this fishery.

- 4) Change the Kachemak Bay coho salmon set gill net personal use fishery, by emergency regulation, to a subsistence fishery, as required by Madison, and manage it under the regulations developed for the court ordered fishery. Any Alaska resident may participate in this fishery.
- 5) Allow, by emergency regulation, access by all Alaska residents to the Iliamna/Lake Clark, Naknek River, and Angoon subsistence salmon fisheries. The bag and possession, time, area, gear, and overall harvest guidelines of each of these fisheries shall remain as described in the existing regulations. The board finds that such regulations are necessary to conduct an orderly fishery and to provide a reasonable opportunity for subsistence needs. Modification of these regulations at this time is not in the best interest of the public given the inadequate opportunity for public comment. During 1985, continue the Naknek River personal use fishery.
- 6) By emergency regulation, combine the Copper River subsistence and personal use salmon fisheries into a subsistence fishery. Retaining the existing regulations as to bag and possession limits, time, area, gear, and overall harvest guidelines, with regulations that now apply to the personal use fishery applying to the dip net fishery, and those that now apply to the subsistence fishery applying to the fishwheel fishery. The board finds these regulations to be necessary to conduct an orderly fishery and to provide a reasonable opportunity for subsistence needs. Further, the overall harvest guidelines, bag limits, and areas represent the different historical harvest patterns for each gear type. The dip net portion of this guideline represents a total harvest which was not taken during the 1984 season. The harvest lid is necessary to manage the downriver commercial salmon drift gill net fishery to ensure escapement for reproductive needs and the upriver subsistence fishery. The bag and possession limits, while different for dipnetters and fishwheel fishermen, were developed by the board after extensive public testimony and information demonstrating that the differing bag limits reflected historical use by each group. Any Alaska resident may participate in either the fishwheel or the dipnet fishery.

The board hereby calls for proposals from the public on all subsistence and personal use regulations to be considered at the 1985 fall/winter finfish meeting. Any petitions concerning subsistence, personal use, or associated sport and commercial fisheries will be accepted and scheduled for the 1985 fall/winter board meeting. The board will consider all

March 27, 1985

proposals to establish, eliminate or modify any or all subsistence or personal use regulations and any changes in commercial or sport fishery regulations required by such regulations.

Ron Jolin, Chairman
Alaska Board of Fisheries

Adopted March 26, 1985
Anchorage, Alaska

VOTE: 4/0

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attorney general. — For
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No. 6432, 655 P.2d 1313

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Effect of amendments. — The 1983 guage subsection (a) and added subsection
amendment rewrote the existing language (b).
of this section and designated that lan-

Sec. 16.05.255. Regulations of the Board of Game. (a) The Board
of Game may adopt regulations it considers advisable in accordance
with the Administrative Procedure Act (AS 44.62) for

(1) setting apart game reserve areas, refuges and sanctuaries in the
waters or on the lands of the state over which it has jurisdiction, subject
to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of
game;

(3) establishing the means and methods employed in the pursuit,
capture and transport of game;

(4) setting quotas and bag limits on the taking of game;

(5) classifying game as game birds, song birds, big game animals, fur
bearing animals, predators or other categories;

(6) investigating and determining the extent and effect of predation
and competition among game in the state, exercising control measures
considered necessary to the resources of the state and designating
game management units or parts of game management units in which
bounties for predatory animals shall be paid;

(7) engaging in biological research, watershed and habitat improve-
ment, and game management, protection, propagation and stocking;

(8) entering into cooperative agreements with educational institu-
tions and state, federal, or other agencies to promote game research,
management, education, and information and to train persons for game
management;

(9) prohibiting the live capture, possession, transport, or release of
native or exotic game or their eggs;

(10) establishing the times and dates during which the issuance of
game licenses, permits and registrations and the transfer of permits
and registrations between registration areas and game management
units or subunits is allowed.

(b) The Board of Game shall adopt regulations in accordance with
the Administrative Procedure Act (AS 44.62) permitting the taking of
game for subsistence uses unless the board determines, in accordance
with the Administrative Procedure Act, that adoption of the regu-
lations will jeopardize or interfere with the maintenance of game
resources on a sustained-yield basis. Whenever it is necessary to
restrict the taking of game to assure the maintenance of game
resources on a sustained-yield basis, or to assure the continuation of
subsistence uses of such resources, subsistence use shall be the priority
use. If further restriction is necessary, the board shall establish restric-
tions and limitations on and priorities for these consumptive uses on
the basis of the following criteria:

*From: Cope Anderson
789-7422*

STATE SUBSISTENCE OPTIONS UNDER ANILCA
April 29, 1986

Years of controversy have centered on the issue of Alaska's compliance with the federal ANILCA subsistence mandate. The lack of consensus among interested parties and the need to reassess direction are perhaps best indicated by the fact that no one, to date, has identified precisely who is entitled to a priority use of fish and game for subsistence.

This overview of ANILCA, Title VIII, identifies some actions that are required of the Secretary of Interior and notes the significance of those requirements for state managers. The most obvious conclusion is that ANILCA can accomodate a much simpler approach to subsistence than the one that has been so vigorously promoted under Sec. 805. The Sec. 805 debacle emerges as a waste of state energies that is perpetuating divisiveness in the name of subsistence. On the basis of other language in ANILCA, Alaska's most effective course would seem to be, simply, to make a clear offer to the feds to accomodate their requirements on federal lands, in the course of existing state management. There is no need to write a federal priority into state law. We may have less of a federal problem than one of self-generated confusion.

Key Points

1. ANILCA does not require the state to do anything. It gives the state the option, under Sec. 805, of assuming the federal responsibility for Regional Councils and the subsistence priority. Tied to this option is the offer of federal funds. This option, however, shifts to the state the burden of resolving the murky questions of who is rural, and when and how the subsistence priority is to be implemented. In addition, since the Regional Councils are required to monitor and advocate subsistence uses, the state is placed in the dubious position of lobbying a special interest. If the state withdraws from Sec. 805, the councils would continue in their role of public involvement, but at federal expense and without the inherent question of the propriety of the present situation. Virtually all of the controversy of recent years derives from the unresolved question of what constitutes state compliance with Sec. 805. One wonders if the state is prepared to provide equal time and funds to sportsmen or environmentalists if they, too, should decide to litigate for similar accomodation.

2. Less compromising arrangements are possible. Sec. 809 authorizes the feds to enter into agreements that will "effectuate the purposes and policies" of ANILCA as it relates to subsistence, and Sec. 802 (3) requires federal cooperation with the state. These have none of the strings attached to state participation that exist under Sec. 805. Under Sec. 809, the state could continue state wide management of fish and game and offer (to the feds) to modify state regulations on federal lands where necessary to accomodate the subsistence priority, after the feds

identify their subsistence needs, areas, and rural residents. This approach would require the feds to define "rural" and the other ambiguous terms that are the source of controversy. It would allow the feds to answer, directly, any questions regarding interpretations and equal treatment. The present situation where the state acts as a buffer for the feds seems inexcusable. Ironically, if the feds should ever "takeover" because of state "noncompliance" with Sec. 805, it probably would take the form of contracting management functions with the state under Sec. 809.

There is tremendous bargaining latitude for the state under Sec. 809 since the feds, despite rumors to the contrary, are neither staffed, funded, nor structured, to assume state resource management. A good straightforward offer by the state under this section would be very attractive to the feds and could negate the current pressure to amend the state subsistence law. In brief, we should be able to reach a workable agreement with the feds without rewriting our fish and game code on an emergency basis.

3. Subsistence research is a federal obligation under Sec. 812. This requires the feds to make research results available to the state. Any agreement under Sec. 809 could integrate relevant state and federal interests at a savings to the state.

4. The threat of federal preemption should be viewed in the context of what obligations are imposed upon the feds and not as the specter of imminent disaster that often is suggested. The feds are required to report annually (Sec. 806) to congress on the federal implementation of subsistence, including state provisions for such preference. Their report must include the views of the state. In addition, the feds are required, at three year intervals, (Sec. 813) to make major assessments of resource health, uses, needed actions, the role of subsistence in the economy and culture, and etc. None of these things occur rapidly.

The point is, that the feds would need to demonstrate a rational basis for any preemptive action that they might contemplate. Federal findings would be open to scrutiny and validation, and would not occur as an instantaneous action.

5. Individuals are prohibited (Sec. 815 (1)) from reassigning their subsistence privileges to other persons. The impacts of this section need legal analysis since it may be a barrier to the concept of communities being the qualifying unit for subsistence use that, by implication, is then delegated to individuals. If nothing else, it suggests a clear need to identify those individuals who qualify for subsistence.

Conclusion

The state should take time for a fresh examination of its options under ANILCA and not run the risk of setting undesirable precedent by acting under pressure.

Tr. 75 - → 6 reg -
Combined report

4/12/85

Bill Waugaman
- must Jones
Guide?

Rec. mostly predators program
Dis regarded all

See Ensiminger -
Board of Game - make up of Bd.

Israel Bennett - m Bd - "Greenie"
Lang Bd - Greenie

Sen. A. Alvord - Bennett -

Predator program back to Dept of Game
Rec of Regional Councils -

When Harris taken off board - Greenies.
Anything up - Greenies were.

1500 - 2400 makes per year 1950 - '67

Comp. Plan - mat - see Brough
Eakin
Allow of comp plan

sell & barter - out }
want or want e - need enforcement

method }
means } did work

4/17/85
Jim Ayres

Encouraging 3rd floor & me
need - community need
sports fishing rights

Steve Cowper trying to see us -
explain his position.

Could be difficult at mtg tomorrow.
Forcing issue as to where
people are.

Falls that opportunities for (mountain)
sports fishing rights protected.

Cowper - economic need band
He got out door council all stirred
up - don't need to do anything

In order for Out door Council to
they want to believe there is a
solution -
allow subsistence to continue.

1 April 85

KDE - Draft subsistence language in
the context discussed Sat, 3/30/85.
m.z.

First item - to Clarify the subsistence / sport /
commercial / recreational relationship:

This clears the air on basic
categories. Gives the Board flexibility
to specify hook & line, net, fishwell, etc.
& tailor regs to areas & users.

AS 16.05.251 (a) is amended to read:

(6) classifying [as] commercial fisheries,
[sport fish ~~or~~ or predators] personal use fisheries,
or other categories essential for regulatory
purposes; for the purposes of this paragraph,
"personal use" fishing means engaging
in any recreational or subsistence fishery
where the purpose is personal consumption
or recreation & does not include
commercial sales. Personal use fishing
shall be limited to those methods &
means specified by the Board of Fisheries
for specific geographical areas.

The point here is
to identify the subsistence
priority. This could fit with
any definition of subsistence
you care to use.

AS 16.05.940 (23) is amended to read:

(23) "subsistence uses" ^{is} are the priority use
among all commercial ~~and~~ and
personal use
categories and means the customary
& traditional (to end) . . .

~~This~~ item may need a new section?

This requires Boards to
respond to subsistence needs
& should satisfy ANILCA.
Also it sets a tone of subsistence
being a special need.

* Where documented subsistence needs
cannot be accommodated via personal use
regulations the Boards shall adopt
subsistence priority regulations to accommodate
those subsistence needs.

I welcome an opportunity to talk with you today.
I'm going to cover ^{your suggested} ~~these~~ topics and perhaps a
little bit more, but first I would like your
indulgence for just a minute while I say
something about the out-of-doors.

When we are inside, in this room for example,
we could be anywhere in the country; in any
state, in any city. In Alaska, however, when we
go outdoors, no one could ever make the mistake
of thinking they were anywhere but in Alaska. The
outdoors of Alaska is unique, and I believe that
it is the soul and essence of our State.

There are many people in our state, undoubtedly
many of you in this room, who live in Alaska
precisely because of the out-of-doors
opportunities that our state offers. It is vital
to the well being of our state that we maintain
and enhance these outdoor opportunities; that we
properly manage our fish and wildlife populations
for all people and ensure that access remains
available as our state grows.

Yesterday, in the Senate Resources Committee, which I chair, we heard Senate Bill 201, which would create within the Department of Fish and Game a fund for purchasing public access rights to recreational areas. This fund, which can receive both public and private contributions, is a good example of the type of creative solution that we need in times of declining oil revenues. We will be passing out Senate Bill 201 next week. It will certainly have my "Do Pass" recommendation.

Along with Senate Bill 201, there are a number of other bills with which our committee has dealt. We passed out a one million dollar appropriation for rifle ranges yesterday. Earlier this session we ~~have~~ passed out bills enlarging the Palmer Hay Flats Game Refuge, establishing the Anchorage Coastal Wildlife Refuge, and the Nelchina Public Use Area. I expect HB 93, the recreational rivers bill to be coming to our committee soon and when it does I will schedule it for a prompt hearing.

2

Representative Larson has introduced three bills which deal with access to the streams in the Susitna drainage. These bills, HB's 29, 36 & 43, are currently in the House Finance Committee and I hope that they will make it across to the Senate in the near future. If they do, I will also schedule prompt hearings for them.

As the state moves to complete its area plans such as the Susitna Plan and the Tanana Plan, you will see more multiple use plans appear before the legislature. We've appreciated your comments on the legislation introduced this year and I urge your careful consideration of future implementing legislation.

Navagability is another important public access issue. The state has approached the issue primarily from the standpoint of ownership of the subsurface rights and we are talking of some 5.000,000 acres. I consider navagability as a means of public access to be equally important and we must make sure that this aspect of navagability is not overlooked.

Legislation in Congress extending states authority to challange Federal decisions on navigability must be passed. I support and will consider introducing legislation that will allow the greatest possible use and access to our navagabile waters. In my opion a clear statement of policy is needed.

~~INCEPT BY~~

Touch briefly on state revenue reductions which affect renewable resources management and outdoor activities.

Tourism budget in Commerce & Economic Development, as closed out by House ^{is} shows nearly \$750,000 ^{low} from the current year's budget. *up until this year has been to*
~~This changes the trend to larger budgets for tourism during the past few years.~~ Contractual dollars will be 6.1 million vs. 6.9 for the current year.

Fish and Game -- some good news, some not so good.

As you know, we've spent a lot of dollars working on the U.S.-Canada agreement. It looks like we should receive some \$20 million for increased hatchery and enhancement programs and to carry out other treaty mechanisms. *Some of these \$10 should come in 7y '86*

Some surplus in the Fish and Game Fund. For the first time ^{is} being used in the budget. \$500,000 ^{is} allocated to the F.R.E.D. division. *those dollars from the fund are being*

Losing some \$420,000 in federal funds ~~that~~ will impact the Division of Game budget. This creates a real problem, and again the Fish and Game Fund is being looked at to assist in meeting this shortfall.

The Commercial Fisheries Entry Commission shows a slight increase over the Governor's budget. Court decisions have allowed more permits and caused review of many outstanding ^{permit requests} claims. An office has been established in Kodiak to assist in meeting demands.

5

758

Department -- overall had a cut of 4.4 million -- from 57.2 to 52.8 -- Primarily in commercial fish. ^{It} Means less research.

I would expect the Division may well be more conservative in decision making and in allocation of ~~the~~ resources.

6

As Chair of Senate Resources, I made an early decision not to create a sub committee on fisheries but to consider fishery matters, both sport and commercial, as a committee of the whole. We need more legislators aware of Fish and Game matters.

There are aspects of fish and game management that are both vital and expensive and in those ^{area} areas we will simply have to be prepared to spend the required amounts of money. However, there are many areas of fish and game management that the crucial question is not one of money, but ^{perhaps} is one of the state's political leaders staying out of the way, and avoiding the substitution of political fixes for professional fish and game management decisions.

The present policy of this administration, which routes the boards access to the governor through the commissioner is not healthy. Alaska's system of Fish and Game Boards, established seperately from the Department, was specifically designed to seperate the administrative functions of the department from the regulatory functions of the board and to protect the public interest in the common use of our fish, wildlife and water.

There are a number of other areas that are coming our way where political judgements could have serious effect on fish and game resources. We have all read recently of efforts to amend the Alaska Native Claims Settlement Act. It may be that ammendments should be made to ANCSA and ANILCA, but if so, it should only be done after extensive public hearings here in Alaska, so alaskan citizans can participate and make themselves heard.

Village sovereignty is a related issue that has also been much in the news lately and also has significant implications for the management of our resources. As you know, I served many years in various aspects of local government and remain a strong supporter of local government. I have a keen respect for the local government section of our constitution which states that all local government powers shall be vested in boroughs and cities. Seperate, soverign governments do not meet this constitutional mandate.

8

State laws relating to fish and game management should apply equally to each one of us and should apply to all species of fish and game in our state. The state should assert its authority to manage all our fish and game species whether they occur on state, federal or private land. This should include ^{in my opinion} marine mammals.

I spoke earlier of the need to keep politics out of the management of fish and game. In this real world we live in, however, we are currently faced with an issue where political, social, and economic decisions are going to have a major impact on the management of Alaska's fish and game.

Subsistence has once again surfaced into controversy. The state desperately needs an fair, equitable, and lasting solution to this problem. A solution that provides for genuine needs while dealing realistically with Alaska as it exists today.

Since the Madison decision came down, there have been a multitude of opinions about what the current status of subsistence and fish and game management is. *I suspect that* By picking your attorney, a person can get almost any interpretation of the current law's status that they please. This confusion is totally counterproductive to proper fish and game management and can not help but lead to divisiveness.

It is the responsibility of government to provide stability for our citizens and direction for the managers of our resources. That is not happening, it has not been happening and unless we can come together on a solution for this problem, it is not going to happen.

Subsistence is an issue that is too complex to be susceptible to attempts at so called technical quick fixes and it is too important for shoot from the hip solutions that do more to add the divisiveness and controversy than they do to solve the problem.

A great deal of the confusion results from the lack of any agreement on the parameters of the discussion or any definitions for many of the terms we have all been throwing around. The Madison decision itself was based on the use of a word, "rural", in regulations, when that word was not based in statute.

The court of appeals decision issued yesterday in State vs. Eluska pointed up that which must be considered when amending the current subsistence statute. The Court found that the Board of Game had erred when not providing regulations specifically for subsistence uses as required by statute.

The court further found that in the absence of such specific regulations, a person who believed he or she was taking game for subsistence uses could use the "subsistence defense" if their conduct otherwise violated regulations adopted by the Board restricting hunting.

The court went on to say that adoption of such regulations would fix that problem. All of this leads us to one conclusion. We must give the Boards statutory guidance and let them get on with the job of regulating our wildlife resources. In doing so we have to consider, among other things, adequately addressing the questions left open by this case and the MADISON decision without violating state and federal equal protection guarantees.

We need to be looking carefully at what we are trying to accomplish in dealing with this issue. We need to define our terms carefully and try to use terms that are definable.

The governor currently has bills dealing with subsistence in the House and Senate. The Senate bill is currently in the State Affairs committee. My committee, the Resources Committee, is the next referral. Unless some consensus is reached as to an acceptable approach to the issue, I do not expect State Affairs will move the bill.

Every day that passes, it also looks less and less likely that the House version of the bill will pass out of that body. I believe that the more that the representatives look into the problem the more they realize its magnitude.

13

If the governor's bills do not pass the legislature, and I believe that they should not and will not, that leaves at least three alternatives. 1) That no bill will pass and we will go into this summer with all the uncertainties that I have talked about. 2) A one year moratorium or freeze bill will be passed that will revert conditions to their pre Madison state for one year only. ^{this will} ~~in order to~~ give a little breathing room for the governor, the legislature and the public to work out a just and equitable solution to this problem. 3) We all work together to agree on a just and equitable solution to the subsistence issue this session.

14

Because I believe that subsistence is one of the most important resource issues facing the state today, as Chairman of the Senate Resources Committee, I have been working on trying to find a solution since the Madison case was decided by the Supreme Court.

I feel that the best solution to the problem would be a resolution of the issue that all parties could agree to and that is done as soon as possible. I am not under any ^{illusions} ~~delusions~~ that a solution that is going to make every one happy is possible, but I have been working with people on all sides of this issue, including many of you in this room, to try and find common ground.

I have to admit that it is somewhat of a longshot to hope that we can achieve a long term solution this session, but even if we don't, the progress we will have made can serve as a foundation on which to base future discussions.

In trying to achieve a solution, we have been working closely with a number of other Senators and Representatives. Ron Sommerville has been included in our discussions from the start and we are also working with Don Mitchell from the AFN and Bob Blake from the United Fishermen Alaska. We have been in contact with Don Young's office on this issue.

I have been fortunate to have had extensive volunteer help from Mil Zahn, the former Executive Director of the Boards of Fish and Game and we have been talking with Greg Cook, another former Executive Director of the Boards. Members of a number of your individual groups, including Bob Hunter, Jeff Parker and Hunter Fisher have also given us the benefit of their wisdom.

I would like to outline for you the concept that has developed out of these discussions. I don't expect that all of you will like every part of it and I don't want to imply that everyone I just mentioned is in agreement with every part of it either. This concept is simply what we have been able to reach more agreement on than ~~anything else.~~

other approaches

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In this concept, the Boards would continue to set sport hunt and fishery regulations throughout the state as they do now.

If there are subsistence needs by particular people, the first step would be to see if those needs could be met under the proposed bag limits of the sport hunt or fishery.

If the Boards found that local residents had subsistence needs based on the existing State and ANILA tier two criteria of: 1) customary and direct dependence upon specific fish and wildlife populations as the mainstay of livelihood, 2) local residency, and 3) lack of available alternative resources

AND that these specified needs can not be met by a particular sport or personal use fishery or hunt;

Then the Boards would establish a special subsistence hunt or fishery by particular stock and area, if that could be done in accordance with principles of maximum sustained yield.

Under these circumstances, subsistence would be be ^{the} preferred use, but would be subject to bag limits based on proven need and would be subject to wanton waste provisions.

This is ~~our~~ ^{your} best shot so far and I think it is a pretty good one. I understand that your subsistence panel has developed ideas for a bill and I want to hear those. I am convinced that if Alaskans work together on this issue, rather than against each other, we can come up with a solution that works.



ALASKA OUTDOOR COUNCIL

Annual Meeting, Juneau, Alaska

BARANOF HOTEL - APRIL 11-14, 1985

○ Agenda ○

Thursday April 11

Registration - Governor's Suite Room 515
Contact with Legislators

Friday April 12

Registration - Governor's Suite Room 515
Contact with Legislators
Committee Meetings

10-11AM & 2-4:30PM Resolutions & Policies - A.J. Room
10-12N & 1:30-5PM Subsistence - Governor's Suite
1PM Nominations - Lunch Meeting
1-3PM Finance - Conference Room
3-5PM Legislative - Conference Room
4PM Membership - To be announced
4PM Education - To be announced
4PM Raffle - To be announced

7-9PM Alaska Outdoor Draft Committee & Outdoor Committee on
Political Education Meeting - Governor's Suite

Saturday April 13

Morning - Business Meeting - 8:00 AM - Treadwell
Registration
Certification of Delegates
Resolutions & Policies
Election of Directors
Committee Reports
General Business



Afternoon - State Policy Makers Session - Open to Public
Session sponsored by the Alaska Outdoor Council and the
Alaska Outdoor Draft Committee.

1:00 - 1:30 Mr. Somerville
1:30 - 2:00 Senator Halford
2:00 - 2:30 Mr. Keller
2:30 - 3:00 To be announced
3:00 - 3:30 Break

(over)

3:30 - 4:00 Senator Bennett
 4:00 - 4:30 Senator Sturgulewski
 4:30 - 5:00 Mr. Cowper

Allotted 15 - 20 minute presentation with 10 minute question and answer.

Major Issues of Concern: ✓ State revenue reductions, ✓
 ✓ Alaska Native Claims Settlement Act amendments, ✓
 ✓ navigability, ✓ Village sovereignty, ✓ subsistence, ✓ states
 rights, public access ✓ and ✓ removing Fish & Game
 administration from Politics. ✓

Evening

No Host Cocktails - 6:30 - 8:00 PM
 Fund raising Dinner Sponsored by Alaska Outdoor Draft
 Committee - 8:00 PM, Baranof Hotel - Treadwell
 Mrs. Mary Jablonski - Chairman
 Session guests invited.
 Fifty dollars per person.
 Open to Council members and general public.
 Entertainment
 Mr. Warren Wiley - Emcee

Sunday April 14

Morning - Business Meeting - 8:30-12:00 Noon - A.J. Room
 Subsistence Policy Session
 Waterfowl Case Discussion
 Election of Officers - Directors
 General Business

Afternoon - 1:00 - 3:00 PM
 Meeting between Directors, Trustee officers and
 Trustee's
 Business Meeting

Adjournment



ALASKA OUTDOOR COUNCIL, INC.

3780 McGINNIS DR. JUNEAU, AK 99801
(907) 789-3450

March 13, 1985

Senator Arliss Sturgulewski
Pouch V
Juneau, AK. 99811

Dear Senator Sturgulewski:

On behalf of the Alaska Outdoor Council, I would like to extend an invitation for you to participate in our Annual Meeting scheduled for April 11-14, 1985 at the Baranof Hotel in Juneau. The Alaska Outdoor Council is a statewide Federation of 44 sportsmen and outdoor organizations and our membership numbers over 8,000.

Our Annual Meeting is held to provide policy direction from the membership. It is scheduled in Juneau this year during the session to take advantage of the opportunity for our membership to actively participate in the legislative process. It also provides us the opportunity to try and schedule major issue sessions with State Policy Makers.

I have enclosed some additional draft material circulated recently by the Alaska Outdoor Draft Committee which will provide background information of interest.

In cooperation with the Alaska Outdoor Draft Committee, we have cosponsored a session with major State Policy Makers to address issues and concerns of interest to our general membership. We have set Saturday afternoon April 13 as our major session. Included for your review is the final agenda which was recently approved by our Board of Directors. The agenda also includes a brief outline of the session with those invited to participate and the major issues of concern.

Exact times have not been assigned to each invited guest at this point. We are waiting to see if any of the participants will have scheduling problems which we can accommodate. I would appreciate it if you would let me know as soon as possible if you can accept and whether or not you prefer a particular time that afternoon.

If at all possible, we would like for each participant to address one or more of those issues that we have listed of major concern. However, you are free to select an appropriate subject which you feel will be of particular interest to our sportsmen and outdoor user membership. As you can tell from the listing, most of these items are of

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critical concern to our members but many are of equal concern to all Alaskans.

You are also invited to attend the Saturday fund raising dinner sponsored by the Alaska Outdoor Draft Committee. The dinner is primarily designed as a fund raising affair which is also offered in appreciation for those who participate in the cosponsored sessions. This function is relatively informal and it should prove to be an excellent opportunity for you and the other session participants to meet our delegates and members from around Alaska.

Obviously, your involvement in this type of session will be extremely valuable to our membership and I hope an opportunity for you to become better acquainted with some of our concerns.

Thank you for considering our invitation.

Sincerely,



Ronald Somerville
Executive Director

Enclosures

Alaska Outdoor Council
Annual Meeting, Juneau Alaska

Baranof Hotel, April 11 - 14, 1985

Agenda

Thursday April 11

Registration
Contact with Legislators

Friday April 12

Registration
Contact with Legislators
Committee Meetings
 Resolutions & Policies
 Subsistence
 Nominations
 Membership
 Education
 Legislative
 Finance
 Raffle
Alaska Outdoor Draft Committee Meeting

Saturday April 13

Morning - Business Meeting

Registration
Certification of Delegates
Resolutions & Policies
Election of Directors
General Business

Afternoon - State Policy Makers Session

Session sponsored by the Alaska Outdoor Council and the
Alaska Outdoor Draft Committee.

Invited participants: Governor Sheffield, Senator
Bennett, Senator Sturgulewski, Senator Halford, Mr.
Lindauer, Mr. Cowper, Mr. Keller, Mr. Sullivan, Mr.
Hayes, Mr. Somerville.

Alloted 15 - 20 minute presentation with 10 minute
question and answer.

Major Issues of Concern: State revenue reductions,
Alaska Native Claims Settlement Act amendments,
navigability, village sovereignty, subsistence, states
rights, public access and removing Fish & Game

administration from Politics.

Evening

No Host Cocktails - 6 - 7:30 PM
Fund raising Dinner Sponsored by Alaska Outdoor Draft
Committee - 7:30 PM, Baranof Hotel
Session guests invited.
Alaska Outdoor Council members invited.
Fifty dollars per person.
Mr. Warren Wiley - Emcee

Sunday April 14

Morning - Business Meeting
Subsistence Policy Session
Election of Officers - Directors

Afternoon
Meeting between Directors and the Trustee officers and
Trustee's

Adjournment

HALFORD -

No quick fix - et al appears case
ref to Nels Andersons

USEN VS USES - USES UNCONSTITUTIONAL

HALFORD SAYS - HAS NOT SEEN ANYTHING
GOOD ENOUGH THAT HE WOULD BE WILLING
TO ACT THIS SESSION

WANTS MEAT RESIDENCE PRITE

Eliminate brown bear etc.

chosen species vs. assigned species

Violent opponent of sovereignty
protection is in terms of funding

dissatisfaction based on ANCSA

surface vs subsurface
cultural, traditional - brooks brothers indian

seagull joint.

more

Management plans - disapp w/ states
allocation of effort - wants concentration
on Fed plans

Planning - Pointy systems hasn't done much
good - deterrents good estimates - bad solutions

parties don't work

where can we find basic alliances
of support

We that all diversity req

Urban conservation - pro-sewer

need people who can put things
back together
Rural - urban

equality of res, equality of opp.

needs to draw in women

Rev. how are we going to find
someone who can be popular and
lead the state when it's out of
10 questions will have to be no.

Q - Mark Jansen - support at suit.

A - H - could support but not best way, keep intention on own side

Q - ANI/CA prompted Fed following state plans - impact is not being followed.

A - state not supportive now - situation has reversed
Ash - gov completely

Q - confusion on subsistence - task-force. didn't do anything. would you support task force that would do something.

Q - Conject Amend to remove F&A from direct political influence

A - H - Leg will agree to keep gov out - but not themselves - I don't think you will get there.

Q - Subsistence - how define individual need

A - Look at Goals - define so broadly we all qualify & all agree define so narrowly that very few qualify & have little impact on the rest of us. / right need centers
- cost effective means

Q - problem w/ getting info to public - how should?

A - Tsh F would be ok if leg leaders who old, do something
not to justify budget or placate people

Q - will there be standing committees that will be working on issue this summer

A - Yes - it chad w/ Bill Horn - reluctance to intervene

SC.

comp. bu ex

resp to

Bennett - oil is running out
- need for savings program

short term plan paper - 2 1/2 B but

1st budget cut will be 1/2 B just.

increase in decisions based on
politics not expertise

- Subsistence

Congress on Subsistence Committee
- says there was scream from villages

- short hearings

- work something nobody could read
on understand - left town

- courts finally got held

- 2 choices

stopping

on war on

Racial or economic
bill might be good way
to do it but that's the
only way to do it

economic -

it must work.

Barack Obama \$60K per year

Racial tensions -

20 min
SP.

~~should~~
should be economic - put into law

if you are ~~above~~ ^{below} a certain
income level - should be able to
get sub permit.

Village Soc.
diff. ~~significance~~ - what does it mean
can't have gov't in gov't.

Too soon to decide about - but
any point that infers w/ state
law. can't be enforced

a need - can't tax unimproved land
- that's reasonable
alignability of stock - hasn't made up
mind

Wants everyone to realize probably
has point.

Alignability - is there really a
problem.

Q - Slowly - NANA - indi. towards NAV.
Reducing gov't. to level

A - irreducible level. always going to
exist. ~~exposed to the~~
back to 2 1/2 B idea.

Jensen

Q Court said - or just ignore
Don't like Fed intervention - approach
Congress

Q - Jensen - Young said what work

A - Lets do what's best for us.

Q - Need - opposes - but wouldn't most
permits be issued in urban areas
Identify community by historical subsistence
method. Laws make everybody bad

• 1978 - got in

• Thank you

Q Cash based budgeting vs ~~permitted~~ ^{permanent fund}

A - His way

Q Repeat of above

Q ANCSA amend. - nontaxable status of lands
fair? burden on other ~~state~~ lands

A. Yes

Q - NAVICORP - Wagoner

A - column of burdens

Q - Lady agrees - get rid of radicals
Thank you

Q - What's wrong w pre 1978 practice approach

A - can't even go back - different place & time

Q - concepts

A - memo

Q - use substantiated divs; category

no A

Q - Unhappy w/ benefits - don't reflect users - say it started - non consumption users etc

A - In at BLS - find advocates of interest ops + bids don't work - need ~~the~~ people who may be - fish etc but have stwide entrance

Q - discipline on BLS

A - doesn't know runs

Drinky

SUBSISTENCE

1) Concern about current muddle that subsistence is in.

2) Current situation has resulted in massive uncertainties.

There are a variety of legal interpretations of Madison decision i.e. interpretations of regulatory powers of boards; doubts about future of commercial fishing, sport fishing, big game guiding, what areas and stocks will be affected, ability to impose bag limits and seasons, Doubts about compliance with federal law.

3) Governor's bill has no chance of passing the legislature.

4) Have been approached by interested people from all sides of this issue who see need for a workable long range solution and time to achieve that solution.

5) Have draft legislation that would provide for one year interim during which we can bring Alaskans together. There is strong support for this approach.

6) It is the responsibility of government to provide stability for our citizens and direction to the managers of our resources. I am committed to my part in fulfilling that responsibility.

NEED TO HAVE EXPLICIT FINDINGS

Subsistence uses are the customary and traditional uses of wild, renewable resources by ~~Alaska~~ communities for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter or sharing for personal or family consumption by residents of Alaska communities in which fish and game are essential to the physical, economic, traditional and ^{cultural or} social existence of the community.

Determination of the communities ~~whose residents~~ in which fish and game are essential to ~~the~~ physical, economic, ^{customary} traditional and social, ^{or cultural} existence ~~with~~ may be ~~determined~~ ^{made} on a case by case basis by the Board of Fisheries and the Board of Game, based ~~in~~ on information provided by the Division of Subsistence.

OR

customary and traditional uses by rural Alaska residents
For the purposes of this statute,

"Rural" means those Alaskan communities in which fish and game are essential to the physical, economic, ^{or cultural} customary, traditional and social, ^{or cultural} existence of the community. Determination of the communities in which fish and game are essential to physical, economic, ^{customary} traditional and ^{cultural or} social existence may be made on a case by case basis by the Board of Fisheries and the Board of Game.

4/10/85

Sam Mc Dowell

248-1913

Bob Penney - thinks a bill -- don't
get caught.

Penney
County
James Day

Going to file injunction against
wards decession. Court case -- don't think
much of hris spangler. Bared so can't
be on basis of residency.

Steve Camp - says hard on need.

Put 4200 things on Zyxet -- don't
have to count either fish in last
weeks. Dundera James trying to
talk end news around court.

Why not caps on fisheries.

3 documents - Sam. Mc Dowell
~~Put out 2 of 1 etc~~

ly cap -

Can't restrict subsistence until
restrict commercial.

Angry having to put up §1A to
protect constitutional rights

4/10/85 Subsistence

John Shively - (Bob Penney)
Conversation w/3rd
3rd 2 looz floor.

while see that those who want
summit would like to see settled.
Dismantle to see deficiencies -

Steve
Lowell publically made statement
that subsistence wrong.
not Rural Alaska have become
abandoned. Subsidy - hand
in "economic need." Gov's best
wrong. Special rules for
Alaska

Pres political arena problems

Talk to Big Romney - Big taking
heat. - "Threat to management"
Big says lets' define rural.

Zahn

3/15/85

1. Halford's Question: May crisis areas such as Kenai R. be isolated from fed oversight & given statutory exemption from subsistence priority?

Answer: No, because part subsistence uses in a given area would be grandfathered in. (there is almost no place in Alaska where part subsistence use cannot be documented).

2] Subsistence Task Force

Governor's charge to TF: Review the F+G Boards' implementation of subsistence law and make suggestions to enable Bds to conform w/intent of legislature (1978 law).

No fixed lifespan of ~~the~~ Task Force

Four meetings thus far (Oct 83, 7/84, 8/84, + 11/84)

They plan to do a TF report but no projected completion date.

Subsistence Div has been giving TF a systematic briefing on implementation of subsistence law. Not completed yet.

~~Conrad felt
follow up
not satisfied~~

Zahn

3/15/85

Management Areas for all species & uses:

1. Game - 100+ (of these residency is a factor in 6 area regulations)
2. Sport Fish 300-400
3. Comm Fish 300-400

Questions for legal counsel answers:

1. May the state limit subsistence where no resource shortage exists?

allow

2. Assume:

- a. ~~State~~ resource uses are classified in two (only) categories of Personal Use & Commercial
- b. Personal Use is the priority use.
- c. Pers Use is defined to include subsistence.

Then:

Would the resulting subsistence priority meet the ANILCA requirement?

RE: POTENTIAL IMPACTS ON FISH AND GAME BUDGET FROM
MADISON DECISION

1. If the state is found not to be in compliance with ANILCA, the ADF&F might lose the million dollars appropriated from the federal government through Title 8 of ANILCA for the Advisory Systems. FY86

Subsistence Division \$500,000 (15% of total 3,253,000)
Boards \$498,800 (40% of total 1,257,300)

- and Sport Fishing*
2. If non-resident hunting excluded in some or all areas, there would be direct loss of revenue from non-residents licenses, tags, and permits. This money goes to ADF&G's fish and game fund. These funds may only be used for sport fish and wildlife restoration (not for commercial or subsistence fishing projects).

GAME

- a. Total budget: \$11,655,000
(This figure does not include \$1,670,400 from the federal government in Capital Improvement Projects and Special Projects. The above is for FY86)
- b. Amount from fish and game fund: ^{res + non res.} \$3,900,000 (33% of budget)
- c. Of the fish and game fund:
 - NON-RESIDENT \$2,223,000 (19% of total budget)
 - RESIDENT \$1,677,000 (14% of total budget)

SPORT

- a. Total budget: \$6,158,600 (for FY86)
 - b. Amount from fish and game fund: \$3,400,000 (55% of budget)
 - c. Of the fish and game fund:
 - NON-RESIDENT \$1,870,000 (30% of budget)
 - RESIDENT \$1,530,000 (24% of budget)
- 3) ~~4.~~ If eliminate or significantly reduce opportunities for recreational hunting and fishing, particularly out of state hunting and fishing, there may be problems with obtaining several other sources of funding.

ifly

Pittman- Robertson Funds: These are from the federal government and are contributed by manufacturers from taxes levied on the sale of hunter and sport fishing equipment. The amount granted to the state relates to the land area and the number of licensed hunters and fishers. *This money goes to game division.*

\$4,300,000 (36% of total ^{game} budget)

BUDGET

Dingall-Johnson: \$1,989,600 to Sport Fishing Division
(32% of total budget)

(1769,000 cases from general fund)

JOHN STEWART 465-4120

1 IN THE SENATE

BY STURGULEWSKI

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for
7 subsistence and personal use; and providing for an
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. LEGISLATIVE FINDINGS AND INTENT. (a) The legislature
11 finds that

12 (1) as a result of the Alaska Supreme Court's opinion in Madison
13 v. the Alaska Department of Fish and Game, the legislature is suddenly
14 confronted again with the complex, potentially divisive issue of subsis-
15 tence fishing and hunting;

16 (2) this comes when the First Session of the Fourteenth Legisla-
17 ture is more than half over; and

18 (3) the legislature has insufficient time remaining in the
19 legislative session for the careful consideration and deliberation needed
20 to assure an equitable weighing and accommodation of the many competing
21 interests in the state's fish and wildlife resources.

22 (b) It is the intent of the legislature to preserve for one year the
23 status quo with regard to subsistence fishing and hunting regulations as it
24 existed immediately before the issuance of the Madison opinion. This
25 one-year period, it is hoped, will give the legislature and the governor
26 adequate time to arrive at a permanent solution to the subsistence ques-
27 tion. To that end, this Act amends statutes for a period of one year only.
28 The amendments made by this Act are not intended to be or to suggest a
29 particular approach to permanently resolving the conflicts inherent in the

1 subsistence question.

2 * Sec. 2. AS 16.05.251(a) is amended to read:

3 (a) The Board of Fisheries may adopt regulations it considers
4 advisable in accordance with the Administrative Procedure Act (AS 44.-
5 62) for

6 (1) setting apart fish reserve areas, refuges and sanctu-
7 aries in the waters of the state over which it has jurisdiction,
8 subject to the approval of the legislature;

9 (2) establishing open and closed seasons and areas for the
10 taking of fish;

11 (3) setting quotas, bag limits, harvest levels, and sex and
12 size limitations on the taking of fish;

13 (4) establishing the means and methods employed in the
14 pursuit, capture, and transport of fish;

15 (5) establishing marking and identification requirements
16 for means used in pursuit, capture, and transport of fish;

17 (6) classifying as commercial fish, sport fish, personal
18 use fish, [OR] predators, or other categories essential for regulatory
19 purposes;

20 (7) watershed and habitat improvement, and management,
21 conservation, protection, use, disposal, propagation, and stocking of
22 fish;

23 (8) investigating and determining the extent and effect of
24 disease, predation, and competition among fish in the state, exercis-
25 ing control measures considered necessary to the resources of the
26 state;

27 (9) prohibiting and regulating the live capture, posses-
28 sion, transport, or release of native or exotic fish or their eggs;

29 (10) establishing seasons, areas, quotas and methods of

1 harvest for aquatic plants;

2 (11) establishing the times and dates during which the
3 issuance of fishing licenses, permits and registrations and the trans-
4 fer of permits and registrations between registration areas is
5 allowed; however, this paragraph does not apply to permits issued or
6 transferred under AS 16.43;

7 (12) personal use fishing.

8 * Sec. 3. AS 16.05.251(a) is amended to read:

9 (a) The Board of Fisheries may adopt regulations it considers
10 advisable in accordance with the Administrative Procedure Act (AS 44.-
11 62) for

12 (1) setting apart fish reserve areas, refuges and sanctu-
13 aries in the waters of the state over which it has jurisdiction,
14 subject to the approval of the legislature;

15 (2) establishing open and closed seasons and areas for the
16 taking of fish;

17 (3) setting quotas, bag limits, harvest levels, and sex and
18 size limitations on the taking of fish;

19 (4) establishing the means and methods employed in the
20 pursuit, capture, and transport of fish;

21 (5) establishing marking and identification requirements
22 for means used in pursuit, capture, and transport of fish;

23 (6) classifying as commercial fish, sport fish, [PERSONAL
24 USE FISH, OR] predators, or other categories essential for regulatory
25 purposes;

26 (7) watershed and habitat improvement, and management,
27 conservation, protection, use, disposal, propagation, and stocking of
28 fish;

29 (8) investigating and determining the extent and effect of

1 disease, predation, and competition among fish in the state, exercis-
2 ing control measures considered necessary to the resources of the
3 state;

4 (9) prohibiting and regulating the live capture, posses-
5 sion, transport, or release of native or exotic fish or their eggs;

6 (10) establishing seasons, areas, quotas and methods of
7 harvest for aquatic plants;

8 (11) establishing the times and dates during which the
9 issuance of fishing licenses, permits and registrations and the trans-
10 fer of permits and registrations between registration areas is
11 allowed; however, this paragraph does not apply to permits issued or
12 transferred under AS 16.43 [;

13 (12) PERSONAL USE FISHING].

14 * Sec. 4. AS 16.05.940(23) is amended to read:

15 (23) "subsistence uses" means the customary and traditional
16 uses by rural [IN] Alaska residents of wild, renewable resources for
17 direct personal or family consumption as food, shelter, fuel, cloth-
18 ing, tools, or transportation, for the making and selling of handi-
19 craft articles out of nonedible by-products of fish and wildlife
20 resources taken for personal or family consumption, and for the cus-
21 tomary trade, barter, or sharing for personal or family consumption;
22 for the purposes of this paragraph, "family" means all persons related
23 by blood, marriage, or adoption, and any person living within the
24 household on a permanent basis;

25 * Sec. 5. AS 16.05.940(23) is amended to read:

26 (23) "subsistence uses" means the customary and traditional
27 uses in [BY RURAL] Alaska [RESIDENTS] of wild, renewable resources for
28 direct personal or family consumption as food, shelter, fuel, cloth-
29 ing, tools, or transportation, for the making and selling of

1 handicraft articles out of nonedible by-products of fish and wildlife
2 resources taken for personal or family consumption, and for the cus-
3 tomary trade, barter, or sharing for personal or family consumption;
4 for the purposes of this paragraph, "family" means all persons related
5 by blood, marriage, or adoption, and any person living within the
6 household on a permanent basis;

7 * Sec. 6. AS 16.05.940 is amended by adding a new paragraph to read:

8 (28) "personal use fishing" means the taking, fishing for,
9 or possession of finfish, shellfish, or other fishery resources, by
10 Alaska residents for personal use and not for sale or barter, with
11 gill or dip net, seine, fish wheel, long line, or other similar means
12 defined by the Board of Fisheries.

13 * Sec. 7. AS 16.05.940(28) is repealed.

14 * Sec. 8. Sections 1, 2, 4, and 6 of this Act take effect immediately
15 in accordance with AS 01.10.070(c).

16 * Sec. 9. Sections 3, 5, and 7 of this Act take effect one year after
17 the effective date of sec. 1 of this Act.

Kie, Some overview thoughts (not necessarily cheerful ones) on subsistence after reviewing your draft. The following points emerge.

Subsistence is bigger than any candidate. Plan now for it to be an election issue.

Arline needs to make clear to public that:

1. Can't argue issue forever.
2. Can't all have our cake & eat it too.
3. Resources are finite
4. Human pop is increasing.
5. Rural areas today are urban tomorrow.
6. Public has a responsibility to view resource harvest/management realistically & responsibly.
7. Subsistence priority now, means that other priorities will follow. This is the only alternate scenario to equal access (mediation).
8. This special priority is impacting everyone
9. Subsit issue bigger daily as illustrated by enforcement agencies recent stance.
10. The issue is essentially out of control.
11. Madison decision offers a stepping stone to depersonalize the whole issue so that Arline does not inherit all the flak.
12. Also, Elvika case pre-empted need for Gov's bills by pointing out the need to regulate habitat & identify levels of take that qualify.
13. Arline can take a position now & tie it to those decisions as a timely point to call for change, new open review, clarification of intent, or whatever.
14. Will be harder to disassociate from issue later unless the Gov's bills are put to rest

Kie - some rambling thoughts on the general
topic listed by the Outdoor Council. (Call anytime).
Subsistence Z

Now that subsistence has blossomed once
again in its 7 or 8 years of controversy,
I believe it is time we set some
parameters for resolving the expensive,
divisive issue.

Probably there is no resolution of this
issue that will please everyone. However,
where this much ~~too~~ smoke & noise
persists year after year, I can only
conclude that the state is not receiving
satisfactory leadership.

For the present, we need breathing room.
I cannot endorse a hasty repair that
may perpetuate 7 more years of argument.

~~I would like to see~~ ^{It is time for} a positive approach
of working within the existing subsistence
law that, according to the supreme court,
at least requires equal treatment of citizens
as a starting point. I think that law
should be implemented as an interim
measure while the legislature defines
basic related issues.

I firmly believe that public policy should be
based on available information & options that
are examined in full daylight. ^{judging from public comments,} The lack of
definitive terms relating to subsistence with its
implications for, rural, urban, personal, commercial,
& historic uses is a major source of controversy
& must be addressed by the legislature.

note - This
will generate
opposition from
both AFN &
the sportfish types

Village Sovereignty

✓ If you are asked, "Do you support sovereignty?"

I do not support separate, sovereign, governments within Alaska & the U.S. Either we are one nation or we are not.

There appears to be a proliferation of wishful thinking on what ~~will~~ sovereignty is or might accomplish. ~~But~~ ^{However,} no group ~~is~~ ^{or agency is} clearly & publically stating their goals in this area & that bothers me.

✓ Removing F & G from Politics

The F & G Boards regulatory function must be removed from the shadow of the F & G Dept. The system was designed to separate the administrative & regulatory role of those agencies as a means of safeguarding the public interest in common property management.

The present system is not healthy where the boards are directed to filter their views through the Commissioner instead of direct to the Governor. I support a clear separation of these functions. If the Governor intrudes into these roles there is no check & balance in the system.

Q-A Question: Do you support Sec 22, professional bds (like Dept of Ed)?

ans: I don't know. There is a danger of losing the cross-section of public involvement & drifting toward a board of retired biologists or lawyers.

I would need a close look at the implications.

Public Access

If they mean public access to the Boards —
Alaska has by far the most public involvement
in f + g mgt of any state.

The advisory Committee system is well proven
& merges easily with the Regional Councils
under ANILCA.

Note - There is a pitfall in discussing
Regional Councils. They are mandated
under ANILCA for subsistence review &
carry overtones of subsistence lobby.

The Advisory Committees, however, have a
longer, broader based history.

Any hint of non support for the Reg Councils
will bring AFN off the wall.

Too much deference to the Councils, though,
will label you pro subsistence.

Navigability

(I can't help much on this)

It an open ended ques re summer & winter
use of streams for travel.

ANILCA defines land to mean "waters & interests
therein" (sec 102) which leads directly to
the subsistence priority on fed lands.

In addition to "access" questions it ties to
pre-emptive activities such as mining/water
quality, fishing, ~~trout~~ logging etc.

Comes full circle to the question of defining
subsistence & rural before locking into
long term commitments.

~~XXXXXXXXXX~~

State Rights

The threat of federal management under ANILCA is alluded to frequently but the feds themselves are notably silent. Regardless of the substantive question, or perhaps because of it, I would like the state to assert itself in a positive, constructive manner in fish & game management.

We ~~do~~ have not explored all options for ~~satisfying~~ ANILCA & still retaining comprehensive state management. Some lawyers, successful ones I might add, believe the state is in compliance with the federal law. We do know that the feds are not "managing" either marine mammals or waterfowl, two of their primary responsibilities in Alaska.

Litigation on these issues is [a way of life] ~~at~~ the price of doing business & we have to move forward on ~~an~~ ~~an~~ ~~an~~ factual basis & see what emerges. We are acting irresponsibly if we do not act to end this ^{perpetual} debate.

SB 170 - Kille Range

SB 35 Melchior Public Use Area

SB 105 Palawan Hay Flats Crane Refuge

SB 19 Arch Coastal Wildlife Refuge

1) Should any Alaskans have a priority of use of Alaska's fish and wildlife

ANILCA says yes

2) If so, who should have this priority

ANILCA says rural residents
NATIVE + Non Natives

3) Should subsistence uses be unregulated or should they be subject to reasonable regulations, i.e. seasons, bag limits, methods and means.

yes

4) If resources will not support subsistence uses at level ~~for~~ set by reasonable Regs for continuation of species what happens

3 Anilca criteria

- 1- cust. + direct dependence
- 2- local residence
- 3- availability of alternative resources

5) Would these criteria be applied on a community or individual basis?

Individual -

6) Is sport commercial fishing stopped when these restrictions go into effect?

?

Should personal use, sport or commercial
have any priority over ~~the~~.

Should there be a hierarchy &
preference between commercial, personal
use or sport fisheries

Fischer & Halford
say yes

/

Commercial &
such sport fish
groups say NO

In light of that / from correspondence
it may be timely for them to call
for in depth look at these since so
many conflicting views point.

Questions raised:

1. Constitutional issue - ~~Prog Book~~ ~~more~~ Part A 5 opinion on state accommodation
2. of ANILCA indicate it can be notified with a less rapid response than reflected in the Shepherd bill.
3. What is "compliance" in ANILCA?
4. An authorization intended to be the priority for increasing number of rural residents for all time or ~~is~~ in it paid to historic levels?
5. What "authorization rural resident or substitute mean?"
6. What identifies a resource shortage common? or personal use?

Talking Points re Horn ltr of 4-18-85 to Hall

In first TP Horn mentions that the state program certified in 1982 "was not the only approach that would comply" w ANILCA.

In this regard, statements of two former AG's are relevant:

1. ^{out} AG Tom Meacham ltr to Tom Vaska on 6/19/81 ~~5~~ stated that Boards could provide for subsistence statewide without specific statutory mandate & that a pattern of state accommodation of subsistence probably would enable the state to maintain comprehensive management on federal lands.

2. AG Will Condon testimony to Joint Boards on 12/1/81, advised that even if the subsistence law were repealed, the two boards "could adopt management policies which fit with the law & we wouldn't have any problems".

3. AG discussion paper to Hammond 12/2/81 points out that subsistence ~~use~~ & personal use are interchangeable in historical context of language before & after 1978 law. (pg 17)

Horn ltr 2nd pp states that subsistence preference extended to urban residents is barred by ANILCA. This seems to ~~be~~ me to be very suspect generalization. It would be more accurate to say that subsistence could apply across the board until shortage develops. Then priority would/could apply on fed land.

Will need AG's reply to Horn.

Sec 1 para 3

delete as is - insert our language

Sec 2 only deals with .251(b)

ought to include .251(a) and insert
"resident net fish" in ~~para 6~~ (6) and should
add (12) listing "resident net, sport, ^{and} commercial
fishing"

~~since~~ "resident net fish" is defined in Sec. 6.

Sec 2(b) ~~fish "population" should be "fish stock"~~

This section ~~seems~~ appears to confuse the concept of
mandatory authorization ^{of a use} with that of providing a priority for
a use.

We recommend ~~that~~ the following:

"Whenever it is necessary to restrict the taking of ~~the~~ fish
stocks to ensure the maintenance of such stocks on a
sustained yield basis, the taking of such stocks ~~by~~ by
Alaska residents for personal and family consumption
shall be a priority use of the harvestable surplus
of such ~~pop~~ stocks and the Board of Fisheries shall
adopt regulations providing a reasonable opportunity for
such taking in accordance with the Administrative Procedure
act."

Sec 2 c

If the intent of this section is to allow the Board of Fisheries to ~~continue~~ ^{continue} to balance sport, ~~and~~ personal use, and not to give an absolute priority to any of them, as indicated in the ^{(letter of intent,} and commercial uses, then ~~guidelines for the Board listing~~ ~~the appropriate factors would be very helpful.~~ ^{specify}
~~this~~ section ^(c) should list the factors the Board must consider in ~~making~~ ~~and~~ allocating between these uses.

Sec 3(c) fish "population" should be fish "stock"

~~Subsistence~~ on 7th line

"subsistence uses a priority" - should read "subsistence uses the priority."

delete "consumptive"

⁸
Sec ~~2~~(b) or ~~2~~ 3(c)
2

The bill ~~is~~ ^{omits} ~~providing~~ a mandatory authorization for subsistence ^{harvests} ~~uses~~ (as in current ^{statute,} ~~201(5) first sentence~~) except ~~when~~ when it is necessary to restrict the taking of a fish stock. This means ^{the} Board has discretion in whether to authorize ~~fishery~~ ~~and~~ subsistence fishing. We recommend ~~to~~ adding the first sentence of

language

the current ~~law~~ in 16.05.251(b). Without this, ~~the~~
the bill ~~would clearly be inconsistent with ANILCA, and~~
would not ~~protect~~ protect customary and traditional uses and
would clearly be inconsistent with ANILCA.

3 (c) This section ^{requires that} ~~shall be~~ a subsistence priority
~~must~~ be ~~provided~~ triggered, ^{only} when there is ~~a~~ no
longer a reasonable opportunity for ~~the~~ taking by all
Alaska residents. This differs from ^{the} existing statute,
~~in its own right~~ which provides for the priority ~~to~~
~~for~~ if restrictions are necessary to protect ~~the~~
fish stocks or subsistence uses. This ~~provides~~ ^{Sec 101} provides
considerably less protection for subsistence uses, ^{than the existing statute,} and may be inconsistent
with ANILCA.

Recommendation: is

~~to~~ replace with 2nd and 3rd sentences of the
current AS 16.05.251(b)

3 (e) is not a new subsection

4(b) or 4(c) all comments about

~~see comments above~~ 2(b), 3 and 3(c) apply to these sections,

~~4~~

the term "reasonable economic means" is ~~very~~ unclear and

4(23) ~~We recommend that should be~~

~~clarified in the letter of intent, as requested by~~

~~the term cost-effective~~ ~~as~~ ~~it~~ should be ~~to~~ omitted.

We recommend ~~inserting~~ "cost-effective" ~~insertion~~ ~~of~~ after customary and traditional. In either case elaboration in the letter of intent would ~~be~~ helpful, give guidance to the Boards.

4(23)(a) "~~rural area~~" this def. of "rural area" was developed to identify who could ~~be~~ participate in subsistence uses, rather than where those harvests ~~are~~ could occur.

In order to ~~update~~ make this definition fit this bill we suggest that the language from the letter of intent be added into the definition, to read:

"rural area ... a ^{historic} ~~traditional~~ hunting or fishing area associated with a community or area ...

NOTICE: This opinion is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections may be made prior to permanent publication.

THE SUPREME COURT OF THE STATE OF ALASKA

GENE MADISON, LUCY CASEY, KEN MCGAHAN,
SR., ANDY JOHNSON, MARGIE KIVI, J. W.
WARE, DICK FRANCIS, DON GROLESKE, KEN
JORDON and SHIRLEY DEVAULT,

Appellants,

v.

ALASKA DEPARTMENT OF FISH AND GAME,
and ALASKA BOARD OF FISHERIES,

Appellees,

and

THE ALASKA FEDERATION OF NATIVES,

Intervenor.

ALASKA DEPARTMENT OF FISH AND GAME,
RONALD SKOOG, ALASKA BOARD OF FISHERIES,

Appellants,

v.

LOUIS GJOSUND, DORA MULCH, and KACHEMAK
BAY SUBSISTENCY GROUP, INC.,

Cross-Appellees.

File Nos. 6824/
7181

O P I N I O N

File No. 7410

[No. 2911 - February 22, 19

Re: Pages 4, 8, 12, 16, 19, 20, (22), (23), 24, 25, (27)

ALASKA COURT SYSTEM NEWS RELEASE

For release Friday, February 22, 1985, 12:30 p.m.

Court Strikes Down Fisheries Regulation

Madison v. Alaska Department of Fish and Game

Supreme Court Opinion No. 2911, File Nos. 6824/7181/7410

Contact: David A. Lampen
Clerk of the Appellate Courts
Anchorage (907) 264-0607

[The following was prepared by the office of the Clerk of the Appellate Courts and is not an official statement of the Alaska Supreme Court.]

The Alaska Supreme Court Friday struck down a Board of Fisheries regulation designed to identify eligibility for subsistence fishing in the Cook Inlet region.

Under the regulation, certain residents of the Kenai coastline and an area near Homer were forbidden to fish for subsistence purposes. The regulation had been declared valid by Superior Court Judges Victor D. Carlson and Paul B. Jones.

The supreme court, in an opinion by Justice Daniel A. Moore, Jr., held that the board erred in denying subsistence permits to certain residents who had fished with set nets for personal and family use for many years.

The supreme court found that the board's regulation on subsistence uses was inconsistent with Alaska law because the regulation was too restrictive.

The opinion stated: "Under a statute designed to protect subsistence uses, the board has devised a regulation to disenfranchise many subsistence users whose interests the statute was designed to protect."

END

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Victor D. Carlson, Judge, and Third Judicial District, Homer, Paul B. Jones, Judge.

Appearances: Martin Friedman, Homer, Arthur Robinson, Soldotna, for Appellants/Cross-Appellees. Larri Irene Spengler, Assistant Attorney General, Norman C. Gorsuch, Attorney General, Juneau, for Appellees/Appellants. Donald C. Mitchell, Anchorage, for Intervenor/Amicus Curiae.

Before: Rabinowitz, Chief Justice, Burke, Matthews, Compton and Moore, Justices.

MOORE, Justice.

This case arises as a consolidated appeal of two cases. It concerns the validity of a Board of Fisheries' (hereafter board) regulation designed to identify eligibility for subsistence fishing in the Cook Inlet region.

Appellants (hereafter Madison and Gjosund) are two groups of Alaskan residents who live along the Kenai coastline and near Homer. For many years, they have fished with set nets for salmon for their personal and family use. Nonetheless, the board denied subsistence permits to Madison and Gjosund because their use of salmon did not meet the board's regulatory definition of subsistence. Both Madison and Gjosund challenged the regulation as exceeding the scope of the state's subsistence law. In both cases, the trial courts upheld the regulation as consistent with the

statutory grant of authority. We hold the regulation invalid since it is inconsistent with AS 16.05.251(b), AS 16.05.940(22) and AS 16.05.940(23) and contrary to the legislature's intent in enacting the 1978 subsistence law.

I. SUMMARY OF FACTS

Records indicate that subsistence fishing in Cook Inlet was minimal through the mid-1970s.¹ However, a core group of residents of each Cook Inlet community has traditionally fished for Cook Inlet salmon for subsistence. Participation in the subsistence salmon fishery is most visible in the smaller, more isolated villages, where the subsistence group represents a larger percentage of the population.

In 1977 the board established a comprehensive management policy for Cook Inlet, 5 AAC 21.363, which essentially allocated specific salmon stocks to sports fishermen and commercial fishermen on the basis of seasonal fish movements. See Kenai Peninsula Fisherman's Cooperative

1. From 1971 to 1977, the average number of subsistence permits issued annually for the Upper Cook Inlet was 87 and the average catch was 405 salmon. Commercial harvest averaged about two million fish per year. However, this statistical data does not necessarily reveal the total subsistence use since many people did not obtain permits and some commercially caught salmon were used for subsistence.

Ass'n v. State, 628 P.2d 897 (Alaska 1981). Although the policy did not specifically refer to subsistence uses of salmon in Cook Inlet, it had a substantial impact on subsistence fishing. Commercial fishermen, accustomed to taking subsistence salmon from their commercial catch, instead obtained subsistence salmon fishing permits in order to fish for their personal and family use after the commercial season was over.

Before 1978, subsistence fishing was defined in AS 16.05.940(17) as fishing for "personal use and not for sale or barter."² In 1978, the Alaska State Legislature enacted ch. 151 SLA 1978 (hereafter the 1978 subsistence law). Subsistence fishing was redefined as fishing for "subsistence uses."³ Subsistence uses were defined as "customary and

2. Section 4, ch. 131 SLA 1960:

"subsistence fishing": the taking, fishing for or possession of fish, shellfish, or other fishery resources for personal use and not for sale or barter, with gill net, seine, fish wheel, long line, or other means as defined by the Board. (*Hand-held pole & line*)¹⁹⁸⁸

3. AS 16.05.940(22), (formerly AS 16.05.940(17)), states:

"subsistence fishing" means the taking, fishing for, or possession of fish, shellfish, or other fisheries resources for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by

(Footnote Continued)

traditional uses . . . for direct personal or family consumption, and for the customary trade, barter or sharing. . . ." AS 16.05.940(23).⁴ Furthermore, the legislation required the board to adopt regulations permitting "subsistence uses" of fish stocks, absent a showing that this use would jeopardize the sustained yield principle. AS 16.05.251(b).⁵ Under AS 16.05.251(b), subsistence uses have

(Footnote Continued)

the Board of Fisheries.

4. AS 16.05.940(23), (formerly AS 16.05.940(26)), states:

"subsistence uses" means the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter or sharing for personal or family consumption; for the purposes of this paragraph, "family" means all persons related by blood, marriage, or adoption, and any person living within the household on a permanent basis.

5. AS 16.05.251(b) states:

The Board of Fisheries shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting the taking of fish for subsistence uses unless the board

(Footnote Continued)

priority over sport and commercial uses if the board finds it necessary to restrict the taking of fish to assure the maintenance of fish stocks or to assure the continuation of subsistence uses. If further restrictions are necessary after giving priority to all subsistence uses, the legislature established specific criteria to restrict subsistence uses based on the subsistence user's customary and direct dependence on the resource, local residency and availability of alternative resources. Id. As a result,

(Footnote Continued)

determines, in accordance with the Administrative Procedure Act, that adoption of the regulations will jeopardize or interfere with the maintenance of fish stocks on a sustained-yield basis. Whenever it is necessary to restrict the taking of fish to assure the maintenance of fish stocks on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use. If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria:

- (1) customary and direct dependence upon the resource as the mainstay of one's livelihood;
- (2) local residency; and
- (3) availability of alternative resources.

the board could no longer allocate for subsistence uses at its discretion pursuant to AS 16.05.251(a).⁶ The

6. AS 16.05.251(a) states:

The Board of Fisheries may adopt regulations it considers advisable in accordance with the Administrative Procedures Act (AS 44.62) for

(1) setting apart fish reserve areas, refuges and sanctuaries in the waters of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of fish;

(3) setting quotas and bag limits on the taking of fish;

(4) establishing the means and methods employed in the pursuit, capture and transport of fish;

(5) establishing marking and identification requirements for means used in pursuit, capture and transport of fish;

(6) classifying as commercial fish, sport fish or predators or other categories essential for regulatory purposes;

(7) engaging in biological research, watershed and habitat improvement, fish management, protection, propagation and stocking;

(8) investigating and determining the extent and effect of disease, predation, and competition among fish in the state, exercising control measures considered necessary to the resources of the state;

(Footnote Continued)

priority over sport and commercial uses if the board finds it necessary to restrict the taking of fish to assure the maintenance of fish stocks or to assure the continuation of subsistence uses. If further restrictions are necessary after giving priority to all subsistence uses, the legislature established specific criteria to restrict subsistence uses based on the subsistence user's customary and direct dependence on the resource, local residency and availability of alternative resources. Id. As a result,

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(1) customary and direct dependence upon the resource as the mainstay of one's livelihood;

(2) local residency; and

(3) availability of alternative resources.

* legislature mandated in AS 16.05.251(b) that the board regulate for the protection of subsistence uses as the priority use of fish and game.

The passage of the 1978 subsistence law, combined with adoption of the board's 1977 management policy, heightened public awareness of the state's subsistence fishing provisions. This public interest resulted in a

(Footnote Continued)

(9) entering into cooperative agreements with educational institutions and state, federal, or other agencies to promote fish research, management, education and information and to train persons for fish management;

(10) prohibiting and regulating the live capture, possession, transport, or release of native or exotic fish or their eggs;

(11) establishing seasons, areas, quotas and methods of harvest for aquatic plants;

(12) establishing the times and dates during which the issuance of fishing licenses, permits and registrations and the transfer of permits and registrations between registration areas is allowed; however, this paragraph does not apply to permits issued or transferred under AS 16.43.

substantial increase in the demand for subsistence permits and a corresponding increase in total catch.⁷ The board responded to the permit increase by restricting subsistence fishing; it limited areas open to subsistence fishing, length of fishing periods and maximum length of gill nets. Several lawsuits were filed, all of which resulted in decisions unfavorable to the board.

In December 1980, the board held hearings to respond to the 1978 subsistence law and received a considerable amount of testimony on subsistence uses in Cook Inlet. The meeting resulted in the establishment of characteristics for identification of "customary and traditional uses" of Cook Inlet salmon.⁸ In addition, the

7. This chart reflects the trend in Upper Cook Inlet:

	<u>Subsistence Use</u>		<u>Commercial Harvest</u>
	<u>Permits Issued</u>	<u>Salmon Caught</u>	
1978	323	3,735	5,118,041
1979	1,161	9,923	1,923,229
1980	1,331	14,775	4,138,648

In 1980, household permits were issued instead of individual permits.

8. With some modification, these characteristics became the basis of 5 AAC 01.597, which states:

CHARACTERISTICS OF SUBSISTENCE FISHERIES.

(a) The Board of Fisheries finds that certain customary and traditional practices

(Footnote Continued)

board decided to "adopt a set of criteria drawn from the

(Footnote Continued)

and procedures associated with the utilization of fish in the Cook Inlet Area can be used to identify subsistence uses. Based on testimony to the board, the following characteristics are those that should be evaluated in the identification of subsistence fisheries:

(1) a long-term, stable, reliable pattern of use and dependency, excluding interruption generated by outside circumstances, e. g., regulatory action or fluctuations in resource abundance;

(2) a use pattern established by an identified community, subcommunity or group having preponderant concentrations of persons showing past use;

(3) a use pattern associated with specific stocks and seasons;

(4) a use pattern based on the most efficient and productive gear and economical use of time, energy and money;

(5) a use pattern occurring in reasonable geographic proximity to the primary residence of the community, group or individual;

(6) a use pattern occurring in locations with easiest and most direct access to the resources;

(7) a use pattern which includes a history of traditional modes of handling, preparing and storing the product without precluding recent technological advances;

(8) a use pattern which includes the intergenerational transmission of activities and skills;

(Footnote Continued)

characteristics . . . and apply [them] to communities, subcommunities, ~~groups~~ groups and individuals who wish to continue to participate in an established customary and traditional fishing effort in Cook Inlet."

At its March 1981 meeting, the board received written testimony from the public about subsistence uses of Cook Inlet salmon stock. Subsequently, it decided to apply all of the ten criteria to determine "customary and

(Footnote Continued)

(9) a use pattern in which the effort and products are distributed on a community and family basis including trade, bartering, sharing and gift-giving; and

(10) a use pattern which includes reliance on subsistence taking of a range of wild resources in proximity to the community or primary residency.

(b) The board will identify established geographic communities which may be participating in a subsistence system. The board will then apply all of the characteristics in (a) of this section to the communities and to subcommunities, groups and individuals within the communities to determine which uses are customary and traditional and therefore, which communities are eligible for the subsistence priority.

(c) For purposes of this section, a "community" is generally considered to be several households of full-time residents who all reside in a specific geographic area because of common interests.

traditional uses" eligible for the subsistence priority. When the board applied the ten criteria, it determined that no group or community in the Cook Inlet region other than Tyonek, English Bay and Port Graham satisfied all ten of the criteria.* The board limited the 1981 subsistence catch to these three communities. As a result, the board eliminated from the protection of the state's subsistence statute the majority of Cook Inlet fishermen who formerly fished under subsistence regulations.

Madison and Gjosund challenged the validity of the board's subsistence criteria (now 5 AAC 01.597) on several grounds. They claimed that: (1) the criteria were inconsistent with the statutory language and legislative intent of the 1978 subsistence law; (2) the board failed to comply with the Administrative Procedure Act in adopting the criteria; and (3) their equal protection and due process rights were violated by the board's action.⁹ Both courts issued preliminary injunctions compelling the board to authorize personal use fishing for Madison and Gjosund similar to that allowed in the previous year. The board

9. Since we hold the regulation invalid because it is inconsistent with AS 16.05.251(b) and AS 16.05.940 (22) and (23), and contrary to the legislature's intent in enacting the 1978 subsistence law, we need not consider the APA, due process and equal protection issues raised regarding the regulation's validity.

moved for summary judgment on the plaintiffs' first claim. Both trial courts granted summary judgment to the board, after finding the subsistence criteria consistent with the legislative intent "to provide for and protect personal use . . . by persons who reside in rural communities. . . ."

On appeal, Madison and Gjosund seek reversal of the two trial court decisions. They claim that the board did not act within the legislative authority granted by AS 16.05.251(b) and AS 16.05.940(2?) and (23) when it adopted the ten characteristics ultimately codified as 5 AAC 01.597.¹⁰

II. STANDARD OF REVIEW

We first consider the appropriate standard of review for this case. The legislature enacted AS 16.05.251(b), which requires the board to adopt regulations permitting the taking of fish for "subsistence uses." The legislature then defined subsistence uses as "customary and traditional" uses in AS 16.05.940(23), but it never defined

10. Madison and Gjosund also contend that the board exceeded its statutory authority under AS 16.05.251(a) when it established a personal use fishery to accommodate people excluded from the subsistence fishery by 5 AAC 01.597. Because we hold 5 AAC 01.597 invalid, we need not address the issue of the board's authority to establish a personal use fishery.

"customary and traditional." The board developed the ten criteria (now codified as 5 AAC 01.597) to identify customary and traditional uses qualifying for a subsistence priority under AS 16.05.251(b). Therefore, the board interpreted the 1978 subsistence law and devised its regulatory criteria accordingly.

In Kelly v. Zamarello, 486 P.2d 906, 917 (Alaska 1971), we stated that the "reasonable basis approach should be used for the most part in cases concerning administrative expertise as to either complex subject matter or fundamental policy formulations." However, the issues in this case concern statutory interpretation of the words "customary and traditional" and the question whether the board has acted within the scope of its statutory authority. Such issues "fall into the realm of special competency of the courts." Alaska Public Utility Commission v. Municipality of Anchorage, 555 P.2d 262, 266 (Alaska 1976). See also State, Commercial Fisheries Entry Commission v. Templeton, 598 P.2d 77, 80 (Alaska 1979).

In this instance, we are dealing with a question of statutory interpretation and will apply the substitution of judgment standard.

The substitution of judgment standard is applied when the questions of law presented do not involve agency expertise, and, thus, a court need not take the deferential stance embodied in the rational basis test. . . . The standard is appropriate where the

knowledge and experience of the agency is of little guidance to the court or where the case concerns "statutory interpretation or other analysis of legal relationships about which courts have specialized knowledge and experience."

Earth Resources Co. v. State, Department of Revenue, 665 P.2d 960, 965 (Alaska 1983), quoting Kelly v. Zamarello, 486 P.2d at 916 (emphasis added). Application of this standard allows the reviewing court to substitute its judgment about a statute's meaning for the board's interpretation, even if the board's interpretation had a reasonable basis in law. In this case, both trial courts erred by applying the rational basis standard to the board's statutory interpretation.

III. LEGISLATIVE HISTORY OF THE 1978 SUBSISTENCE LAW

Before 1978, subsistence fishing was defined as fishing for "personal use and not for sale or barter." Formerly AS 16.05.940(17). The 1978 subsistence law redefined subsistence fishing as fishing for "subsistence uses." AS 16.05.940(22). "Subsistence uses" were defined as "the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption . . . and for the customary trade, barter or sharing" AS 16.05.940(23). The board argues that the legislature intended to narrow the scope of subsistence fishing to mean fishing by individuals residing in those

rural communities that have historically depended on subsistence hunting and fishing. Under this interpretation, the board asserts that its criteria are consistent with the legislature's intent.

* The board's argument reveals a fundamental misconception about the structure of the 1978 subsistence law. There are potentially two tiers of subsistence users under AS 16.05.251(b). The first tier includes all subsistence users. Under the statute, all subsistence uses have priority over sport and commercial uses "whenever it is necessary to restrict the taking of fish to assure the maintenance of fish stocks on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources. . . ." AS 16.05.251(b). * If the statutory priority given all subsistence users over commercial and sport users still results in too few fish for all subsistence uses, then the board is authorized to establish a second tier of preferred subsistence users based on the legislative criteria expressed in AS 16.05.251(b), namely, customary and direct dependence on the resource, local residency, and availability of alternative resources.

Criteria like the ten criteria of 5 AAC 01.597(a) could be used to distinguish first-tier general subsistence users from second-tier preferred subsistence users, since most of the criteria relate to either "customary and direct

dependence" or "local residency," two of the three criteria set out in AS 16.05.251(b). However, before there is any occasion to restrict subsistence fishing to second-tier preferred subsistence users as distinct from all subsistence users, the board must make two findings. It must find: (1) that it is necessary to restrict the taking of fish for sustained-yield purposes; and (2) that eliminating sport and commercial uses will not assure the maintenance of fish stocks on a sustained-yield basis and, thus, establishing a priority among subsistence users is also necessary. The board erred because it applied the ten criteria without making these findings.

The board argues that the words "customary and traditional" in AS 16.05.940(23) authorize it to define first-tier subsistence users by their area of residence. We reject this argument for several reasons. First, the argument ignores the two-tier structure of AS 16.05.251(b) that defines only the second-tier subsistence users in terms of residency. If the legislature had intended to define the class of first-tier general subsistence users by area of residence, it would not have expressed that factor with respect to only the second tier of preferred subsistence users. Moreover, the phrase "customary and traditional" modifies the word "uses" in AS 16.05.940(23). It does not refer to users. The 1978 subsistence law refers to

"customary users" at only one point, when it defines the preferred subsistence users of the second tier with the three statutory criteria in AS 16.05.251(b).

The House Special Committee on Subsistence drafted a letter of intent for House Bill 960¹¹ that supports our interpretation. With respect to AS 16.05.251(b) (which was § 6 of House Bill 960),¹² the letter of intent made clear the priority to be given subsistence uses in general over sport and commercial uses and explained the two-tier system among subsistence users.

Sections six and seven: These two sections, which are virtually identical for the Boards of Fisheries and the Board of Game, are intended to statutorily set out the priority given to subsistence use of fish and game resources. . . . Further, these sections set forth a priority of users if restrictions are needed because of the unavailability of resources. The priority list is an attempt to insure that those with the most dependence upon the fish and game resources are the last to be restricted.

If there is a need to restrict the taking of fish or game in order to avoid damaging the fish stocks or game populations, or in order to assure that subsistence users may continue to take fish or game, it is the intent of the Committee that sports or commercial use be restricted before

11. HB 960 became the 1978 subsistence law, ch. 151 SLA 1978.

12. The committee also intended to provide a priority for subsistence hunting in AS 16.05.255, as indicated in § 6 of HB 960.

subsistence use. If these restrictions are inadequate, restricting of subsistence use as well is authorized based upon the dependence on the resource, the local residence of the subsistence users, and the availability of alternate resources.

(Emphasis added).

Only in connection with AS 16.05.251(b) does the letter of intent discuss applying residence criteria to subsistence users, and it does so only with respect to second-tier subsistence users. With respect to the definition of subsistence uses in § 17 of House Bill 960 (now AS 16.05.940(23)), the letter of intent does not suggest that the phrase "customary and traditional" was meant to describe uses as well as uses. The letter of intent states:

Section seventeen: Subsection (26) defines what uses can be made of subsistence caught fish and game. It allows it to be used for direct personal or family consumption, for barter as defined in subsection (27) and for sharing the subsistence caught fish and game with other persons. This subsistence caught fish and game which is shared can then only be used for personal or family consumption. This subsection also broadens the definition of family to include the extended family situation.

* The letter of intent clearly expressed the legislative resolve to establish a priority for subsistence use of fish and game. The 1978 subsistence law also
* increased the number of uses qualifying as subsistence fishing by including trade and barter.

The board based its restrictive regulation, 5 AAC 01.597, on the words "customary and traditional." The legislature did not define these words in the 1978 subsistence law. In such a case, reference to legislative history may provide an insight into the legislature's intent and a statute's meaning. North Slope Borough v. Sohio Petroleum Corp., 585 P.2d 534, 540 (Alaska 1978). In the House floor debate on House Bill 960, Representative Cotton introduced an amendment to delete the words "customary and traditional" from the statute. The floor manager of the bill, Representative Anderson, opposed the amendment in the following speech:

The two words are used in this context to put some guidelines around the uses of Alaska's freedom of resources. What we were afraid of, it was brought to our attention by people who were concerned that this would leave the field of the definition wide open. That newcomers just coming to the State of Alaska would automatically be able to establish not only residency in 30 days, but be able to go out and state that they have a customary and traditional use of Alaska's fish and game resources. The use of customary and traditional also is in recognition of a historical use of fish and game for food, shelter, fuel, clothing, tools, transportation, etc. This is not only in conformance with the aboriginal uses, but also those that have come in, those people who have come in later. . . . [The nonnative people in the State of Alaska have established customary and traditional uses of Alaska's fish and game resources for subsistence purposes. And in order to give the Board of Fish and Game more clarification in the area, we have come up with the (inaudible) of customary and traditional rather than leaving that section

wide open. The design is not to be restrictive but to provide guidelines and that is basically what I feel and many . . . members felt it was necessary in . . . adding or retaining those two words "customary and traditional."

(Emphasis added).

We consider statements made by a bill's sponsor in the course of legislative deliberations to be relevant evidence when a court is trying to determine legislative intent. Alaska Public Employees Association v. State, 525 P.2d 12, 16 (Alaska 1974). Anderson argued for the retention of "customary and traditional" for use as a guideline. His major concern focused on the potential pressure put on resources by newcomers. In his view, the words "customary and traditional" recognized and protected a historical subsistence use by both native and non-native Alaskans. The words were not intended to restrict subsistence use.

* Another part of the House debate serves to clarify the statute's meaning. Representative Parr expressed concern that the board might use AS 16.05.251(b) to eliminate Fairbanks residents from subsistence use. Some Fairbanks residents often traveled to the Chitina Dip Net Fishery near the Copper River for their fishing. Representative Anderson responded to these concerns:

If we get into a condition where the fish stock gets down to the point where there is no way that you can allow any take, the first people that you are going to cut off are the commercial and then the sports, first, and

then the last people that you are going to cut off are the subsistence people who have the greatest reliance on the resource. . . . [I]f it were defined that dip net fishing were for subsistence uses and not for sale or any other purpose, that would be allowed and I would think that people from Fairbanks would fall under these categories. I don't know where else they would go to . . . where people from Fairbanks make it a custom to go down to the Chitina area and if it was determined that that resource was down to the point where only subsistence would be allowed, those people would be taken care of under this section. I don't see that it is eliminating.

(Emphasis added).

* In the House debate, Anderson attempted to assure Parr that residents of urban Fairbanks could be considered priority subsistence users. Contrary to the board's interpretation of the subsistence statutes, there is no indication that legislators understood the 1978 subsistence law to restrict subsistence use to either a rural or a community context. In fact, the House debate indicates that the 1978 subsistence law was necessary to protect subsistence uses as a priority use of Alaska's fish and game resources. This intent is clearly expressed by the preamble to the subsistence law:

[I]t is in the public interest to clearly establish subsistence use as a priority use of Alaska's fish and game resources and to recognize the needs, customs and traditions of Alaskan residents. The legislature further finds that beneficial use of those resources by all state residents should be carefully monitored and regulated with as much input as possible from the affected

users, so that the viability of fish and game resources is not threatened and so that resources are conserved in a manner consistent with the sustained yield principle.

(Emphasis added).

* The legislative history indicates that the legislature intended to protect subsistence use, not limit it. The words "customary and traditional" serve as a guideline to recognize historical subsistence use by individuals, both native and non-native Alaskans. In addition, subsistence use is not strictly limited to rural communities. For these reasons, the board's interpretation of "customary and traditional" as a restrictive term conflicts squarely with the legislative intent.¹³

13. The board notes that the words "customary and traditional" in the 1978 subsistence law were taken from § 703 of HR 39, 95th Congress, 2nd Session (1978), which Congress passed in modified form in 1980 as the Alaska National Interests Land Conservation Act (ANILCA), Public Law No. 96-487, 16 U.S.C. § 3113. Therefore, the board argues that the words in the Alaska act should have the same meaning as the words in the federal act and limit subsistence uses to residents of rural Alaska. We reject this argument for several reasons. First, § 703 of HR 39 in its 1978 form did not contain the "rural Alaska residents" limitation now found in 16 U.S.C. § 3113. Second, the Alaska House floor debate reveals that Representative Anderson, the bill's floor manager, understood the 1978 subsistence law to allow the urban residents of Fairbanks to qualify as general subsistence users. Finally, in the preamble to the 1978 subsistence law, the Alaska Legislature expressed its intent to "recognize the needs, customs and traditions of Alaskan residents." While the legislature declared that beneficial use of fish and game resources "by

(Footnote Continued)

then the last people that you are going to cut off are the subsistence people who have the greatest reliance on the resource. . . . [I]f it were defined that dip net fishing were for subsistence uses and not for sale or any other purpose, that would be allowed and I would think that people from Fairbanks would fall under these categories. I don't know where else they would go to . . . where people from Fairbanks make it a custom to go down to the Chitina area and if it was determined that that resource was down to the point where only subsistence would be allowed, those people would be taken care of under this section. I don't see that it is eliminating.

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*
IV. THE BOARD'S ADOPTION AND APPLICATION OF 5 AAC 01.597

We now turn to the board's interpretation of the 1978 subsistence law. In December 1980, the board met to examine the uses of salmon in Cook Inlet and to determine which uses would qualify for the subsistence use priority. Tom Lonner, the director of the subsistence section of the Alaska Department of Fish and Game, presented the department's recommendations on the subsistence statute. He suggested that the board begin its analysis of customary and traditional uses with an assessment of user profiles and use patterns on a case by case basis. Lonner noted that such information was most lacking in the major Cook Inlet subsistence fishery because of the rapid growth of subsistence uses in recent years, and that obtaining such information would be expensive.

The board did not follow Lonner's suggested approach.¹⁴ After the board heard extensive testimony on subsistence use, its chairman appointed a committee,¹⁵

(Footnote Continued)

all state residents" should be carefully monitored and regulated, it did not express an intention to limit subsistence uses to rural Alaska residents.

14. A board member, Nick Szabo, stated that the board's limited budget prevented implementation of a case by case approach.

15. The board stipulated in 1982 that it violated

(Footnote Continued)

consisting of board members and staff, to identify subsistence uses of salmon in Cook Inlet. The committee drafted ten criteria to identify subsistence uses and presented them to the board.

* Lonner worked with the committee to develop the ten criteria and explained them to the board. He stated: "These tenets here are . . . based on . . . the evidence about four relatively self-contained communities. . . . If, however, you have individual applicants, . . . this might not suffice as a test." Therefore, the board was fully aware of the limitations of the proposed criteria.

At its March 1981 meeting, the board received further testimony on uses of Cook Inlet salmon from the area advisory committees and several individual witnesses. After deliberation, the board decided to apply all of the ten criteria "to determine which uses are customary and traditional and therefore are eligible for the subsistence priority." Only the "fisheries associated with Tyonek, English Bay and Port Graham met all ten criteria.

In its findings of fact, the board applied the ten criteria to individuals such as Madison and Gjosund. In particular, the individuals failed to meet the second

(Footnote Continued)

AS 44.62.310-12 (public meeting provision) at its December 1980 meeting.

criterion: "A use pattern established by an identified community, subcommunity or group having preponderant concentrations of persons showing past use."¹⁶ The board found:

Although some users have shown the existence of a community of interest (e.g., the Kenaitze Tribe and the Kachemak Bay Subsistence Group), these persons either are too widely dispersed or are too heterogeneous to be considered an identifiable community, subcommunity or group. On the evidence presented, the Board cannot conclude either that activities are conducted in common or that sharing or other group interchange occurs in relation to the resource.

In other words, an individual subsistence user (such as Madison or Gjosund) would not qualify for a subsistence use priority from the board unless he were part of an identifiable subsistence community or group.¹⁷ Under the

16. See 5 AAC 01.597 set out in n. 8 above.

17. In contrast, the Commercial Fisheries Entry Commission issues commercial fishing permits on an individual basis. See AS 16.43.250. We do not, however, read the words "customary and traditional" as a grant of authority to the Department of Fish and Game and the Board of Fisheries to impose a "grandfather" rights system with respect to subsistence users. Imposing an equitable system of grandfather rights is an extremely complicated task, as Alaska's experience with such a system in the commercial salmon and herring fisheries has demonstrated. See AS 16.43.010-990 and the numerous, and ever increasing, judicial decisions interpreting this act noted in the annotations. Such a system would also be extremely controversial. It is preposterous to suppose that the legislature intended to create such a system merely by using

(Footnote Continued)

board's regulation, many individual users who have historically depended on subsistence fishing are eliminated from subsistence use at the outset.

* The board's regulation, 5 AAC 01.597, is inconsistent with the legislative intent to provide guidelines for the protection of subsistence fishing. The regulation exceeds the authority delegated to the board because it operates too restrictively in its initial differentiation between subsistence and non-subsistence uses. Under a statute designed to protect subsistence uses, the board has devised a regulation to disenfranchise many subsistence users whose interests the statute was designed to protect.

The decision of the two trial courts that 5 AAC 01.597 is consistent with AS 16.05.251(b) and AS 16.05.940(22) and (23) is REVERSED.

(Footnote Continued)

the words "customary and traditional" in the definition of subsistence uses, with no more notice or guidance than is inherent in those words.

G. Cook

AKS

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STATE OF ALASKA
THIRD JUDICIAL DISTRICT

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT

NATIVE VILLAGE OF TYONEK, et al.,)
Plaintiffs,)
vs.)
ALASKA BOARD OF FISHERIES, et al.,)
Defendants.)

Filed in the Trial Courts
STATE OF ALASKA THIRD DISTRICT
MAY 23 1980
Clerk of the Trial Courts
By *[Signature]* Deputy

CIVIL ACTION NO. 3AM-80-3673

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Plaintiffs' motion for a preliminary injunction in the above-entitled action having come on for hearing on the 22d day of May 1980, all parties having been heard and plaintiffs' motion having been granted, the Court hereby enters the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The village of Tyonek is an Athabascan Indian village of approximately 300 people and 80 households located on the west side of Cook Inlet. Tyonek has been inhabited for generations by the Tanaina group of Athabascans who succeeded the Eskimo population which originally settled in the area in prehistoric times.

XX
[Handwritten notes]

Today, the village still retains its ethnic identity and has the same characteristics of a rural Alaska Native community as those of Native villages in other areas of the state.

2. The Susitna River king salmon stock enters upper Cook Inlet and ~~is the~~ only stock of king salmon to pass by the village of Tyonek. The Susitna River stock enters Cook Inlet the beginning of May, and begins to pass by the village of Tyonek in mid-May.

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ATTORNEY AT LAW

See pages A (1) (4)

The Susitna River stock run peaks at the village at the end of May or the beginning of June and is usually completely past the village by the ~~latter~~^{week} part of June.

3. The mid-May to mid-June king salmon fishery is a customary and traditional subsistence use by residents of the village of Tyonek of the Susitna River king salmon stock in that this fishery has been in existence for generations, that the harvest of the king salmon at this time is an essential component of the cultural life of the village, that the art of cutting ^{king} salmon has been handed down through generations, that the early king salmon is the first fresh food of the spring, that king salmon are oiler than other species of salmon and therefore better suited for drying and preserving for winter use, that unlike other species of salmon king salmon are not susceptible to damage while drying from insects and seabirds, and that drying is usually completed prior to the start of summer rains.

4. The residents of the village of Tyonek fish for king salmon with set nets from the beach in front of their fish camps immediately south of the village.

5. Since 1964, the residents of the village of Tyonek have been prevented from participating in their customary and traditional mid-May to mid-June king salmon subsistence fishery by regulations adopted by defendants and their predecessors. These regulations were initially adopted due to poor escapement of the Susitna River king salmon stock.

6. In 1977, the defendant Alaska BOARD OF FISHERIES adopted a Comprehensive Management Policy for The Upper Cook Inlet Salmon Stocks which stated that stocks which move in Cook Inlet to spawning areas prior to June 10th would be managed ~~exclusively~~ for recreational uses. No mention was made in the management policy for management of such stocks for subsistence uses.

NORMAN A. COHEN
ATTORNEY AT LAW

for management of such stocks for subsistence uses for the Board of Fisheries, and the Board of Fisheries for subsistence uses.

7. In 1978, the Alaska State Legislature enacted ch 151 SLA 1978 (A.S. 16.05.251(b)) which requires that whenever it is necessary to restrict the taking of the Susitna River ^{fish} king salmon stock to assure the maintenance of such stock on a sustained-yield basis or to assure the continuation of subsistence uses of such king salmon stock, subsistence use of such stock shall be the priority use over sport and commercial uses.

cc
5/1/81

Bill
see

Stock
fish
subsistence

8. A.S. 16.05.251(b) ^{also} requires defendant ALASKA BOARD OF FISHERIES to adopt subsistence fishing regulations for Susitna River king salmon stocks, which implement the priority for subsistence uses referred to in paragraph 7, unless it determines that adoption of such regulations will jeopardize or interfere with the maintenance of Susitna River king salmon stocks on a sustained-yield basis.

9. Prior to the ^{December 1979} March 1980 meetings of defendant ALASKA BOARD OF FISHERIES, said defendant, on behalf of plaintiff NATIVE VILLAGE OF TYONEK, published ^{summary of the} proposed regulations pursuant to the Administrative Procedures Act to open a subsistence king salmon fishery for the residents of the village of Tyonek, between May 15 and June 15.

10. On March 26, 1980, defendant ALASKA BOARD OF FISHERIES held a public hearing and received testimony on the proposed regulations from the Alaska Department of Fish and Game, residents of the village of Tyonek and other members of the public.

11. Testimony presented at the public hearing indicated that the residents of the village of Tyonek ^{and} customarily and traditionally harvested king salmon for subsistence uses between May 15 and June 15 ^{per the}.

12. Though evidence was presented that restrictions on taking by all user groups of the Susitna River king salmon stock were necessary, no evidence was presented at the hearing by the Alaska Department of Fish and Game that adoption of the proposed

Norman A. Cohen
Attorney at Law

regulations would jeopardize or interfere with the maintenance of the Susitna River king salmon stock on a sustained-yield basis and the defendant ALASKA BOARD OF FISHERIES made no finding to that effect. 11. Board continued to express concern over the impact of the fisheries on the traditional subsistence activities of the village of Tyonek.

13. The defendant ALASKA BOARD OF FISHERIES rejected the plaintiffs' proposal but adopted proposals authorizing the harvest of 13,100 Susitna River king salmon by sports fishermen. ^{for subsistence fishing in Cook Inlet}

14. As a result of the failure of the defendant ALASKA BOARD OF FISHERIES to adopt proposed regulations opening a king salmon season for the residents of the village of Tyonek, the plaintiffs are threatened with irreparable harm in that plaintiffs' customary and traditional use of the Susitna River king salmon stock will be denied to them. Consequently, residents of the village of Tyonek will lose access to a valuable subsistence resource and the customary and traditional way of life of the village will be disrupted.

* 15. No other species of salmon available to the residents of the village of Tyonek can replace the Susitna River king salmon stock ^{harvested between May 15 and June 15, 1980} as a subsistence resource or substitute for the role of the Susitna River king salmon stock in the customary and traditional way of life of the village.

16. Defendants will be adequately protected if the residents of the village of Tyonek are permitted to harvest 3,000 king salmon from the Susitna River king salmon stock between May 23 and June 15, 1980.

17. Plaintiffs have raised serious and substantial questions. The failure of defendant ALASKA BOARD OF FISHERIES to adopt the proposals submitted on behalf of plaintiff NATIVE VILLAGE OF TYONEK and the adoption of proposals authorizing the harvest of 13,100 Susitna River king salmon by sports fishermen is a violation of A.S. 16.05.251(b) in that whenever it is necessary to restrict

NOBMAN A. COHEN
ATTORNEY AT LAW

the taking of Susitna River king salmon to assure the maintenance of that fish stock on a sustained-yield basis, or to assure the continuation of subsistence uses of such resource, subsistence use shall be the priority use.

CONCLUSIONS OF LAW

1. Unless the preliminary relief requested by plaintiffs is granted plaintiffs will suffer irreparable harm in that plaintiffs customary and traditional use of the Susitna River king salmon stock will be denied to them. Consequently, residents of the village of Tyonek will lose access to a valuable subsistence resource and the customary and traditional way of life of the village will be disrupted.

2. Defendants and the resource will be adequately protected if the residents of the village are permitted to harvest 3,000 king salmon from the Susitna River king salmon stock between May 23 and June 15, 1980.

3. Plaintiffs have raised serious and substantial questions in that:

a. Whenever it is necessary to restrict the taking of a fish stock to assure the maintenance of fish stocks on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use of such stock.

b. The residents of the village of Tyonek have a customary and traditional use of the Susitna River king salmon stock between May 15 and June 15.

c. Adoption by defendant ALASKA BOARD OF FISHERIES of regulations which allow for the sport fishing of Susitna River king salmon without first adopting regulations which provide for the customary and traditional use of such stock by the residents of the village of Tyonek is a violation of the subsistence priority set forth in A.S. 16.05.251(b).

HENRY A. COHEN
ATTORNEY AT LAW

4. No bond is required of the plaintiffs prior to the issuance of the preliminary injunction.

DATED this 23rd day of May, 1990.

Neil Carlson
JUDGE OF THE SUPERIOR COURT

I certify that on 5-30-90
a copy of this document was sent to:
 Attorney(s) of Record, or

Other: _____
at address of record.

D. O. E. _____
Deputy Clerk

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

NATIVE VILLAGE OF TYONEK, ^{et al.})
Plaintiffs,)
vs.)
ALASKA BOARD OF FISHERIES, ^{et al.})
Defendants.)

CIVIL ACTION NO. 3AN-30-3073

AGREEMENT OF SETTLEMENT

WHEREAS, a civil action has been brought by the Native village of Tyonek and several residents of the village of Tyonek, in which plaintiffs allege inter alia that the decision of the Alaska Board of Fisheries rejecting proposed regulations for king salmon fishing for subsistence uses in the upper Cook Inlet between May 15 and June 15 by residents of the village of Tyonek was a violation of A.S. 16.05.251(b) and request declaratory and injunctive relief; and

WHEREAS, on May 22, 1980, this Court granted plaintiffs' motion for a preliminary injunction and on May 23, 1980, entered findings of fact and conclusions of law restraining defendants from enforcing regulations which prohibit residents of the village of Tyonek from subsistence fishing for king salmon in the ^{vicinity of} ~~Cook Inlet~~ ^{Tyonek} between May 23, and June 15, 1980, and requiring defendants to adopt emergency order regulations to authorize the residents of the village of Tyonek to harvest king salmon ~~in the~~ ~~vicinity of~~ in the vicinity of Tyonek for subsistence uses between May 23, 1980 and June 15, 1980, with a limit of 50 king salmon per household not to exceed a total of 3,000 king salmon

and regulated to minimize the impact on any one stream.

WHEREAS, the parties in order to avoid the uncertainty of further litigation, wish to resolve this matter by means of settlement;

NOW, THEREFORE, the parties, through their attorneys and subject to the approval and order of this Court, hereby agree as follows:

STATEMENT OF FACTS

1. Plaintiff NATIVE VILLAGE OF TYONEK is a nonprofit corporation organized under the Indian Reorganization Act of 1934, 25 U.S.C. 461 et seq., to provide for the general health, safety, and well-being of the Athabascan Indian residents of the village of Tyonek, a substantial number of whom customarily and traditionally harvested king salmon in the vicinity of Tyonek during May and June for subsistence uses prior to the closure of the Tyonek king salmon subsistence fishery by Alaska Board of Fish and Game in 1964, and would harvest king salmon in the vicinity of Tyonek for subsistence uses in 1980 but for the fact that defendant ALASKA BOARD OF FISHERIES did not adopt proposed regulations for subsistence king salmon fishing in the vicinity of Tyonek by residents of the village of Tyonek between May 15 and June 15.

2. Plaintiffs NELLIE CHICKALUSION, FEDORA CONSTANTINE, PETER CONSTANTINE, and SAVA STEPHAN are Athabascan Indian residents of the village of Tyonek who customarily and traditionally fished at Tyonek for king salmon for subsistence uses in May and June prior to the closure of the Tyonek king salmon subsistence fishery by the Alaska Board of Fish and Game in 1964, and who (with the exception of plaintiff PETER CONSTANTINE) would harvest king salmon in the vicinity of Tyonek in May and June for

subsistence uses in 1930 if defendant ALASKA BOARD OF FISHERIES had adopted proposed regulations for subsistence king salmon fishing in the vicinity of Tyonek by residents of the village of Tyonek. Health problems would prevent plaintiff PETER CONSTANTINE from harvesting king salmon in the vicinity of Tyonek for subsistence uses in 1930, but residents of the village of Tyonek would share their king salmon subsistence harvest with plaintiff PETER CONSTANTINE as is the customary and traditional practice of the residents of the village of Tyonek with respect to the distribution of subsistence resources to the elders of the village.

3. Defendant ALASKA BOARD OF FISHERIES is established by A.S. 16.05.221 for the purposes of the conservation and development of the fishery resources of the state. The board is required by A.S. 16.05.251(b) to adopt regulations permitting the taking of king salmon in the vicinity of Tyonek for subsistence uses.

4. Defendant RONALD O. SKOOG is the Commissioner of the Alaska Department of Fish and Game and is required by A.S. 16.05.020 to manage the fish resources of the state in the interest of the economy and general well-being of the state. These fish resources include king salmon in the vicinity of Tyonek. Defendant RONALD O. SKOOG is the ex officio secretary of defendant ALASKA BOARD OF FISHERIES and has authority pursuant to A.S. 16.05.060 to open and close seasons and periods on fish.

5. Defendant WILLIAM R. NIX is the Commissioner and principal executive officer of the Alaska Department of Public Safety. Pursuant to A.S. 44.41.020 the Alaska Department of Public Safety is charged with responsibility for the administrative functions relative to the protection of life and property including enforcement of fishing regulations adopted by defendant ALASKA BOARD OF FISHERIES.

6. Tyonek, a community on the west side of Cook Inlet, is an Athabascan Indian village of approximately 350 people, over 95% of whom are Athabascan Indians. Tyonek has been inhabited for generations by the Tanaina group of Athabascans who succeeded the Eskimo population which originally settled the area in pre-historic times. The present residents of the village are the descendants of the Tanaina group. Today, the village still retains its ethnic Athabascan identity, is a rural Alaska Native village and has not abandoned its customary and traditional use of king salmon.

7. For the purposes of this Agreement of Settlement, "fish" means the Susitna River king salmon which enter Cook Inlet waters the beginning of May and begin to pass by the village of Tyonek in mid-May and spawn primarily in streams located in the Susitna River drainage.

8. Susitna River king salmon peak at the village at the end of May or in early June and are usually completely past the village by the end of June.

9. The mid-May to mid-June king salmon fishery is a customary and traditional subsistence use by residents domiciled in the village of Tyonek of the Susitna River king salmon in that this fishery has been in existence for generations, that the harvest of the king salmon at this time is a customary and traditional component of the cultural life of the village, that the art of cutting large king salmon has been handed down through generations, that the early king salmon are the first significant subsistence fresh salmon of the spring, that Susitna River king salmon are oilier than other species of salmon found in Cook Inlet in the vicinity of Tyonek and therefore better suited for drying and preserving for winter use and less susceptible to damage while

drying from insects and seabirds, and that drying takes approximately three weeks and is usually completed by the end of June.

10. The residents of the village of Tyonek harvest king salmon with set nets from the beach in front of their fish camps immediately south of the village.

11. Since 1964, the residents of the village of Tyonek have been prevented from participating in their customary and traditional mid-May to mid-June king salmon subsistence fishery by regulations adopted by defendants and their predecessors. These regulations were initially adopted due to poor escapement of the Susitna River king salmon.

12. Prior to the December 1979 and March 1980 meetings of defendant ALASKA BOARD OF FISHERIES, said defendant, on request of plaintiff NATIVE VILLAGE OF TYONEK, published summaries of regulations proposed by said plaintiffs pursuant to the Administrative Procedure Act to open a subsistence king salmon fishery for the residents of the village of Tyonek, between May 15 and June 15.

13. On March 26, 1980, defendant ALASKA BOARD OF FISHERIES held a public hearing and received testimony on the proposed regulations from the Alaska Department of Fish and Game, residents of the village of Tyonek and other members of the public. Public testimony was also received at the December 19, 1979 meeting of defendant ALASKA BOARD OF FISHERIES.

14. Testimony presented at the public hearings indicated that the residents of the village of Tyonek customarily and traditionally harvested king salmon for subsistence uses between May 15 and June 15 prior to the closure in 1964.

15. Though evidence was presented to defendant ALASKA BOARD OF FISHERIES that restrictions on taking by all user groups of Susitna River king salmon in Cook Inlet were necessary, no

evidence was presented stating that adoption of the proposed subsistence regulations would jeopardize or interfere with the maintenance of Susitna River king salmon on a sustained-yield basis and the defendant ALASKA BOARD OF FISHERIES made no finding at the March meeting to that effect.

16. The defendant ALASKA BOARD OF FISHERIES rejected the plaintiffs' proposals for subsistence fishing in Cook Inlet but adopted proposals which resulted in authorizing the sport harvest of up to 13,100 Susitna River king salmon pursuant to 5 AAC 60 .030(a).

17. A failure of the defendant ALASKA BOARD OF FISHERIES to adopt regulations opening a king salmon season for the residents of the village of Tyonek, between May 15 and June 15 of each year, threaten plaintiffs with irreparable harm in that plaintiffs' customary and traditional use of Susitna River king salmon from May 15 to June 15 will be unnecessarily denied to them. Access to a significant customary and traditional subsistence resource in accordance with A.S. 16.05.251(b) will be lost and the customary and traditional cultural life of the village will be disrupted.

18. No other species of salmon available to the residents of the village of Tyonek can fully replace Susitna River king salmon harvested between May 15 and June 15 as a subsistence resource or substitute for the role of Susitna River king salmon in the customary and traditional cultural life of the village.

CONSENT DECREE

1. Under A.S. 16.05.940(6) and (26), subsistence uses of fish are the customary and traditional uses in Alaska of such fish for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of non-edible by-products of such fish

evidence was presented stating that adoption of the proposed subsistence regulations would jeopardize or interfere with the maintenance of Susitna River king salmon on a sustained-yield basis and the defendant ALASKA BOARD OF FISHERIES made no finding at the March meeting to that effect.

16. The defendant ALASKA BOARD OF FISHERIES rejected the plaintiffs' proposals for subsistence fishing in Cook Inlet but adopted proposals which resulted in authorizing the sport harvest of up to 13,100 Susitna River king salmon pursuant to 5 AAC 60 .030(a).

17. A failure of the defendant ALASKA BOARD OF FISHERIES to adopt regulations opening a king salmon season for the residents of the village of Tyonek, between May 15 and June 15 of each year, threaten plaintiffs with irreparable harm in that plaintiffs' customary and traditional use of Susitna River king salmon from May 15 to June 15 will be unnecessarily denied to them. Access to a significant customary and traditional subsistence resource in accordance with A.S. 16.05.251(b) will be lost and the customary and traditional cultural life of the village will be disrupted.

18. No other species of salmon available to the residents of the village of Tyonek can fully replace Susitna River king salmon harvested between May 15 and June 15 as a subsistence resource or substitute for the role of Susitna River king salmon in the customary and traditional cultural life of the village.

CONSIST DECREE

1. Under A.S. 16.05.240(a) and (b), subsistence uses which can be the customary and traditional uses in Alaska or such fish for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of non-edible by-products of such fish

taken for personal or family consumption, and for the customary trade, barter or sharing for personal or family consumption.

2. The residents of the village of Tyonek have a customary and traditional subsistence use of Susitna River king salmon between May 15 and June 15 for all of the reasons set forth in paragraph 9 of the Statement of Agreed Facts. The role of the harvest of Susitna River king salmon in the cultural life of Tyonek and the handing down of information about the harvest, preparation, and use of such fish from generation to generation are significant factors in determining whether use of such fish for personal or family consumption is a "customary and traditional subsistence use of such fish.

3. Defendant ALASKA BOARD OF FISHERIES is required to adopt regulations which authorize the subsistence fishing of Susitna River king salmon by residents of the village of Tyonek in the upper Cook Inlet in the vicinity of the village of Tyonek between May 15 and June 15 each year, unless such defendant determines, in accordance with the Administrative Procedure Act, that any subsistence fishing for Susitna River king salmon by the residents of the village of Tyonek will jeopardize or interfere with the maintenance of such fish on a sustained-yield basis.

4. The parties agree and the Court approves, for the purposes of achieving an agreement to this litigation, that whenever defendant ALASKA BOARD OF FISHERIES makes a finding that any subsistence fishing for Susitna River king salmon by residents of the village of Tyonek will jeopardize or interfere with the maintenance of such fish on a sustained-yield basis, such finding shall be made on the record and shall detail the biological information which forms the basis of such finding. The finding (including the biological information) shall be reduced to writing.

5. Regulations setting bag limits, gear types, and open

fishing periods for the subsistence fishing of Susitna River king salmon by residents of the village of Tyonek shall cause the least adverse impact upon such residents, and shall be consistent, insofar as practicable, with sound fishery conservation practices, such as minimizing the impact on the return of such fish to any one stream.

6. Whenever it is necessary to restrict the taking of Susitna River king salmon to assure the maintenance of such fish on a sustained-yield basis, or to assure the continuation of subsistence uses of such fish, customary and traditional subsistence use by the residents of the village of Tyonek shall be the priority use under A.S. 16.05.251(b). The defendant ALASKA BOARD OF FISHERIES shall not adopt regulations which allow for the commercial (between May 15 and June 15) and sport fishing of Susitna River king salmon, without first adopting regulations which provide for this subsistence priority over such commercial and sport use unless the Board has made a finding, as required by A.S. 16.05.251(b), that any subsistence fishing for Susitna River king salmon by the residents of the village of Tyonek will jeopardize or interfere with the maintenance of such fish on a sustained-yield basis.

7. Defendants ALASKA BOARD OF FISHERIES, RONALD O. SKOOG, and WILLIAM R. NIX and their successors in office are hereby permanently restrained from enforcing regulations which prohibit residents of the village of Tyonek from subsistence fishing for Susitna River king salmon in the upper Cook Inlet in the vicinity of the village of Tyonek between May 15 and June 15 of each year without defendant ALASKA BOARD OF FISHERIES first finding, in accordance with the Administrative Procedure Act, that such subsistence fishing will jeopardize or interfere with the maintenance of such fish on a sustained-yield basis.

8. Counts I, II and IV of plaintiffs' complaint are dismissed with prejudice.

9. This Court shall retain jurisdiction over this civil action until July 1, 1931.

DATED: _____

DATED: _____

Larri Spengler

Norman A. Cohen

DATED: _____

DATED: _____

John Gissberg
Attorneys for Defendants

Donald C. Mitchell
Attorneys for Plaintiffs

ORDER

The above Agreement of Settlement and Consent Decree are approved.

DATED: _____

Victor Carlson
Superior Court Judge

MARCH 26, 1985 HOUSE COMMITTEE ON SUBSISTENCE

Billy Barrier - legislative legal staff

Teleconference

ANG

DALE BONDARENT: Gov. + AG giving misinformation. Believe those who catch fish for our special use, given priority -

Ftg reserved for public use. Subject to preferences among beneficial uses. Cannot give preference to users, by rural etc.

Request AG to rule on:

Kensi: 1) request for gillnet

2) fish w/ dipnet

3) take by hook + line

Oppose Gov. bill to circumvent courts decision. Only solution is complete repeal of subsistence law.

~~Sub~~ Continued denial of sports equal rights

CORDOVA: Comm. gillnetter 35 years - request to pass bill + give flexibility back to boards. Cordova completely dependent on commercial fishing.

BKS

BYRON THREE: Chitna dipnetters: Ftg + AG's office painting bleak picture they can't move Gov's bill through. Will be in compliance with ANILCA.

JNU Bob Blake: Pres. UFA, Pres. Cordova Fish. United: testimony on

2)

Behalf of self. Comm. fishermen. Board been implemented satisfied ~ 99% of state. Now leaves majority of state to be disenfranchised. Potential demand is probably realistic, not imagined. After state passed a law ~~on~~ subsistence, there was an increase in subsistence fishing.

Need subsistence law. People where there's nothing else for their economy. Requested disallow subsistence use by people of commercial catch. If Cordova fishermen disenfranchised wd. subsistence fish.

Legislature's original lack of intention reflected in interpretation of this ~~bill~~ statute.

If affect Copper River fishery, wd. be a loss of probably 150 jobs. 4 land based canneries in Cordova, 3 in Valdez, some floating, one out of Whittier.

MATSU: Kurt Johnson, Eagle River; feel totally unconstitutional. If everyone in state allowed, would destroy resource; should be more by need than by location. Anchorage people who need it, more than someone in areas which are rural, who are making lots of money. Should be along person's need.

Sund: would advocate a needs approach to other state programs.

HAINES: Leo ^(?) Kamb - Commercial fished for over 30 years. Didn't say much.

3)

ANG. Sam McDowell: Pg. 35, customary + traditional not intended to be restrictive.

What. Feds place in Tyonek cannot give priority based on geography. Repeal law. \$70,000 salary w/ someone who has a subsistence permit.

CODDORA Margie Johnson: Comm. fishing back here, speedy resolution necessary supports HB + SB - Commercial crab fishing eliminated. If Gilnet closed, wd. be devastating.

UNALAKLEET Brian McLean: Still trying to get copy of Nelson decision + AG's comment, Majority of commercial fishing done by local people to supplement subsistence economy.

DELTA Michael Chambers: Can't base subsistence on income because unconstitutional. Anyone w/ class 5A (25¢ license), would eliminate problem abt. unconstitutional to base use on geography. grandfather users based on history of using permits.

HB 288 - ask not to support, discriminate.

Sound: some based on non - need: student loans, education, limited entry.

based on need: Public health.

Urban - rural: Non conforming housing, capital projects

Michael Chambers - should be based on income.

4)

Bethel HAROLD SPARK (Nunam Kitutsisti)

- * In '76 relationships worked up through Boards.
- * 28 LAW
- * BOARDS worked up system - appeared to be working.
- * Personal use can be handled.
- * Satisfies all constituency.
- + Put back into hands of resource allocations.
Have good board system. Every village has a representative.

No longer have pristine environment (mining, gas etc.)
Will need to live w/ shortages. In rural areas, bulked people
depend on resources - separate based on resource.
Personal use addresses Kenai fishermen.

FBKS Bill Hays: Recent crt. decision reinstates
equality. Request take time to reinstate equality to
all, rid selves of forced discrimination. Oppose ¹⁸⁸ 288.

MAT SU Nowell Woods Mat Valley Sportsman: Totally
out off fishing in upper end. Historically many users that
are being denied access. Have hard time when have no
definition of rural. Worried that people who move in will
be hard to move in.

UNALAKLEET Charlie Blatchford: Economy villages very
depressed. Winter, unemployment ~ 80%. Outside people

5)

moved in further depleting economy. In Unalakleet have almost no representation. We have to eat these fish.

CORDOVA: Own & operate byakpat Smoking + Cannery:
Post Midcon: F19 faces tough if not impossible allocation + output.

FBKS Doug Buchanan: Subsequent task force has not done anything. Native Corporations will flood legislature w/ propaganda. TASK FORCE was supposed to be investigatory. Task force has done nothing. Dishonestly kept issue from being honestly investigated. Supreme Ct. does not put in mind. Quite fix worse than being under law.

Herman: What do you mean by Native Corporation propaganda?

Teleconference

April 8 5:30 - 8:30 pm
April 13 1-4:30

CORDOVA: Council have full season. Critical bird? Fisheries can manage for all people of state. Need to receive immediate endorsement of bill.

JUNEAU Phylus Day (Cordova) - passed resolution in support of HB 288. Gillnet starts May 15. Next opening starts in June.

6)

Only have 4 local canneries. Used to have 7.

KATO: How many people employed by canneries?

DAY: up to 850 people in canneries.

JNO Pon Williams: Pres of AK Native Brotherhood, 68,000 num
in contact w/ AFN, (Tlingit-Haida) in position so
not in compliance w/ ANILCA, cannot allocate. T-H. lived
through Fed grant. before. Bill wd. restore to Brds.
Allocation. Personal use ~~of~~ shd. not conflict w/ subsistence
use areas, as has been applic. to lay Brds until MADISON.
Official correspondence, Sept 6, 1984 - letter from Commission
to ANB, interpreting def. of personal use. ~~Brds~~ Thanks Brds.
Stand w/ Bd of Fisheries + Governor.

Sheffield to push for fishing law

by Dean Fosdick
Associated Press

Juneau — Gov. Bill Sheffield said Tuesday he plans to begin applying pressure on the legislature within the next several days in efforts to get the subsistence issue settled this year.

But Senate President Don Bennett, R-Fairbanks, said lawmakers "won't be stamped halfway through the session to do something we regret . . . that could be a mistake."

During an interview in his capital office Tuesday, Sheffield said he would be "irresponsible" if he didn't try to get his subsistence legislation passed this session.

But the governor said it was too early to decide about declaring a special session if lawmakers call it quits without solving the issue.

"It might be a little too early to predict what I'd do in that case," Sheffield said. "I don't think we've had a chance to answer the interests or concerns of people."

"The rural communities have one group of concerns, the urban communities — Anchorage — another. Fairbanks is separate from that . . . Copper River dip netters," he said. "What I've done is put the regulations into the law."

"That would bring us back to the status quo way we've been going the last three years," he said. "Except for a few isolated cases, it seems to be working fine."

The governor said he's been relatively quiet about the subsistence issue since introducing the legislation last week.

"I'm letting it ferment a bit," Sheffield said. "But I see us stepping it (pressure) up now. We'll get somebody in the legislature to help. And we'll see how the (fish and game) boards assess the situation."

The administration bill would restore — by making them laws instead of regulations — the same subsistence hunting and fishing rules struck down Feb. 22 by the Alaska Supreme Court.

State officials are warning sport fishing in southcentral Alaska could be severely restricted this summer or completely shut down because of the court's ruling, which gives subsistence users first right to fish and game stocks.

Commercial fishing also is in danger of being interrupted by the ruling, officials said.

Don Collinsworth, commissioner of the state Department of Fish and Game, said Tuesday it's difficult to predict what might happen this summer because no one knows how many people will take up subsistence fishing.

"We have the necessary authority to assure there won't be any danger to biological resources — even if we have to close all fisheries," Collinsworth said. "But it's hard to say right now what the impacts are going to be."

House Speaker Ben Grussendorf, D-Sitka, said hearings are scheduled on the issue next week in the House.

"We have to look and see how the big groups out there feel about it before we decide if it's a priority," Grussendorf said. "I don't want to move too quickly . . . get everyone riled up until we get the facts."

McKai from Zahn 3-21-85

re: Allocation among residents & non-residents

The New Mexico case (Terk vs Gordon) involved two questions:

1. The state allocation of a fixed percent of sheep hunting permits for non-residents on fed land was arbitrary, and
2. non-res fees were discriminatory.

X U.S. District court ruled that the fixed percent allocation of permits to non-res was unconstitutional.

The state did not appeal this but did change its permitting procedures.

Supreme court did not address this point since state had not challenged it.

(Discriminatory fees were found reasonable, however).

The above plaintiff, Terk, filed a similar complaint in Colorado in 1984. That litigation is in limbo, however, since the 1984 regs expired before the issue was clearly addressed.

Colorado plans no action unless they hear more from Terk.

1. Issue

There is an initiative on the 1982 General Election ballot which would, if passed, repeal the current state statute which provides for a priority allocation, in times of shortage, to "subsistence" users of the state's fish and game resources.

In addition to repealing current law, the initiative contains new language which creates a new user category - "personal consumptive use". It further says that no allocations within this category can be made on the basis of race, sex, local residency, geographic location, etc. (see attached wording).

2. Background.

Before 1978, subsistence allocation was done by regulation. In 1978 the current subsistence statute was enacted partially in response to a supreme court decision which upheld the contention of the Tanana Valley Sportsmen's Association in a suit against the Board of Game that the Board of Game had no specific statutory authority to limit access to game to any specific group of users (in this case, villagers north of Fairbanks). There was in addition, federal pressure to create statutory authority for subsistence use. The federal "d-2" legislation was passed later with subsistence provisions similar to state law and a provision which required the state to maintain its subsistence priority law or lose sole management of fish and game on federal lands.

3. Facts & Figures.

The federal law and the state law both give priority to "customary and traditional uses" as opposed to users. This distinction made it necessary for the Boards of Fish and Game to make regulations which deal with eligibility on an area basis instead of an individual basis. By definition, areas of subsistence use are those areas outside a city or borough or a community of less than 7000 which is not connected to the rest of the state by road. In addition, only residents of those areas may be considered eligible for subsistence priority allocation. Those residents make up only about 15% of the population of the state.

It is this restriction to residents of a particular area which is at the center of the current controversy.

Note: Before the Boards were required to make up these definitions, as a practical matter, almost anyone could get a subsistence permit if the harvest was perceived as being generous enough (especially with fish).

It is estimated that the value of the subsistence harvest is over \$100 million annually.

Melissa Fouse
28 Oct 82

4. Key Players/Impacts of Repeal

a. Private citizens supporting the initiative are mostly urban dwellers who hunt, fish and trap for "personal consumption". About 22,000 signatures were collected for the initiative petition. This group feels threatened by the possibility of losing access to the resource. Their argument centers around "putting food on their tables" as opposed to just recreation or sport. They say that if the initiative passes they will go to Washington, D.C. to work for repeal of federal law, both the subsistence preference law and the Marine Mammal Act.

Another premise with which the pro-repeal group backs up their argument is that to create a geographically oriented special user group is in conflict with the state constitution which says that resources are reserved to the people for common use. However, the constitution goes on to say that resource management is subject to preferences among beneficial uses. We have an opinion from Jack Chenoweth saying that the law is not unconstitutional, but no court has yet to render an opinion.

b. Governor Hammond publicly and actively opposes the initiative. He appears to favor change in the statute to eliminate the "customary and traditional uses" definition, but it is not clear what he would use as criteria instead.

Of the two frontrunning gubernatorial candidates, Tom Fink and Bill Sheffield, only Tom Fink supports repeal of the current law. There will have to be some adjustments to the law in any case and the next administration will probably set the tone for how it is changed, and certainly how any change would be administered. The make-up of the Boards of Fish and Game could influence strongly how easy any access for any user group could be.

c. The Department of Fish & Game has been factionalized by the initiative. Ron Sommerville, director of the division of game management has taken a leave of absence to work for passage of the initiative. His official motivation is that the current law is a bad one and should be changed. The view "on the street" is that he is looking to get a place in the potential Fink administration, and also that there is a lot of jealousy between the older, established divisions of management in the Department and the newly created subsistence division.

d. James Watt and the Department of the Interior: Federal law requires Interior to enforce subsistence preferences on federal lands if the state subsistence priority law is repealed. The Secretary of the Interior doesn't want to do that, both in terms of philosophy and economics. The Department has said of course, they will obey the law and take over, but Watt has said that something can be worked out. It has been said that the pressure of trying to manage those lands without sufficient manpower, etc., would result in the closure of federal lands to all but subsistence users. Enforcement of course is another matter - with no philosophical impetus under this administration or manpower in the field, there probably wouldn't be much enforcement.

Businesses: Guides stand to lose a great deal if the initiative passes and federal management on federal land becomes a reality - the assumption being that access for other than subsistence users would be restricted or denied.

Native Corporations, as a matter of face, may feel compelled to post "no trespassing" signs on their 44 million acres. That would have the potential for creating a tremendous amount of racial divisiveness in Alaska. Also, if the "customary and traditional" users have less access to the resource, and thus less food, barter material, etc., there will be more pressure on their social service arms and hence the State for cash.

Small business in the bush could suffer if the initiative passes too. There are no doubt many "trading posts" in the bush providing goods in trade for subsistence use-obtained materials (hides, furs, crafts, etc.). Even if the assumption were to be made that the state would make up the difference in cash (or cash equivalents such as food stamps, etc.) there would be a lag time in getting those replacements to the areas affected.

A small group who would be affected more by the enactment of the new law than by repeal of the old will be foreign hunters. If the "local residency" language in the new law is construed to mean those persons living outside the state also, anyone can be a personal consumptive user. It would mean a loss of revenue to the state, since big game tags are more expensive for outside hunters.

Subsistence Hunters: It is difficult to assess the immediate impact on subsistence users. Current management of the resource skews more of the resource in the subsistence areas to locals, and subsistence users have different bag limits, seasons, etc. How the Boards of Fish and Game can equalize the access to the resource without lessening the harvest of the subsistence user is difficult to tell. Certainly there would be strong feeling among persons who would begin to receive less than they are accustomed to and probably there would be an upsurge in poaching. Again, enforcement would be based upon the administration's viewpoint.

5. After the Election

As of this writing, the polls show that the initiative will not pass. The issue will not go away, however. There has been a lot of pressure to change the law in any case and that pressure will remain. In addition, many of the candidates (particularly Republicans) have agreed that the law is unfair and needs to be changed, even if only to provide access to poor "customary and traditional users" in the urban areas. The pro-repeal group may challenge the law in court, or at any rate, threaten to if the Legislature does not act.

Melissa Fouse
25 Oct 82

Issue Paper - Subsistence
Page 4

The Legislature could probably expand current law to allow for need since the federal requirement/language will remain.

The Legislature could create an additional class for "personal consumptive users" and direct the Boards of Fish and Game to establish criteria for qualification and a level of access between sports and subsistence. That would not remove the subsistence priority, but might assuage the people who feel that they are not getting their fair share for their table.

Melissa Fouse
25 Oct 82

21 Dec

*Subsistence
File
Melissa*

Subsistence.

The current state subsistence statute is derived from and is a requirement of ANILCA. It calls for priority allocation of fish and game resources to "customary and traditional uses." This means that when and or if the resource is in short supply, the first allocation of the resource will go to those entities who are the most dependent upon it.

If the state statute is repealed, the Department of the Interior can take over the fish and game management on federal lands under the agreement with the state under ANILCA. The anti-subsistence people say that it won't happen, the pro-subsistence and some others (i.e. John Katz) say that it will. The anti-subsistence people don't try to deny that that is a real possibility, they say that the state was blackmailed by that provision into enacting the state statute, and that it will never be carried out anyway.

Alaska Log.

Attached are both the initiative and the AFN resolution passed at this convention last week.

There is no room for compromise in the initiative at all - that is, it would not be able to be worked out on the basis of need under any criteria. What they are aiming for is for everyone to have X number of fish allocated to them, or X number of caribou. Unfortunately, when the resource is in danger, it would mean that those who are most dependent upon fish or game for food wouldn't be able to take more than anyone else.

The AFN resolution wants the status quo. There was some talk earlier about setting the ten criteria for "customary and traditional use" regulations into statute, but there is no reference to that in the resolution.

The Anchorage area is primarily concerned about Cook Inlet. Last year, Tyonek, English Bay, and Port Graham were determined to be the only places where "customary and traditional uses" met all ten criteria as determined by the board of fish. What this boiled down to was that people on the east side of the peninsula who had been set netting on the beach were no longer allowed to do it (they had been fishing with subsistence permits). Also the allocation of king salmon to Tyonek was considered too large by sport fishermen who were apparently afraid they wouldn't be able to catch their share with just hooks and lines.

The amazing thing is that no one has been deprived of any fish - except for those set-netters on the east side of the peninsula. The percentage of king salmon taken in the subsistence fishery was about 3%.

AT Tyonek, etc.: Cook Inlet

AN INITIATIVE

For an Act entitled: "An Act relating to individual equality for personal consumptive users of fish and game, and to repeal existing laws relating to subsistence use of fish and game.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

*Section 1. AS 16.05 is amended by adding a new section to read:

Section 16.05.907. HUNTING, FISHING AND TRAPPING.

- (a) This section may be cited as the Alaska Anti-Discrimination Hunting, Fishing and Trapping Rights Act.
- (b) There shall be no discrimination in the allocation of fish or game based on race or sex.
- (c) Fish and wildlife are reserved to all the people of the state for common use. These resources should be equally available to personal consumptive users of all fish or game, and no distinctions shall be made for the reason of economic status, land ownership, local residency,² past use or past dependence on the resource, or lack of alternative resources.
- (d) The Board of Fisheries and the Board of Game may adopt regulations providing for and distinguishing between commercial fishing, sport fishing, hunting and trapping.

*Section 2. As 16.05.090 (c), AS 16.05.094, AS 16.05.251 (b), AS 16.05.255 (b), AS 16.05.257, AS 16.05.930 (e), AS 16.05.940 (17), AS 16.05.940 (26), and AS 16.05.940 (27) are repealed.

*Section 3. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications thereof.

*1. This would mean there would be no way to determine allocation on the basis of need based on income.
(a compromise position that would probably be favorable considered by both sides)

2. Since there is no real official definition of local residency this could mean that outsiders would have the same access to the resources that residents do.
They intend it to mean village residency.

AFN CONVENTION RESOLUTION

81-01

ENTITLED: "In Support of Sensible Fish and Game Management for Alaska"

- WHEREAS, Alaska Native People, since time immemorial, have harvested fish and game resources and other renewable resources to meet their cultural, spiritual, nutritional, social, and economic needs; and,
- WHEREAS, in recent years, many non-Natives have adopted the subsistence lifestyle and have grown dependent on the land and its resources for their well-being; and,
- WHEREAS, in recognition of the importance of subsistence uses to all Alaskans, the Alaska Legislature enacted a State Subsistence Management Statute in 1978; and,
- WHEREAS, in recognition of the importance of subsistence uses on Federal lands, and in fulfillment of its Trust Relationship with Alaska Natives, the U. S. Congress enacted a Federal Subsistence Management Statute in 1980; and,
- WHEREAS, these enactments, taken together with other State and Federal laws, provide for sound and prudent management of Alaska's renewable resources on a sustained-yield basis; and,
- WHEREAS, these statutes also provide for a fair and equitable allocation of fish and game resources when a fish stock or a game population is insufficient to sustain simultaneous harvesting for sport, commercial, and subsistence uses, and assure that the management of the stock or population on a sustained-yield basis is not jeopardized; and,
- WHEREAS, a group organized under the banner of "Alaskans for Equal Hunting and Fishing Rights" is conducting a publicity campaign to discredit Alaska's Subsistence Statutes and the benefits they provide to Alaska's people; and,
- WHEREAS, this same group is supporting an initiative entitled "Personal Consumption of Fish and Game" for submission to the voters during the 1982 election; and,
- WHEREAS, if approved by Alaskan voters, the initiative would remove all authority for the Boards of Fish and Game to sensibly manage Alaska's fish and game resources for the benefit of all Alaskans; and,
- WHEREAS, passage of the initiative would also rend asunder the social fabric of Alaska, pitting urban residents against rural residents and non-Natives against Natives; and,
- WHEREAS, the Alaska Federation of Natives, through its Board of Directors, has recognized the calamity that would befall all Alaskans were the initiative to succeed, and has urged all Alaskans, urban and rural, Native and non-Native to unite to defeat it.

NOW THEREFORE BE IT RESOLVED:

that the Alaska Federation of Natives, in convention assembled, does hereby oppose the initiative supported by "Alaskans for Equal Hunting and Fishing Rights"; and,

BE IT FURTHER RESOLVED:

that the AFN asks all Alaskans to unite in support of sensible fish and game management.

DATED THIS _____ day of December, 1981.

SOME THOUGHTS ON SUBSISTENCE:

Most, if not all Alaskans have a unique view of subsistence, based on their own personal prejudices, upbringing, cultural background, geographic affiliation and experiences. These views tend to reflect in a large way their own peculiar ethnocentricity, which is a view of the world which basically stems from feelings of group superiority.

Contrary to frequently voiced fears that usually emanate from Alaskan urban centers, the subsistence law contained in Title 16 of the Alaska Statutes is not racially oriented and hence does not fly in the face of the Alaska Constitution's prohibition against allocation of resources on a racial basis. The law is clearly based on valid criteria including long standing subsistence traditions, concepts of occupancy and resource utilization over time, and economic realities which are either unique or nearly so in that they retain substantial elements of their previous historic nature. Subsistence is a system which, when laid bare, is economic in function, integral within it's setting, difficult of replacement, culturally linked in almost all instances (with some exceptions in urban or severely impacted areas), associated with concepts of self-sufficiency, conservative in most settings, characterized by efficiency and investment of labor, and a new reinforcer of the family, extended family, community, and region. In most rural areas, it is an economic system which includes all comers who desire to stake their future to a significant degree on its potential rewards. Necessarily, a subsistence lifestyle involves certain losses of alternatives and sacrifice including loss of alternative employment opportunities, less comfort, and loss of leisure and other benefits usually inherent in the urban lifestyle. The accrued benefits of the subsistence life must be balanced against potential sacrifices. However, the traditional subsistence economy provides a counter to economic systems based on monetary standards which are uncertain and subject to extra-regional forces.

Many critics of subsistence would erroneously maintain that subsistence is not economic in a real sense. That view is patently untenable. ~~Subs. is not while~~
~~lacking some characteristics of micro-economic systems, etc.~~ It has been estimated that to replace subsistence in Alaska would require in excess of \$100 million, and that estimate is rather stale. Some other elements of economic models are clearly lacking including profit maximization, capital formation and depreciation, but these elements, do not, in my opinion invalidate subsistence as an economic system. In its rural setting subsistence ^{PERFORMS THE FUNCTION OF} ~~is~~ the normal market place in providing essential needs ~~in a real sense.~~ ~~Human~~ Arguments can and are made that attempt to invalidate the cultural and psychological importance of subsistence but they won't stand on their own merits.

Another aspect of subsistence which must be discussed (it has been many times, but most people tend to dismiss it) is the question of urban versus rural user groups. Viable alternatives for rural Alaskans simply do not come up to the level available to urban dwellers and subsistence is a major mitigating factor in rural unemployment. The same situation, while a potential alternative for an extremely small percentage of urban dwellers, is not now, nor ever likely to be significant in those areas. This is true because there are simply too many consumers chasing available subsistence resources and the situation is likely to become even more acute over time. The Cook Inlet example illustrates this situation graphically. The urban allocation problems we have faced in recent times are the crucial issue, not the rural counterpart. All the major crises in subsistence allocation are essentially urban in setting or user group residence (Nelchina, Caribou Herd, Copper River Salmon Fishery, Cook Inlet Salmon Fishery, the Tyonek problem, and recently the Tanana River issue). What is clear at this point is that no significant allocation problems have surfaced among rural beneficial user groups regardless of race, locale, particular resource or group philosophy.

Another emotional issue stems from the perception on the part of the legitimate vested interests that the Alaska Native population has been granted exclusive rights and privileges with respect to subsistence resources all out of proportion to their need or constitutional right. These "vested interests" include commercial users of all descriptions; guides, hunters, sports fisherman and sportsman. The premise that native subsistors have been granted advantages unduly is basically untrue. Although ANSCA and the subsistence laws did reaffirm native rights in land and subsistence resources they have not in demonstrable fashion curtailed other legitimate competing user groups in a real sense. The objective of subsistence has always been to preserve all resources for the use of all interests and preservation of the same in concert with the "sustained yield principle".

The ranking of competing interests is mandated in state and federal law. Attacks on this ranking of user groups and harvesters conveniently ignore numerous precedents for this type of discrimination. Among examples one can cite are, limited entry, old age bonuses, alcohol sales permitting structures, guide licensing area ceilings, and numerous others. Courts have traditionally felt compelled to allow such practices to preserve viable opportunities, prevent abuses, or install control mechanisms to preserve a valid minority interest. The rationale for such realities may be moot but such legal sanctions abound in all aspects of our society.

As I stated previously - rural subsistors differ from urban subsistors in several fundamental ways. The most basic difference is the economic stake in the resources integral with the rural way of life. Urban residents simply do not operate under

the same economic set and certainly do not as a group depend to the same degree on the fish/game resource. The potential institutionalized discrimination which does exist in subsistence provisions, is widely used to rationalize other industries and wide precedent for such action exists. Again, I must reiterate, to date no problems with aspect to prioritization of subsistence resources has surfaced outside of urban areas or where urban user groups tend to congregate in a narrow area. Reactions by native/rural interests to perceived threats have been largely gut reactions to publicity and actions by non-native vested interests. Rural subsistors through their quasi-governmental organizations and the courts have admittedly pushed for protectionist legislation and regulatory safeguards in response to anticipated threats from competing interests.

Finally, a brief discussion of Title VIII of the D-2 Bill is in order. Briefly state the language of the Title VIII is fraught with areas of potential conflict with Alaska's subsistence law. Conflicts range from uncertainty with respect to the State's management approach to simple definitional problems (refer to memo from William Demmert, Deputy Commissioner of Alaska Department of Fish and Game, dated October 29, 1980, on implementation issues posed by Title VIII). *MAKES FIVE IMPORTANT* potential conflicts are taken directly from the Demmert memorandum cited above.

- (1) Emphasis on protection of subsistence opportunities for rural residents. *801 (1), 801 (5), 802 (1);
- (2) Suggestion that dependency is a threshold characteristic for subsistence, *801 (2), 802 (1);
- (3) Suggestion that subsistence uses have priority only over other consumptive uses, *802 (2);
- (4) Introduction of different standards for management of fish and game populations: "continued viability," e.g. **803 (1), 802 (2)-(3), 816 (b), "healthy populations, e.g., **802 (1), 815 (1), 815 (3), "natural and healthy populations," e.g., *815 815 (1); (it is not clear if "continued viability" used as a standard is as rigorous as "sustained yield")
- (5) Indication that "meaningful" participation by certain rural residents in management--both of fish and wildlife and of subsistence uses-- requires a new "administrative structure," *801 (5).

Also section 803 of the D-2 legislation contains a critical limitation not contained in the state subsistence law. The following excerpt is also from the Demmert memo.

The definition of "subsistence uses" in Title VIII differs from the Alaska statutory language in major respects. (The relevant language appears in Appendix I.) First, Title VIII limits subsistence to customary and traditional uses of wild renewable resources by rural Alaskan residents. This limitation to rural residents does not appear in the Alaska definition. See AS 16.05.940 (26).

Significant discontinuities with respect to the term "barter" exist in Title VIII and Alaska Statute. Another excerpt paragraph from the Demmert memo outlines the potential problem.

This discontinuity between Title VIII and the Alaska statute also is shown by a shift in the definition of "barter." In part, AS 16.05.940 (27) defines "barter" as "the exchange or trade of fish or game, or their parts, taken for subsistence uses." Section 803 omits the words "or trade." Thus, the language of Title VIII suggests that (1) "customary trade" differs in kind from "barter" and (2) neither barter nor customary trade expressly is required to be "for personal or family consumption." In the absence of a judicial decision, the proper construction of the Alaska definition remains open to argument because the applicability of modifying language can be interpreted in more than one way. Title VIII avoids these subtle ambiguities but may diverge from the meanings of these terms in Alaska Law.

Serious questions are raised in the Demmert memo about whose statutes will prevail as well as several fundamental constitutional questions. It would appear that federal law will prevail at this point. The problems in this area are complex and the courts will no doubt be obliged to settle some of the potential conflicts; especially if the Alaska Legislature repeals ~~the~~ current Alaska Statutes with respect to subsistence.

SOME FINAL COMMENTS:

- 1.) Boards cannot be expected to make reasoned judgements without sufficient information and valid multi-disciplinary research.
- 2.) Subsistence is a social as well as biological concept and the two aspects are inseparable.
- 3.) Subsistence uses over the entire state vary widely. Hence, a regional approach to subsistence is necessary.
- 4.) It is clear from state and federal law that when restrictions are proven necessary (to facilitate sustained yield) for subsistence/conservation, current law requires that subsistence users be given priority.
- 5.) For the foreseeable future in most rural areas throughout Alaska, resources may be adequate or sufficiently abundant to allow boards to allocate specifically without reducing and/or eliminating other allocations to beneficial users.
- 6.) Subsistence has always fluctuated and will no doubt continue to do so. Expansion and contraction of subsistence is to be expected over time in response to changes in human and animal demographics, climatic conditions, economic activities etc. However open ended growth of subsistence users is not customary traditional and in fact unfair to other beneficial user groups.
- 7.) Where possible, strict denial of access to particular resources by certain classes of consumers is undesirable.
- 8.) The State may repeal subsistence law as it now stands, but, within a year or two native groups will challenge the move in court if the Department of Justice does not bring suit against the State.
- 9.) The State's ability to manage resources will certainly be placed in jeopardy by repealing the subsistence law. If the State repeals it's subsistence law the federal government will sooner or later be obliged to reassert itself in management of the resources in question. (depending in some respects on position of the current administration.)
- 10.) It is not in the State's best interest to risk the loss of management authority of federal lands which is the situation that might result should the Alaska Legislature proceed to repeal the subsistence provisions under Title 16.
- 11.) In instances where subsistence activity alone is determined to be the direct cause of resource decline, the government has the tools to protect the resource.
- 12.) With respect to actions already taken by the courts on subsistence questions, the record is far from clear. No doubt further court cases will clarify the salient points and provide somewhat clearer precedent in the future.

Done
1/2/78

Serious questions are raised in the Demmert memo about whose statutes will prevail as well as several fundamental constitutional questions. It would appear that federal law will prevail at this point. The problems in this area are complex and the courts will no doubt be obliged to settle some of the potential conflicts. *ESPECIALLY IF THE ALASKA LEGISLATURE REPEALS THE CURRENT ALASKA STATUTES WITH RESPECT TO SUBSISTENCE*

KEY ELEMENTS IN SUBSISTENCE

(DROP OFF FOR NOW)

- 1). A pattern of use that has not changed substantially for many years
- 2). Direct dependency of a community of resource(s) constitutes a central or crucial economic reality.
- 3). Customary and traditional use of the resource(s)
- 4). In communities which are situated on the ^orad network that have undergone substantial change in recent years individual tests must be applied to ascertain which subset of the community may continue to participate in the subsistence economy, rather than treating the whole community as qualified.

AS 16.05.251 Criteria *BOARD CRITERIA FOR USE IN ESTABLISHING RESTRICTIONS & LIMITATIONS ON A PRIORITIES FOR CONSUMPTIVE USES.*

- 1.) Customary & direct dependance upon the resource as the mainstay of one's livelihood.
- 2.) Local residency
- 3.) Availability of alternative resources.

Tests Used to Identify Customary and Traditional Use (community) x

- 1.) Historical documentation
- 2.) Scientific Data
- 3.) Public Testimony

Board Indications to be Applied to Individuals

- 1.) Habitual personal and/or family use
- 2.) Proximity to the resource
- 3.) Efficient and productive gear

SHOULD NOT INTRODUCE W/O LEADERSHIP
BACKING

If you sponsor this bill and it
passes: ~~what~~

will persons unhappy with
~~the result of~~ the eventual solution,
blame that unhappiness on you?

if nothing happens, will government
be able to put you in box on
it?

Findings

Subsistence is complex and
potentially divisive issue.

~~Legislation~~ As a result of the
Mt. Rushmore decision the state is
suddenly faced with an unknown
situation.

Legal is not defined
does not adopt 8 criteria
open to petition = based on historical use of resource
on stock. - $\frac{2}{3}$ would have to grant?

current restrictions on subsistence?

get endorsements - Butovich
UFA
Outdoor Council
AFN?

TRUCK TO ^{Appendant} ~~Scultz-Hanman~~
~~Re Abue Witt~~

PLAYERS

Spant

Spontfish - s.f

Hunters s.f

B.G. guides s.f. ?

Comm. Fish s.g. - s.f ch w/ Bob Behe / Miss Person

NATIVE GROUPS s.g. ch w/ Don Mitchell

Good - oppose
Bds - ?

Sting - Bennett, Hubbard, Elason, Chewitt, Fary, Seehart, Rody J
Alford, U. Fisher, Fanching, !

Roy, Zig, Joesp., Cashill, P. Fish, Fark, Kelly, Wentzler,
De Vries ~~and~~ Rody

20

Findings

?
vulnerability
challenges

ongoing
to konst.

Complex & divisive issue
suddenly confronted by county decision
need for careful consideration,
balancing of needs & compliance
w/ fed law
intent of Leg to freeze the
pre Madison status quo in reg

MARCH 21, 1985
HOUSE FISHERIES, SPECIAL COMMITTEE

(1)

BRIEFING ON HB 288 BY ADFG + DEPT. OF LAW

JIM AYERS: GOAL OF MEETING PROVIDE FRAMEWORK FOR DISCUSSION OF
MADISON DECISION. Removed Board's ability to allocate
fisheries in state +

PETER GOLL Requests that send comments in writing.

Board's obligations under Title 16 +
RON JOLIN: Preservation + enhancement + allocation

- Have probs trying to accommodate comm - sport users,
Have to allocate fish in preference for one user group

- Takes flexibility out of Boards to regulate & manage
fisheries resources. HB 288 WD. Return this allocation
authority

LARRY STENGLER: will give legal overview.

MADISON Filed by people living in Kenai + Homer.

Prior to 1978: authorized by discretion; subsistence, comm.,
sport;
↓
for personal use by net

1978 took away discretion of Board relative to subsistence
if Abounce

1980 3 law suits by people around Cook Inlet. State
lost all 3 cases. They developed criteria against which
they would evaluate whether customary & traditional.

MARCH 21, 1985
HOUSE FISHERIES COMMITTEE

(2)

Had been ^{sub.} fisheries elsewhere in the inlet, but determined
not sub. because didn't meet 8 criteria. ~~was~~ had
historically fished by ~~set~~ net in those areas.

Could not eliminate historical use. After 1981-
established personal use fishing → fishing by net for
personal use.

Subsist. post-1978 is subset of Prior to 1978 subsist.
definition.

Court said: 8 criteria are right approach for defining
Customary + traditional.

1985: Court ruled not in compliance w/ statutes.
Not authorized individuals
Not authorized community determination

If there has been sub. fish on a stock, must
allow subs. fish on that stock. All people of AK
can fish on that stock unless canon + spirit first
eliminated on that stock. Cannot restrict who unless other
fisheries are cut ~~down~~ out.

ANILCA:

- Subsist. priority
- Def. of subsistence uses found in ANILCA
- Must have advisory system

MARCH 21, 1985
HOUSE FISHERIES

(3)

Argument that land + water included in federal land.

3rd party could sue Fed govt. to step in if rural not protected.

ANILCA funds to help protect subsistence economies,
1 million dollars.

Dingell-Johnson; Walling-Bureau

Pettibon Robertson funds

These could be called into question. No direction from Fed. govt. on what might happen to those.

Resolution of ^{Joint} Boards:

Many issues not now before Boards which will come up because of Madison case. There will need to be Emergency regulations by Commissioner. Anyone could petition Boards for changes in regulations.

BET. STEWART: Bd will provide opportunity in March 25th for people to come in + comment on implications of Madison Decision.

LAPP: Need to open subsistence to all residents of state.
Tyonek, English Bay + Port Graham closed only to residents.

MARCH 21, 1985

HOUSE FISHERIES

(4)

MANY AREAS FORMERLY OPEN TO SUBSISTENCE might need to be opened; some haven't been open in 25 yrs.

AK Sport ^{Fishing} Assoc. } Bix Bandy representing:
Kenai Sportsmen Assoc. }

Pushing to return authority back to Boards. Want to have sunset clause so at end of 1985 - Asked for public hearings throughout this time. They're worried abt. chaos + confusion if no regulations. Worried abt. King salmon being cut off from sport fishermen. ~2000 sport fishermen.

John Garner - Bnd. Member:

What Madison says about regulations:

people must be given a reasonable opportunity to participate in that. Madison doesn't mean unregulated: regulations must reflect customary + traditional uses. (Tyonek 70 fish/household) must retain 70/household

KH Would (if leave it as is) set a date for when subsistence fishing existed. (Then what about communities reestablishing.)

Lance What effects might be if required to open up eastern Cook Inlet. July 1 - Aug 15 - mostly commercial. Secondary use by sport. Probably wouldn't have many probs.

MARCH 21, 1985
HOUSE FISHERIES

(5)

Probs wd. be social with competition between commercial + subsistence. After Aug 15th - Sockeye moving into Kenai: Net fishery cd. mean having to close Russian Riv. to sport. Kasloff River: large net fish, cd. have impact on King returning to hatchery. Late catch return: last year 70,000 by sport fishermen; if had large net might have to curtail or close sport fish.

Early King runs on Neudchik - (June) might have sport fishing out off further up the river. CAN'T live with potential.

KH Also could be severe competition between subsistence users.

LPRR Subsistence could occur essentially anywhere.

COPPER RIVER

Ken Florie: Extensive gill net at mouth of River
2 wks later: dip net at Chitina (personal use)
: fish wheels at Chitina

John Garnier: No other opportunity to harvest those stocks - come in w/ mixed fisheries.

LPRR → Subsist.: several hundred fish/household expected ~ 20,000 lbs.
5 Villages residents.
personal use fish wheel + dip net; 30 fish/household
6000 fish limit.
Madison wd. open up ^{subsist.} to all people

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HOUSE FISHERIES

(6)

would not be able to say w/ subsistence, can only take X,000.

KEN FLORIE NAKNEK : pot. prob. w/ King Salmon in Naknek Rvr → if had big influx (sport fish growing) 10-15000 Kings in stock

ANGOON : Current Bob Klaska : 2 subsist cores (in SE (Ang. + Klut)). Angoon only to Angoon. 1-2000 harvest level. Salt Lake + Mitchell Lake. Popular sport fishing area. If harvest level increases wd. need to reduce troll + that wd. strongly affect Angoon because trolling is major cash income to this community.

Most of road systems in SE closed to subsistence. If petitioned might need to open these.

John Brds. feel need the flexibility they had prior to Madison decision.

Rep Fuller : On 25+26th Resource Committee will be having an ^{informal} hearing on HB 288.

Jim Akers : Restore sufficient reg. authority to birds so that can provide access to resources by all Akers.

MARCH 21, 1985

(7)

HOUSE FISHERIES COMMITTEE

PETER GILL SEND LETTER OF UNANIMOUS CONSENT
TO HOUSE RESOURCES COMMITTEE.

ALASKA OUTDOOR COUNCIL, INC.

3780 McGINNIS DR. JUNEAU, AK 99801
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SUBSISTENCE MORATORIUM

March 19, 1985

The Alaska Outdoor Council acknowledges that there is a potential for creating severe hardships if the Madison subsistence ruling is implemented immediately and to the letter of the law. To-date, however, only partial solutions have been offered -- especially by the Governor's office. The Supreme Court ruling clearly enunciated several problems with the existing State law. In order to properly address these problems, provide adequate public input, and establish a permanent solution to the growing social conflicts created by the law, reasonable time and public exposure must be devoted by the legislature to restructuring the law.

If it is determined by the legislature that a temporary solution is needed to keep established industries and citizens of Alaska from being completely and unnecessarily disenfranchised during the legislative review process, we would support a temporary moratorium designed to freeze subsistence regulations that existed prior to the Madison case.

We propose that the following points must be addressed in any statute enacted to place a moratorium in effect:

1. The freeze must last only one year with a self destruct clause.
2. Declare subsistence regulations in existence prior to Madison case as only existing valid subsistence uses in Alaska.
3. Declare personal use fisheries established by the Fisheries Board prior to Madison Case as legal for one year.
4. Declare that during one year freeze, only subsistence uses identified prior to Madison case have any legal standing. In other words, there is a freeze on the creation of any additional subsistence uses during interim. This will guarantee that no established sport hunting or fishing uses nor commercial uses will be eliminated until the subsistence law is adequately reviewed and restructured.

The Outdoor Council is willing to help sponsor a special meeting to seek concurrence from the commercial and sport interests for a moratorium statute.

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IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR.

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the taking of fish and game for subsistence and personal use; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. FINDINGS. The legislature finds that

(1) the taking of fish stocks and game populations for personal and family consumption and related uses is essential to the health, safety, and general welfare of Alaskans domiciled in rural communities or rural areas in which the taking of fish and game for such uses is a significant part of the economy of the community or area; and

(2) the taking of fish stocks and game populations for personal, sport, and commercial uses is also of economic and recreational importance to Alaskans who reside anywhere in the state.

* Sec. 2. AS 16.05.251(a) is amended to read:

(a) The Board of Fisheries may adopt regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.-62) for

(1) setting apart fish reserve areas, refuges and sanctuaries in the waters of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of fish;

(3) setting quotas, bag limits, harvest levels, and sex and

size limitations on the taking of fish;

(4) establishing the means and methods employed in the pursuit, capture and transport of fish;

(5) establishing marking and identification requirements for means used in pursuit, capture and transport of fish;

(6) classifying as commercial fish, sport fish, personal use fish, or predators or other categories essential for regulatory purposes;

(7) watershed and habitat improvement, and management, conservation, protection, use, disposal, propagation and stocking of fish;

(8) investigating and determining the extent and effect of disease, predation, and competition among fish in the state, exercising control measures considered necessary to the resources of the state;

(9) prohibiting and regulating the live capture, possession, transport, or release of native or exotic fish or their eggs;

(10) establishing seasons, areas, quotas and methods of harvest for aquatic plants;

(11) establishing the times and dates during which the issuance of fishing licenses, permits and registrations and the transfer of permits and registrations between registration areas is allowed; however, this paragraph does not apply to permits issued or transferred under AS 16.43;

(12) personal use fishing.

* Sec. 3. AS 16.05.940(23) is amended to read:

(23) "subsistence uses" means the customary and traditional uses by rural [IN] Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel,

clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; for the purposes of this paragraph, "family" means all persons related by blood, marriage, or adoption, and any person living within the household on a permanent basis;

* Sec. 4. AS 16.05.940 is amended by adding a new paragraph to read:

(28) "personal use fishing" means the taking, fishing for, or possession of finfish, shellfish, or other fishery resources, by Alaska residents for personal use and not for sale or barter, with gill or dip net, seine, fish wheel, long line, or other similar means defined by the Board of Fisheries.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Sigurd RUTTER, Appellant,

v.

STATE of Alaska, Alaska Commercial Fisheries Entry Commission, John Williams, Burke Riley, and Robert Simon, Commissioners of the Alaska Commercial Fisheries Entry Commission, Appellees.

No. 6146.

Supreme Court of Alaska.

Aug. 26, 1983.

The Superior Court, First Judicial District, Juneau, Thos B. Stewart, J., dismissed challenge to regulations which were promulgated by Commercial Fisheries Entry Commission to limit entry into salmon hand troll fishery, and plaintiff appealed. The Supreme Court, Burke, C.J., held that Commission was not free to disregard four indicia of economic dependence set forth in statute.

Reversed.

1. Fish \approx 10(1)

In promulgating regulations limiting entry into salmon hand troll fishery, Commercial Fisheries Entry Commission exceeded scope of its authority in omitting three of four statutorily mandated criteria of economic dependence. AS 16.43.250(a)(1).

2. Appeal and Error \approx 150(1)

Applicant for salmon hand troll permit had standing to prosecute appeal from summary dismissal of his suit challenging regulations promulgated by Commercial Fisheries Entry Commission to limit entry into salmon hand troll fishery, as person "interested" in number of permits issued, regardless of whether he would likely obtain entry permit. AS 44.62.300.

3. Appeal and Error \approx 781(1)

Even if action challenging regulations promulgated by Commercial Fisheries Entry Commission to limit entry into salmon hand troll fishery were technically moot,

case would fall within public interest exception to mootness doctrine, since determination would aid Commission in formulating new regulations and applying old.

4. Appeal and Error \approx 781(1)

Supreme Court will hear moot case if it presents issue of public importance.

5. Appeal and Error \approx 781(1)

Mootness doctrine is matter of judicial discretion, not constitutional law.

6. Fish \approx 10(1)

In challenge to regulations promulgated by Commercial Fisheries Entry Commission to limit entry into salmon hand troll fishery, plaintiff was required to establish that maximum number of entry permits permitted was expression of whim rather than product of reason. AS 16.43.240(b).

7. Fish \approx 10(1)

Limited Entry Act was designed to protect reliance interests of all individuals using fishery, as well as aiding dependent fishermen. AS 16.43.010 et seq.

8. Fish \approx 10(1)

In promulgating regulations to limit entry into salmon hand troll fishery, setting by Commercial Fisheries Entry Commission of maximum number of permits issued so as to reflect present use was reasonable and in accord with letter and spirit of Limited Entry Act. AS 16.43.010 et seq.

9. Fish \approx 10(1)

In promulgating regulations to limit entry into salmon hand troll fishery, it is consonant with purposes of Limited Entry Act to give preference to those individuals that have fished the most. AS 16.43.010 et seq.

10. Administrative Law and Procedure \approx 305

Administrative agencies are creatures of statute, deriving from legislature authority for exercise of any power they claim.

Pamela Finley, Robertson, Monagle, Eastaugh & Bradley, Juneau, for appellant.

John B. Gaguine and Deborah Vogt, Asst. Attys. Gen., Juneau, and Wilson L. Condon, Atty. Gen., Juneau, for appellees.

Before BURKE, C.J., and RABINOWITZ, MATTHEWS and COMPTON, JJ.

OPINION

BURKE, Chief Justice.

This case involves a pure question of law. Plaintiff/Appellant Sigurd Rutter, a professional salmon hand troller, is challenging a series of regulations promulgated by the Commercial Fisheries Entry Commission limiting entry into the salmon hand troll fishery.¹ Rutter raises three distinct issues on appeal. (1) whether the Commission violated the provisions of the Limited Entry Act in issuing too many entry permits; (2) whether the priority classification system devised to allocate entry permits violates various Alaska statutes and the state and federal constitutions; and (3) whether the classification scheme must include the four indicia of economic dependence enumerated in AS 16.43.250(a)(1).

The superior court thought the regulations valid and dismissed Rutter's action on the Commission's motion for summary dismissal. We reverse, holding that the Commission was not free to disregard the four indicia of economic dependence set forth in AS 16.43.250(a)(1).

I

The Salmon Hand Troll Fishery

There are two different salmon troll fisheries. The power troll fishery consists of larger boats equipped with cold storage fa-

cilities and mechanically operated gurdies. In contrast, the hand troll fishery consists of smaller boats which usually make day trips, and are equipped with hand operated gurdies or rod and reel gear. The two compete for king and coho salmon.

Unlike the power troll fishery, which was limited in 1975,² the hand troll fishery remained open to entry until the Commission promulgated the regulations at issue here. As one of the few remaining open fisheries, and one requiring little in the way of initial investment, the number of commercial license holders using the hand troll fishery expanded greatly: from 1094 in 1975, to 1239 in 1976, 1849 in 1977, and 2604 in 1978. *CFEC Briefing Paper No. 4*, at 3, December 20, 1978.

Much of this growth is attributable to the emergence of a pleasure boat fleet. Manned by city dwellers engaged in non-fishing related occupations, these boats are primarily used for recreational and sport fishing, landing only a few salmon to defray expenses.³ By 1978, three competing groups used the hand troll fishery: (1) the avocational sport fishermen; (2) fishermen supplementing other fishing income with income from salmon trolling; and (3) those fishermen deriving their principal livelihood from the fishery, the economically dependent trollers.⁴

As the number of fishermen increased, the area fished expanded greatly. Traditionally, hand trollers restricted activities to small areas localized around their communities. Recently, however, the highly mobile sport fishing boats have moved farther afield and are competing directly with the power trollers. Changes in the distribution

tax. The Commission notes further that some recreational fishermen were motivated by tax considerations, fishing commercially on a small scale to generate tax deductions.

1. Our decision in this case was deferred pending our determination of the constitutional issues raised in *State v. Ostrosky*, 667 P.2d 1184 (Alaska 1983).
2. Over 30 salmon fisheries were limited almost immediately after passage of the Limited Entry Act. See 20 AAC 03.300-.320 (Eff. 12/18/74).
3. In addition, holding a commercial license enables sport fishermen to continue fishing after sport fishing bag limits are reached and lets them avoid paying a portion of the motor fuel

4. The Commission estimates that pleasure boats used by avocational fishermen presently constitute the largest segment of the hand troll fleet. It appears that no more than ten percent of the licensed trollers can be considered economically dependent. *CFEC Briefing Paper No. 4*, at 1-3, December 20, 1978.

of the catch by trollers caught total troll catch nine percent in 1978.⁵

Increased management. These restrictions economically an adequate entry proposals contemplated the fact that number to be ne encountering figure as be decided to is

Having se Commission cating these 4,000 potential statute, the focuses on t cant would fishery, har two hardships and pa

Applicant one points f ery. 20 AAC additional t ed on the b tion, allocat weeks fished between 1967(b)(1).

A total come depen from the fi ic dependent below:

5. *Id.* at 4 even more in 1975, 7 power troll hand troll ing 65 percent went

of the catch reflect this development: hand trollers caught seventeen percent of the total troll catch in 1975 and 1976, twenty-nine percent in 1977 and thirty-four percent in 1978.⁵

Increased use led to gear restrictions and management closures in both troll fisheries. These restrictions impeded the ability of the economically dependent fishermen to earn an adequate income, prompting a limited entry proposal. Originally, the Commission contemplated issuing 1,100 permits, despite the fact that they knew the optimum number to be nearer 500-600 permits. After encountering public opposition to the 1,100 figure as being too low, the Commission decided to issue 2,150 permits.

Having set the maximum number, the Commission promulgated regulations allocating these entry permits among the over 4,000 potential applicants.⁶ As required by statute, the classification system selected focuses on the degree of hardship an applicant would experience if excluded from the fishery, hardship being assessed through two hardship standards: economic dependence and past participation.

Applicants can be awarded up to thirty-one points for past participation in the fishery. 20 AAC 05.677(a)(1) (Eff. 3/6/81). An additional twenty-five points can be awarded on the basis of consistent past participation, allocated according to the number of weeks fished in any three of the five years between 1975 and 1979. 20 AAC 05.677(b)(1).

A total of nineteen points hinges on income dependence on the fishery. Earnings from the fishery are used to assess economic dependence, as demonstrated by the table below:

Year	Income From Fishery	Points
1975	\$ 200.00	6
1976	500.00	6
1977	700.00	7
1978	750.00	7
1979	1,200.00	7

20 AAC 05.677(c)(1).

Finally, fifteen points are allocated according to the availability of alternative occupations in the place of the applicant's domicile. 20 AAC 05.677(c)(2). Applicants residing in rural areas receive the maximum number of points. *Id.*

An applicant amassing eighty or more points is considered significantly dependent and automatically qualifies for an entry permit. 20 AAC 05.678(a) (Eff. 3/6/81). Those applicants earning less than seventy points are considered less dependent and receive permits only as they become available. 20 AAC 05.678(b). Permits issued to significantly dependent applicants are freely transferrable; those issued to less dependent applicants are subject to restrictions on transfer and the buy-back provisions of the Limited Entry Act. 20 AAC 05.678(a) & (b). The Commission has yet to establish a buy-back program for the salmon hand troll fishery.

Under these provisions, Rutter could amass a total of thirty-four points.⁷ He began fishing in 1979, invested in a vessel and gear, and derives approximately sixty to seventy percent of his income from hand trolling.

Under the impression that he would be denied a permit, Rutter filed suit to declare the regulations invalid. The lower court upheld the regulations, and dismissed Rutter's case on the Commission's motion for a summary dismissal. Rutter thereupon appealed to this court.

5. *Id.* at 4. The shift in catch distribution is even more pronounced in the Icy Straits area: in 1975, 75 percent of the troll catch went to power trollers, while only 25 percent went to hand trollers. By 1978, hand trollers were taking 65 percent of the catch while only 35 percent went to power trollers.

6. A total of 4,476 different individuals participated in the fishery from 1975 through 1979. These individuals constitute the pool of potential applicants.

7. Rutter qualifies for 11 points for past participation, nine for consistent past participation, seven for economic dependence, and seven for living in Sitka for a total of 34 points.

[1] On appeal, Rutter alleges various grounds for reversal. We hold that the Commission exceeded the scope of its authority in promulgating regulations which omit three of the four statutorily mandated criteria of economic dependence.

[2] As a threshold matter, we must determine if Rutter has standing to prosecute this appeal. The application period for obtaining a salmon hand troll permit closed on August 31, 1981. As of that date, the Commission had received 2,274 timely applications. According to the Commission, it therefore appears "nearly certain" that Rutter will obtain an entry permit. The Commission concludes that the entire case is necessarily moot.

We disagree. AS 44.62.300 provides that an "interested person" has standing to obtain judicial review of an administrative regulation. In this case, Rutter is "interested" in the number of permits issued, for his ability to fish commercially is directly affected by the number of trollers using the fishery. The parties agree that issuing 2,150 permits will necessarily result in gear restrictions and management closures, rendering Rutter's trade less profitable. That Rutter will obtain a permit does not alleviate his concern, for he is concerned that too many *other* applicants will also obtain permits.

[3-5] We note further that, even if this case were technically moot, it would fall within the public interest exception to the mootness doctrine. This court will hear a moot case if it presents an issue of public importance. *Alaska Transportation Commission v. Gandia*, 602 P.2d 402, 403 (Alaska 1979); *Doe v. State*, 487 P.2d 47, 53 (Alaska 1971). In this instance, a determination here would aid the Commission in formulating new regulations and applying the old. See *Northwest Trollers Association v. Moos*, 89 Wash.2d 1, 568 P.2d 793 (1977). Moreover, a fair number of nonparties are interested in the outcome of this suit, specifically, those applicants who will not receive permits. Since the mootness doctrine is a matter of judicial discretion, and not constitutional law, we are free to elect to address

the case on the merits. See *Alaska Transportation Commission v. Gandia*, 602 P.2d 402 (Alaska 1979); *R.L.R. v. State*, 487 P.2d 27 (Alaska 1971). This we proceed to do.

II

The Maximum Number of Permits

[6] AS 16.43.240 sets forth the standards for determining the maximum number of entry permits the Commission can issue for a given fishery. In a distressed fishery, that is, a fishery in which the number of users exceeded the optimum number as of January 1, 1973, the maximum number "shall be the highest units of gear fished in that fishery during any one of the four years preceding January 1, 1973." AS 16.43.240(a). The act provides no guidelines for determining the appropriate number of permits for a non-distressed fishery, other than noting that the number selected should further the legislative purpose. AS 16.43.240(b).

As the salmon hand troll fishery was not overgeared as of January 1, 1973, AS 16.43.240(b) applies and the Commission is given broad discretion in setting the maximum number. The Commission contends that the number selected is reasonable and non-arbitrary, one well within its discretion to select. Under the applicable standard of review, Rutter must establish that the number was the expression of a whim, rather than the product of reason. *Kelly v. Zamarrello*, 486 P.2d 906, 910 (Alaska 1971). We conclude that Rutter has not so established.

[7] Rutter's argument reduces to the simple proposition that the Limited Entry Act calls for the immediate exclusion of a large number of avocational fishermen so that a smaller number of economically dependent trollers can fish without any gear restrictions whatsoever. Underlying this argument is the premise that the salmon hand troll fishery is a commercial fishery, and that the interests of commercial trollers take precedence over the interests of all other users. This position, however, characterizes the purposes of the Limited Entry

Act too narrowly and ignores pertinent legislative history accompanying that act.

As initially proposed, the Limited Entry Act called for an immediate reduction in the number of fishermen to the optimum level in all distressed fisheries. Not surprisingly, this aspect of the act generated substantial public opposition. As a result, the act as passed requires that the Commission fix the maximum number of permits at a level approximating past participation, contemplating a gradual decrease in use through operation of a buy-back program. See 1973 House Journal 503 ("instead of making an initial reduction to the optimum number of units of gear, the commission would issue entry permits at the present level of fishing effort and reduce the amount of gear to optimum levels through a voluntary buy-back program.")

That the legislature intended the number of permits initially issued to reflect actual use is further evidenced by the very structure of the buy-back program. That program operates to purchase entry permits initially issued to less dependent trollers, individuals who would, by definition, suffer only minor economic discomfort if excluded from the fishery. See AS 16.43.170(c). The Act thus contemplates the issuance of permits to less dependent trollers, even though excluding these individuals would benefit the dependent trollers. Hence, the Act's purposes are not merely economic. The Act was designed to protect the reliance interests of all individuals using the fishery, as well as aiding the dependent fishermen.⁸

[8] In this instance, the number of permits issued reflects present use. We therefore have little difficulty concluding that setting the maximum number at 2,150 was reasonable and in accord with the letter and spirit of the Limited Entry Act.

III

The Priority Classification System

AS 16.43.250 requires that the Commission allocate entry permits on the basis of

8. Indeed, in *Commercial Fisheries Entry Comm'n v. Apokedak*, 606 P.2d 1255, 1265 (Alaska 1980), we noted that the act had the following four broad purposes: (1) enhancing

the hardship an applicant would suffer if excluded from the fishery. Hardship is assessed through a reasonable balance of two hardship standards: economic dependence and past participation. Rutter maintains that the regulations fail to assess adequately economic dependence and past participation, and that the balance between the two is unreasonable.

A. *Past Participation Points*

Under the present system, thirty-one points can be obtained by landing at least one fish a year for any three of the five years between 1975 and 1979. 20 AAC 05-677(a)(1) & (2) (Eff. 3/6/81). An additional twenty-five points will be awarded on the basis of consistent past participation, assessed by looking at the number of weeks in which landings were made for any three years between 1975 and 1979. 20 AAC 05-677(b)(1).

Rutter contends that these provisions reward the enthusiastic avocational fishermen by failing to distinguish between the economically dependent and sport-commercial trollers. The Commission responds by noting that the computer print-out on run 27(b), the system eventually adopted, shows that only twenty-eight percent of the 4476 potential applicants, or 1274 individuals, would be able to show participation in three years. Forty-seven percent participated only one year. From these figures, the Commission argues that very few "recreational dabblers" will score highly, while virtually every professional who has been active for the last several years will receive the maximum number of points.

Similarly, the Commission contends that the three to five weeks fished per year figure used to assess consistent past participation will include most professional trollers. A computer run reveals that if the number of weeks fished per year requirement were increased to seven weeks, a fig-

the economic benefit to professional fishermen: (2) conserving the fishery; (3) avoiding unjust discrimination in the allocation of entry permits; and (4) administrative convenience.

ure lower than that urged by plaintiff, fully seventy-three percent of the potential applicants would receive no points. In contrast, under the present system forty-two percent participated only one year, while fourteen percent qualified for three.

[9] We find these arguments persuasive. When considered in conjunction with the points awarded for economic dependence, most professional trollers will receive permits. Only in the rare instance, (e.g., a professional who recently started fishing) will a "dabbler" be preferred over an economically dependent troller.⁹ The act calls for no more.

When properly analyzed, Rutter's objection to the treatment of participation points is in reality an objection to the maximum number of permits issued. Rutter argues that the present system fails to distinguish between the avocational and professional troller. This is quite true, but what Rutter fails to realize is that there is *no need* to distinguish between the two groups. Given the number of permits issued, and the relatively small number of professional trollers, almost all professionals will receive permits; the exclusionary line will be drawn between serious avocational trollers and less serious avocational trollers. Rutter's objection is not that professionals will be excluded, but that too many avocational fishermen will be included. He objects to the maximum number, an objection which lacks merit.

B. Economic Dependence

Earnings from the salmon hand troll fishery are used to assess income dependence. The maximum of nineteen points can be obtained by anyone deriving a relatively low gross income from the fishery: \$200 in 1975, \$500 in 1976, \$700 in 1977, \$750 in 1978, and \$1,200 in 1979. 20 AAC 05.-677(c)(1) (Eff. 3/6/81). Rutter argues that "because these points do not distinguish between the economically dependent hand

troller and the weekend avocational fishermen, they are essentially meaningless."

An additional fifteen points are allocated on the availability of alternative occupations, based on the population of the place of the applicant's domicile. 20 AAC 05.-677(c)(2). Applicants living in rural areas receive the maximum number, the theory being that most avocational fishermen reside in urban areas while dependent trollers are country dwellers. Rutter, who lives in Sitka, does not address this aspect of the allocation scheme.

The crux of Rutter's argument is that the point system is over-inclusive:

If one is attempting to identify the economically dependent hand troller, and believes that only a small portion of participants generate a major portion of their income from hand trolling, one would not establish a system which gives all possible points in this category to approximately fifty percent of the people fishing in relevant years . . . [I]t is obvious that a small group of dependent hand trollers will not be identified by a system giving all points to those making less than the average income in the fishery.

This argument misses the point. All that the act requires is that the Commission rank applicants by the hardship they would suffer if excluded from the fishery. Rutter, however, presumes that the Commission must precisely identify dependent trollers. Given the number of permits available, this degree of exactitude is uncalled for. Once again, plaintiff complains of the maximum number.

C. Reasonable Balance

Under the present system, individuals who participate but are not economically dependent will receive a maximum of fifty-six points. An economically dependent troller who has been active for at least three

system, but it is important to remember that courts do not expect perfection of such a system. Were it otherwise, very few statutory classification schemes would survive judicial scrutiny. See *Commercial Fisheries Entry Comm'n v. Apokedak*, 606 P.2d 1255, 1267 n. 50 (Alaska 1980).

9. It is entirely consonant with the purposes of the act to give preference to those individuals that have fished the most. *Isakson v. Rickey*, 550 P.2d 359, 364 (Alaska 1976). That Rutter, as a new but dependent troller, may be passed over in favor of an established avocational fisherman is perhaps a defect in the classification

years will receive both dependence and participation points, there being no such thing as a dependent troller who did not participate. The two criteria complement each other well, and the balance is not so clearly unreasonable as to require invalidation of the regulations on this point.

IV

The Requirements of AS 16.43.250(a)(1)

AS 16.43.250(a)(1) requires that the Commission include certain factors in its assessment of economic dependence. Specifically, it requires that the regulations assess "percentage of income derived from the fishery, reliance on alternative occupations, availability of alternative occupations, [and] investment in vessels and gear" The regulations at issue here, however, incorporate only one of these factors, availability of alternate occupations. Rutter argues that the Commission exceeded the scope of its authority in omitting these criteria, and that the regulations are consequently invalid.

The Commission found that special circumstances exist for the salmon hand troll fishery:

[T]he standards set out in AS 16.43.250(a)(1) for vessel ownership, percentage of income and reliance on alternative occupations do not adequately reflect the degree of economic dependence on the fishery, and are unsatisfactory for determination of the degree of hardship an applicant would suffer by exclusion from the fishery.

The Commission deemed investment in the fishery inappropriate as an indicator of economic dependence because of the "unique nature of the hand troll fishery and the management philosophy applied to it." *Findings of the Commercial Fisheries Entry Commission Regarding the Priority Classification System for the Statewide Salmon Hand Troll Fishery*, at 2, January 9, 1981. The Commission apparently reasoned that investment is unrelated to dependence, for

numerous avocational trollers have invested in expensive recreational trolling boats. And reliance on alternative occupations as a ranking factor was disregarded because of the nature of that fishery as a "source of supplemental income to that derived through other means, including other fisheries." *Id.* Similarly, the "characteristically low income earned from hand trolling" persuaded the Commission to ignore the percentage of income derived by troller from other sources. *Id.* at 3.

The Commission was not free to disregard these statutory indicia of economic dependence. It is not at all clear that the Commission could not fashion a system incorporating all four factors in a logical, reasonable manner. That the Commission feels it could design a better classification scheme using only one of the factors is beside the point; it is not free to substitute its judgment for that of the legislature. Once the legislature determined that percentage of income derived from the fishery, reliance on alternative occupations and investment were relevant to economic dependence, the Commission was deprived of the power to decide otherwise.

[10] Administrative agencies are creatures of statute, deriving from the legislature the authority for the exercise of any power they claim. *McDaniel v. Cory*, 631 P.2d 82, 83 (Alaska 1981). In this instance, the statute requires that the Commission assess economic dependence according to specifically enumerated factors. This the Commission failed to do. We therefore hold the regulations invalid as they relate to the assessment of economic dependence and reverse the lower court.

REVERSED.



Major debate on Subsistence

need base

determination of subsistence
attempt to get fed to
change

Item I

Item II - can do more

of need under current

law

national use - ^{sublⁿ} come & govt
balanced

MEMORANDUM

State of Alaska

TO: Ron Jolin, Chairman
Joint Boards of Fisheries and Game

DATE: March 11, 1985

FILE NO: 366-375-85

Norman C. Gorsuch
FROM: Norman C. Gorsuch
Attorney General

TELEPHONE NO: 465-3600

SUBJECT: Subsistence

The State subsistence law must be implemented by the Boards of Fisheries and Game in a new and problematic way under Madison v. Alaska Department of Fish and Game, No. 7410, a decision issued by the Alaska Supreme Court on February 22, 1985. The precise holdings of the court could be interpreted by extrapolation to affect the entire state and regulation of game as well as fish.

The state statutes require:

- That subsistence hunting and fishing be allowed, unless the resource would be harmed.
- That subsistence be given a priority, if restrictions are necessary.

not changed by case

Before Madison:

- These special protections applied to fishing and hunting by rural Alaskans.

last cut back

customary & traditional use & conditions

Because subsistence consisted only of those rural harvests, the boards were able to accomodate non-state resident and guided hunting, personal use net fishing by non-rural Alaskans, sport fishing, and commercial fishing.

com. sport personal use

The state was in compliance with ANILCA.

After Madison:

- All Alaskans may engage in subsistence fishing or hunting.

Subsistence fishing or hunting on a resource by all Alaskans cannot be restricted unless all non-subsistence uses are first eliminated.

as though fish & by net as same has regulation for other fisheries

- Example: The Prince William Sound commercial fishery may need to be restricted or even closed if necessary to accommodate the dip net fishery in the Copper River.

add system sub. priority sub. uses definition the cutting as rural use

prev. use anyone fish wheels dip nets sub to damage area

- Example: The Kenai River and Susitna drainage sport fisheries may need to be restricted or even closed if "subsistence fishing" by gill net must be allowed in large areas of Cook Inlet closed in recent years.
- Example: All Alaskans could subsistence fish near Tyonek for kings, near Angoon for cohos, in the Naknek River for kings, sockeye, and coho, and in the Iliamna-Lake Clark drainage for sockeye, unless any associated sport or commercial fishery were closed.
- Example: For any permit hunt, non-state resident and guided hunting may need to be eliminated.

note
-- If the boards cannot protect fishing and hunting by rural Alaska residents under the state statutes, non-compliance with ANILCA could mandate some federal action.

- It is unclear precisely what federal management would entail, but it has been argued that besides all federal land, all navigable waters would be affected, and that possibly some state lands would be affected if migratory species were involved.

NCG/LIS:rn

Discussion -

IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the taking of fish and game for subsistence and personal use; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. FINDINGS. The legislature finds that

(1) the taking of fish stocks and game populations for personal and family consumption and related uses is essential to the health, safety, and general welfare of Alaskans domiciled in rural communities or rural areas in which the taking of fish and game for such uses is a significant part of the economy of the community or area; and

(2) the taking of fish stocks and game populations for personal, sport, and commercial uses is also of economic and recreational importance to Alaskans who reside anywhere in the state.

* Sec. 2. AS 16.05.251(a) is amended to read:

(a) The Board of Fisheries may adopt regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.-62) for

(1) setting apart fish reserve areas, refuges and sanctuaries in the waters of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of fish;

(3) setting quotas, bag limits, harvest levels, and sex and

size limitations on the taking of fish;

(4) establishing the means and methods employed in the pursuit, capture and transport of fish;

(5) establishing marking and identification requirements for means used in pursuit, capture and transport of fish;

(6) classifying as commercial fish, sport fish, personal use fish, or predators or other categories essential for regulatory purposes;

(7) watershed and habitat improvement, and management, conservation, protection, use, disposal, propagation and stocking of fish;

(8) investigating and determining the extent and effect of disease, predation, and competition among fish in the state, exercising control measures considered necessary to the resources of the state;

(9) prohibiting and regulating the live capture, possession, transport, or release of native or exotic fish or their eggs;

(10) establishing seasons, areas, quotas and methods of harvest for aquatic plants;

(11) establishing the times and dates during which the issuance of fishing licenses, permits and registrations and the transfer of permits and registrations between registration areas is allowed; however, this paragraph does not apply to permits issued or transferred under AS 16.43;

(12) personal use fishing.

* Sec. 3. AS 16.05.940(23) is amended to read:

(23) "subsistence uses" means the customary and traditional uses by rural [IN] Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel,

Might be a good question if discussion goes in this direction:

In areas where hunts are already restricted by issuance of a limited number of permits - would the Madison decision force a further restriction to local residents?

Backup into it if you decide to use questions, there are currently 5 ~~units~~ ^{hunts} with hunts with some form of local resident restriction

Unit 13 Caribou > Nelchuna
Unit 13 Moose > Nelchuna
Unit 16B Moose - Tyonik
Unit 12 Caribou - Northway - Telfair
Unit 25 Moose - in area of Minto Flats

Point that perhaps needs to be clarified

Priorities and eliminations would take place on an area by area, species by species basis

I think Vic is making potent political point.

Other opinions expressed on this page do not necessarily reflect those of the Daily News-Miner.

No time for hasty action

The state should not be hasty in acting upon the state Supreme Court's recent ruling on the subsistence priority.

Far from rushing in to amend state law so that it complies with a badly conceived federal law, the state should take advantage of the court's ruling to revise and improve state law at the same time we seek changes in the federal law.

The court ruled recently that the Board of Fisheries could not base a subsistence priority on rural residency, finding that inconsistent with the intent of the state's subsistence law.

Since the problem stems from the federal law which requires Alaska to accord a subsistence priority on federal lands to rural residents if it wants state management of fish and game to continue on those lands, there's already a move afoot in some circles to just do a hasty job of amending the state law to make it comply with federal law.

That's not the direction Alaska should go, though.

First, we need to recognize that the court's ruling does not mean every Alaskan will qualify as a subsistence user. We'll be hearing scare talk in the next few weeks, aimed at convincing us the ruling will result in the elimination of out-of-state hunting or commercial fishing or sport fishing. None is likely to be the case, and certainly needn't be if legislators take appropriate action in reviewing the existing state subsistence law.

In fact, the ruling sets up two tiers of subsistence users. In the first tier is any Alaskan with a history of "customary and traditional use" of a resource for subsistence purposes. Obviously, not every Alaskan will qualify. The second tier of subsistence users may be granted a priority only when restrictions on sport and commercial users will not be adequate to protect the resource. In that case, the court found, local residency could be used as a factor in according a subsistence priority.

The first step for the state Legislature then, is to define "customary and traditional use." No definition of that phrase is found in current state law and it's badly needed. The goal should be to set criteria based upon need rather than upon residency, for it's clear to most Alaskans that in granting hunting and fishing priorities based upon need, we can best protect the subsistence way of life.

The court ruling gives Alaskans a good opportunity to straighten out a thorny problem. Though an effort to repeal the state's subsistence law failed in 1982, we shouldn't ignore the fact that 80,000 Alaskans wanted to repeal it. That's a significant number of disgruntled voters who would like to see an end to discrimination based upon residency.

The federal government has indicated a willingness to work with Alaska as we seek to resolve the problem. Two points should be made about that: First, Alaska should structure its own state laws to be in accord with our state Constitution, a Constitution approved by the federal government at the time of statehood. And, we should take advantage of this opportunity to let Congress and federal agencies know what sort of problems they're causing us with a law that requires us to discriminate against people based upon where they live.

We should set to work to write the best state subsistence law we can, including the criteria we know makes the most sense for Alaska. A hasty amendment aimed at incorporating federal language into state law is not the best course. We've got a chance to write a good law based on rational criteria. Let's not waste it.

Governor ponders subsistence change

By DAN JOLING
News-Miner Bureau

JUNEAC—The Sheffield Administration may be working on a bill to narrow the definition of subsistence user, limiting it to rural residents and matching an interpretation set by the Board of Fisheries in recent years.

That interpretation by the Fish Board was struck down Feb. 22 by the Alaska Supreme Court, which ruled that the board strayed from the Legislature's intent of the 1978 subsistence law when it decided that subsistence users must be rural residents.

Since the court ruling involved interpretation of a law, not the Constitution, it could be changed with passage of a new law this session. The issue is expected to be highly controversial.

The Supreme Court ruling concerned the board's decision to limit subsistence salmon fishing in the Upper Cook Inlet to residents of nearby communities Tyonek, English Bay and Port Graham, communities which have no road access and are not tied to urban economies. Tyonek is on the northwest shore of Cook Inlet, 43 miles southwest of Anchorage. English Bay

and Port Graham are on the other side of inlet, 10 miles southwest of Seldovia.

The court ruled that all subsistence users—rural and urban—must have their fish or game needs taken care of before the needs of sport and commercial fishermen. It said the Legislature did not limit the definition of subsistence user to rural residents when granting them preference over sport and commercial fishermen.

The court ruled that use among subsistence fishermen may be limited by their proximity to the resource, but only if there's not enough to go around after sport and commercial fishing is eliminated.

"That's one of the real problems that we face in the thing," said Steve Behnke, director of the Subsistence Division of the state Department of Fish and Game.

He said he suspected that some sort of narrowing of the definition of subsistence user will be considered by the department and the governor.

A second concern is that the interpretation leaves the state in conflict with the federal Alaska National Interest Lands Conserva-

(See GOVERNOR, page 3)

GOVERNOR . . .

(Continued from page 1)

tion Act of 1980, which allows the state to manage fish and game on federal land if rural Alaskans have a subsistence priority.

In the Interior, the ruling upsets the regulation established by the board for regulating Copper River fisheries, which includes dipnetting for salmon at Chitina, a favorite pastime for Fairbanks and Delta residents.

The Fish Board last year, using the same criteria applied to Upper Cook Inlet, said only residents in the Copper River Valley, Northway, Tanacross, Dot Lake, Tetlin and Tok would be classified as subsistence users.

They relegated dipnetters in Delta, Fairbanks and Anchorage to status as "personal use fishermen" and approved lower limits and reduced fishing times.

The court ruling may prompt the governor to introduce a law to narrow the definition of subsistence user.

"That's certainly one of the options that the governor is going to have to look at," Behnke said. "I think there's a lot of people who feel that system was working reasonably well."

Robert Falcon Scott reached the South Pole in 1912.

Introduced: 1/18/83
Referred: Resources and
Judiciary

1 IN THE SENATE

BY V. FISCHER

2

SENATE BILL NO. 5

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act establishing a residents' priority for the
taking of big game animals."

7

8

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9

* Section 1. FINDINGS. The legislature finds that

10

(1) in recent years the number of nonresidents ~~and nonresident~~

11

~~aliens~~ hunting big game in the state has significantly increased, and this
trend is expected to continue;

12

13

(2) nonresidents ~~and nonresident aliens~~ hunt big game in the

14

state primarily for sport and recreation, and for trophy value, while

15

residents hunt big game in the state primarily to obtain meat for personal

16

and family use; and

17

(3) the conservation, use, and development of the state's big

18

game populations in the best interests of the state and the nation require

19

the establishment of a limit on the taking of big game by nonresidents ~~and~~

20

~~nonresident aliens~~ so that state residents have an opportunity to obtain

21

big game meat for personal and family use.

22

* Sec. 2. AS 16.05.256 is amended to read:

23

Sec. 16.05.256. NONRESIDENT ~~AND NONRESIDENT ALIEN~~ PERMITS.

24

Whenever it is necessary to restrict the taking of big game so that

25

the opportunity for Alaska residents to take big game can be reason-

26

ably satisfied in accordance with sustained yield principles, the

27

Board of Game shall [MAY], through a permit system, limit the taking

28

of big game by nonresidents ~~and nonresident aliens~~ to accomplish that

29

purpose.

Introduced: 1/18/83
Referred: Resources and
Judiciary

1 IN THE SENATE

BY V.FISCHER

2

SENATE BILL NO. 39

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act authorizing the Board of Fisheries to estab-
7 lish a personal use fishery."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 16.05.251 is amended by adding a new subsection to
10 read:

11 (c) The Board of Fisheries shall adopt regulations in accordance
12 with the Administrative Procedure Act (AS 44.62) permitting personal
13 use fishing unless the board determines, in accordance with the Admin-
14 istrative Procedure Act, that adoption of such regulations will jeop-
15 ardize or interfere with the maintenance of fish stocks on a sus-
16 tained-yield basis. Whenever it is necessary to restrict the taking
17 of fish to assure the maintenance of fish stocks on a sustained-yield
18 basis, or to assure the continuation of the personal use fishing of
19 such resources, personal use fishing shall be the second priority use
20 after subsistence use.

21 * Sec. 2. AS 16.05.940 is amended by adding a new paragraph to read:

22 (30) "personal use fishing" means the taking, fishing for,
23 or possession of fish, shellfish, or other fishery resources for
24 personal use and not for sale, barter, or trade, with gill net, seine,
25 fish wheel, long line, or other means defined by the Board of Fisher-
26 ies.

Subsistence

General

It means everything
to everyone
(needs, rights, desires)

Impacts established uses

Finite resources

Expanding human pop

Has not been quantified
(what is subsistence need
as a specific level of take?)

State Law

1. Specific subsistence use
of F & W as a priority use
(over sport, commercial etc).
2. Requires Boards to adopt
regulations providing for the
priority.
3. All state residents have equal
access to subsistence use.

Fed Law (ANILCA)

Sec 804 Specific subsistence priority
on fed lands

Sec 803 defines subsistence as a
"rural" activity utilizing "wild
renewable resources".

Sec 806 Requires fed to monitor
state accommodation of subsist preference

Sec 805 Requires fed to establish
Regional Councils & Advisory Committee
with staff in order to assure local
recommendations to state ~~Boards~~

805(d) permits fed not to implement
805 if the state has a system
in place to accommodate 803, 804, & 806.

"COMPLIANCE"

The "state compliance w ANILCA 805"
issue is an option & not an
obligation.

State non-compliance w 805 is
irrelevant since 805 is a fed
obligation in first place.

Fiscal - The 1 million/yr fed funds to the State
under ANILCA also require matching state funds.
There is the option of simply letting the fed
implement 805 & absorb the entire cost.



ALASKA OUTDOOR COUNCIL, INC.

3780 MCGINNIS DR. JUNEAU, AK 99801
(907) 789-3450

SUBSISTENCE MORATORIUM

March 19, 1985

The Alaska Outdoor Council acknowledges that there is a potential for creating severe hardships if the Madison subsistence ruling is implemented immediately and to the letter of the law. To-date, however, only partial solutions have been offered -- especially by the Governor's office. The Supreme Court ruling clearly enunciated several problems with the existing State law. In order to properly address these problems, provide adequate public input, and establish a permanent solution to the growing social conflicts created by the law, reasonable time and public exposure must be devoted by the legislature to restructuring the law.

If it is determined by the legislature that a temporary solution is needed to keep established industries and citizens of Alaska from being completely and unnecessarily disenfranchised during the legislative review process, we would support a temporary moratorium designed to freeze subsistence regulations that existed prior to the Madison case.

We propose that the following points must be addressed in any statute enacted to place a moratorium in effect:

1. The freeze must last only one year with a self destruct clause.
2. Declare subsistence regulations in existence prior to Madison case as only existing valid subsistence uses in Alaska.
3. Declare personal use fisheries established by the Fisheries Board prior to Madison Case as legal for one year.
4. Declare that during one year freeze, only subsistence uses identified prior to Madison case have any legal standing. In other words, there is a freeze on the creation of any additional subsistence uses during interim. This will guarantee that no established sport hunting or fishing uses nor commercial uses will be eliminated until the subsistence law is adequately reviewed and restructured.

The Outdoor Council is willing to help sponsor a special meeting to seek concurrence from the commercial and sport interests for a moratorium statute.

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9416 Long Run Drive
Juneau, AK 99801
(907) 789-7422

REGIONAL VICE-PRESIDENT
Lyle Carlson
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REGIONAL VICE-PRESIDENT
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TREASURER
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SECRETARY
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Fairbanks, AK 99708
(907) 452-7815

DIRECTOR-AT-LARGE
Warren Hoflich
6901 Tall Spruce Dr.
Anchorage, AK 99502
(907) 243-4790

Subsistence

*
* DELIVER TO: JPOM *
*
* ORIGINAL *
* SENT: 03/12/85 TIME: 16:49 *
* FROM: LIOA *
* SUBJECT: POM *
* PRINT DATE: 03/12/85 TIME: 16:50 *
*

TO: ALL LEGISLATORS T

FROM: SAM E. MCDOWELL
CONCERNED ALASKAN
336 E. 23RD AVE
ANCHORAGE, AK. 99503

I'M CONVINCED ALASKA STATE COURTS AND U.S. SUPREME COURT WILL RULE (RE: OUR PENDING CASE #3AN 83-1593 CIV. MCDOWELL AND BONDURANT VS STATE OF ALASKA) THAT IS CLEARLY UNCONSTITUTIONAL TO GIVE A PRIORITY ALLOCATION OF COMMON PROPERTY FISH AND WILDLIFE RESOURCES BASED ON GEOGRAPHIC LOCATION OF RESIDENCE.

Subsistence measure unveiled

By KIRK McALLISTER
The Juneau Empire

In the wake of a recent state supreme court ruling that expanded subsistence use to all state residents, Gov. Bill Sheffield today unveiled legislation that attempts to balance the needs of subsistence, commercial and sport fishermen around the state.

Basically, the bill would put into statute the regulations the Alaska Board of Fisheries has been using to allocate fish between user groups. The bill limits subsistence use to rural residents only but establishes a "personal use" category for other residents who aren't commercial or sport fishermen.

"For Alaskans who live in both rural and urban areas, the Supreme Court decision holds the potential of creating havoc," Sheffield said. "We can restore balance to our vital fish and game laws by conforming our statutes to the practice we've followed for at least the last three years."

In a Feb. 22 decision in the *Madison v. Alaska Department of Fish and Game* case, the Alaska Supreme Court

ruled the board had interpreted Fish and Game regulations too broadly by limiting subsistence to rural users.

This meant that subsistence rights were expanded to all Alaska residents. Under the Alaska National Interest Lands Conservation Act, subsistence use must be satisfied before the needs of commercial or sport interests.

With the increased numbers of fish that could now be caught by the expanded class of subsistence users, commercial and sport fishing interests are threatened.

In one of the most widely-discussed examples — the Copper River salmon fishery in Prince William Sound — subsistence users were allowed 200-500 fish depending on the size of the household while personal use fishermen were allowed 30 fish per household.

Under the new ruling, however, the number of subsistence fishermen would be increased nearly 10 times. Since subsistence users get first priority on the fish, there would be very few left over for commercial and sport fishermen in the area, which would have a drastic effect on the local eco-

nomy.

Sheffield said it was important that the Legislature act promptly on the bill since possible management conflicts could arise as soon as May. Despite the fact that this legislative session is nearly half over, the governor said he was optimistic about chances of the bill's passage.

Empire 3/12/85

*
* DELIVER TO: JFOM *
* *
* *
* ORIGINAL *
* SENT: 03/08/85 TIME: 14:13 *
* FROM: LIOA *
* SUBJECT: FOM *
* PRINT DATE: 03/08/85 TIME: 14:13 *
*

TO: ALL LEGISLATORS

FROM: JAMES CREWDSOON
7727 LUMBIS
ANCHORAGE, AK. 99502
PHONE 344-2071 HM

RE: SUBSISTENCE ISSUE

AS A COMMERCIAL FISHERMAN ON THE COPPER RIVER FLATS, I AM CONCERNED THAT THOSE OF US WHO EARN OUR LIVING BY FISHING ARE TREATED FAIRLY IN THE SUBSISTENCE ISSUE NOW BEFORE THE STATE. WE COUNT ON THIS FISHERY FOR OUR ECONOMIC SUBSISTENCE AND DON'T WANT TO SEE THIS JEOPARDIZED.

Sport Fish & Game Division License Revenue
1984

	1	2	3	4	5	6
	License #	Revenue	License %	Revenue %		
<u>SPORT FISH</u>						
RESIDENT	156,877	\$1,543.8	40	45		
NON-RESIDENT	96,599	\$1,786.9				
ABD-RESIDENT						
MILITARY	7115	71.2				
TOTAL A.R.	104,014	\$1,558.1	40	5		
TOTAL	260,891	\$3,401.9	100	100		
<u>GAME</u>						
<u>RESIDENT LIC.</u>						
" TAGS	93690	\$6,104.3				
" PERMITS		171.5				
TOTAL	93690	330.6	92	43		
<u>NON-RESIDENT LIC</u>						
" TAGS	5570	329.6				
" PERMITS		1,690.7				
TOTAL	5570	2019	4	56		
<u>M.R. MILITARY LIC</u>						
" TAGS	1985	22.9				
" PERMITS		13.0				
TOTAL	1985	4.0	2	1		
TOTAL A.R.	7555	39.9				
TOTAL	91245	\$3,266.5	100	100		

(A) LICENSES MISC. REVENUE FROM
 RESIDENT RSP LICENSES, KAN. SALMON STEELHEAD SPORT & BAIT LICENSE LICENSES, 31.0.

(B) LICENSES MISC. REVENUE FROM DUCKS, 13.7
 FROM DUCKS, 35 LICENSES & GUIDE FEES

NOTE: GAME PERMIT FEES SPREAD ON LICENSE SALES KEYS W/ SMALL HUNTING LIC.
 DT 3-13-84

Sam Mc Dowell

3/11/85

vt. case pending

Sam Mc Dowell
Dale Boudurant.

~~38~~ 3A77 83-1592 CDV
Alaska case
will take to Supreme Ct.

Judge Sordahl -

Feels held up due to Madison
Case.

Feels there is a problem. Think
there is a "need" but problem.

Feels shouldn't be a band aid.

Goes to constitutionality issue.

Q - Give priority based on geographical
location x

Right to Give to no State Brought &
deny other person is destitute

Mitchell involved w/ Dynet case.
Has debated Mitchell. Want
public hearing

Don Mitchell - Larry Spangler
ask why not in need -

*
* DELIVER TO: JPOM *
* *
* *
* ORIGINAL *
* SENT: 03/13/85 TIME: 16:21 *
* FROM: ANNIE NEUBAUER *
* SUBJECT: POM/FAIRBANKS *
* PRINT DATE: 03/13/85 TIME: 16:21 *
* *

TO: SENATORS: BENNETT, COGHILL, FAHRENKAMP, STURGULEWSKI,
ELIASON, ZHAROFF, HALFORD, V. FISCHER

REPRESENTATIVES: DAVIS, FRANK, M. W. MILLER, KOPONEN,
RINGSTAD, HERRMANN, SHULTZ, WALLIS, SUND, THOMPSON, CATO,
PEARCE, JENKINS

FROM: SAMMIE L. LACHAPELLE, P.O. BOX 75272, FAIRBANKS 99707

PHONE: HOME 488-1598/ WORK 353-6515

RE: SB231/DB288 GOVERNOR SHEFFIELD'S SUBSISTENCE BILLS

MEDIA COVERAGE INDICATES BILL WOULD ALLOW BOARD OF FISHERIES TO
PRIORITIZE PERSONAL USE AND SPORTS FISHING LOWER THAN COMMERCIAL.
THIS IS A VIOLATION OF STATE CONSTITUTION AS THE FISH AND GAME
BELONG TO THE PEOPLE, NOT CAMPAIGN CONTRIBUTORS. THE PRIORITY
SHOULD BE SUBSISTENCE, PERSONAL USE AND SPORTS AND COMMERCIAL
USE.

*
* DELIVER TO: JFOM *
*
* ORIGINAL *
* SENT: 03/18/85 TIME: 10:49 *
* FROM: LIDA *
* SUBJECT: POM *
* PRINT DATE: 03/18/85 TIME: 10:49 *
*

TO: ALL LEGISLATORS

FROM: WILLIAM L. LE
P.O. BOX 589
WASILLA, AK. 99687
PHONE 376-6514 HM 279-6661 EXT 512 WK

RE: SUBSISTENCE FISHING

I FEEL THAT THE LEGISLATURE WOULD BE DOING A DISSERVICE TO ALL ALASKANS IF YOU DO NOT GET INVOLVED WITH THE SUBSISTENCE ISSUE. I FEEL THE LAW SHOULD READ "RURAL SUBSISTENCE USE WITH ALASKA STATE BOARD OF FISHERIES INDICATING WHAT RURAL IS." PLEASE SEND RESPONSE BY A LETTER SOON. HURRY!

*
* DELIVER TO: JFOM *
* *
* ORIGINAL *
* SENT: 03/18/85 TIME: 11:12 *
* FROM: LIOA *
* SUBJECT: POM *
* PRINT DATE: 03/18/85 TIME: 11:13 *
*

TO: ALL LEGISLATORS

FROM: SAM E. MCDOWELL
CONCERNED ALASKAN
336 E. 23RD AVENUE
ANCHORAGE, AK. 99503

I'M OF THE OPINION GOVERNOR SHEFFIELD AND LARGEST PERCENTAGE OF ALASKA LEGISLATORS ARE UNAWARE OF THE PAST DEVIOUS MANIPULATION OF ALASKA'S SUBSISTENCE LAWS BY SPECIAL INTEREST ATTORNEYS AND ATTORNEY GENERAL TURNED LOBBIST.
I WILL BE IN JUNEAU MARCH 25 AND 26 AND WILL WELCOME THE OPPORTUNITY TO PROVE ABOVE STATEMENTS.

* DELIVER TO: JFOM *
* * * * *
* ORIGINAL *
* SENT: 03/12/85 TIME: 16:54 *
* FROM: LIOA *
* SUBJECT: POM *
* PRINT DATE: 03/12/85 TIME: 16:54 *

TO: ALL LEGISLATORS

FROM: SAM E. MCDOWELL
336 E. 23RD AVE
ANCHORAGE, AK. 99503

PLEASE BE ADVISED AND CONVEY MESSAGE TO GOVERNOR SHEFFIELD THAT WE ARE SICK AND TIRED OF HIS ANTI-URBAN, PRO-BUSH MANIPULATIONS OF URBAN ALASKANS CONSTITUTIONAL HUNTING AND FISHING RIGHTS. UNTIL GOVERNOR SHEFFIELD AND LEGISLATURE STARTS SUPPORTING CONSTITUTIONAL RIGHTS FOR ALL ALASKANS WE SHALL OPOSE ALL AMENDMENTS TO ANCSA. HAVE A GOOD DAY.