

SUBSISTENCE

NEWSCLIPPINGS

3rd suit filed over sale

12/30/85
Villagers focus
on subsistence

By JEFF BERLINER
United Press International

Saying oil and their subsistence lifestyles don't mix, three far western Alaska Native villages have filed suit in U.S. District Court to stop next month's federal offshore oil lease sale.

The suit, filed Friday, becomes the third lawsuit in a week to be filed in federal court against Secretary of Interior Donald Hodel in an attempt to halt the Jan. 15 sale of oil tract leases covering 5.6 million acres off the coast of southwest Alaska.

Unlike the other suits, which emphasize the potential harm to Bristol Bay's billion-dollar commercial fishery and to other wildlife in the oil exploration area, this lawsuit focuses almost entirely on the subsistence lifestyle of the Aleuts and Eskimos who live there.

The suit was filed by the villages of Akutan, Nelson Lagoon and Togiak, bringing to 20 the number of plaintiffs in the three cases. Plaintiffs in the other suits include the State of Alaska, fishermen's associations, environmental organizations and Eskimo groups.

"For an industrial society, the thought of fishing and hunting for one's sustenance is a quaint anachronism," lawyers for the villages wrote. "In Native Alaska, it is a fact of daily life."

The villages' complaint serves as a primer on the subsistence lifestyle, what it means, how it works, and how the Aleut and Eskimo people in the villages survive without the cash economy that is second nature to most Americans.

Lawyers for the three villages wrote the court that in these small communities "cultural forces and lack of integration into the Western cash economy join together to make subsistence hunting and fishing the prime focus of life."

Oil activity in the region will threaten the subsistence lifestyle, disrupt village life and cause communities to disintegrate, according to the suit.

The villages asked the court to stop the oil lease sale because the Department of Interior allegedly failed to properly study the impact oil activity would have on the subsistence culture.

Subsistence is mentioned but is not the centerpiece of the other legal attempts to halt the scheduled federal lease sale. The state wants the lease sale put off until 1994.

Amidst the legal jargon and case citations in the suit are details such as the fact that Aleuts collect tern eggs from the arctic migratory birds breeding in cliffs near the oil lease sale waters.

"Because Alaskan Natives cannot afford to buy food, they must catch it or kill it," the complaint said.

Man files lawsuit over rod-and-reel ban in subsistence fishing

The Associated Press

KENAI — A Homer man went to court Friday seeking to prevent the state from enforcing laws against using rods and reels or hook-and-line equipment for subsistence fishing.

In a lawsuit filed in Kenai Superior Court, Tom Brown said the Board of Fisheries' refusal to allow such gear for subsistence

fishing is "an inappropriate and illegal regulation."

He said he filed the suit "to safeguard our statutory and constitutional rights as Alaskan residents to subsistence."

According to the state's subsistence law passed in 1978, fish may be taken by "gillnet, seine, fishwheel, long line or other means defined by the board of fisheries."

The law doesn't specifically include rod-and-reel or hook-and-line, Brown said. And he pointed out that the board allows their use for subsistence fishing in the Kotzebue, Norton Sound, Port Clarence, Yukon, Kuskokwim and Bristol Bay areas.

Rod-and-reel and hook-and-line gear also are allowed for subsistence halibut fishing in Cook Inlet, according to Brown's complaint.

His suit asks that the court block any new board regulations that deny subsistence fishing rights to anglers using the common sport gear.

"The Department of Fish & Game has and will continue to manage the fishery in a way that will deprive subsistence fishermen of the opportunity to catch fish," Brown's suit says.

The state has 30 days to respond to the suit.

Barrow captain defies commission, lands whale

By HAL SPENCER
The Associated Press

An Eskimo from Barrow landed a bowhead whale Tuesday in defiance of the Alaska Eskimo Whaling Commission, which only last Friday fined the man \$5,000 for making an unauthorized whale strike, sources said.

A source in Barrow said the whaling captain, whose identity could not be con-

firmed, is philosophically opposed to whale quotas set by the National Marine Fisheries Service and enforced by the Eskimo Whaling Commission.

The quota limited Barrow whalers to four strikes this year. Whalers there filled the quota earlier this month, taking three whales and striking a fourth.

"There are hundreds of whales going by out there, and he (the whaling captain)

doesn't accept the government telling him how many he can take," the source said.

The whaling captain was still on the ice Tuesday, and could not be reached.

Eskimo Whaling Commission officials referred all questions to commission chairman Lennie Lane Jr. of Point Hope. He could not be reached.

Another source in Barrow said there was concern that

the action could jeopardize Alaska whaling interests during International Whaling Commission meetings this summer in England.

Dave Flannigan of the enforcement division of the National Marine Fisheries Service in Juneau said, "We understand a whale was landed this morning in Barrow." He declined further comment, saying the service had an agreement with the whaling

commission not to discuss the matter with the press.

The service this year set a quota of 18 strikes for whalers along the western and northern coasts of Alaska.

Flannigan said all but two of those strikes have been used as of Tuesday. The 16 include the two in Barrow that were unauthorized.

Flannigan said the fisheries service has an agreement allowing the whaling commis-

sion to enforce the quotas.

He said the federal government would intervene only if the commission would not or could not enforce the rules and then "only after negotiations."

Bowhead whales are considered endangered, and commercial harvest of them is banned. But the International Whaling Commission allows Eskimos to continue to hunt them for subsistence.

Quick action not likely on subsistence

By BRUCE SCANDLING
The Associated Press

1/9/86

JUNEAU — Key lawmakers are pledging fast action on subsistence when the second session of the 14th Alaska Legislature convenes Monday, but signals are already pointing to the possibility of a months-long squabble.

"I'm hesitant to be optimistic about a rapid process; it's such a strong issue," said Rep. Jack Fuller, D-Nome. "We haven't been able to solve it over the last several years, so I don't know why the first couple of months of the session are supposed to be magic."

The issue is volatile because it can directly affect all Alaskans, said Senate President Don Bennett, R-Fairbanks.

"We're talking about who is going to get what from the state's (fish and game) resources," Bennett said. "It's a thing that won't go away."

At issue is who should get the priority to hunt and fish for subsistence when fish and game populations are threatened by too much pressure.

Because most of that pressure is coming in and near Alaska's cities, it's urban residents who are most affected by how broadly laws are written.

Acting on a subsistence law passed by the legislature in 1978, state regulatory boards drafted rules giving first rights primarily to residents

Legislature hopes to act on subsistence

Continued from Page C-1

of roadless rural villages.

Sportsmen's groups complained that the law takes away rights for urban residents who rely heavily on fish and wildlife to feed themselves and their families.

But a 1982 ballot initiative that would have erased the subsistence law was easily defeated in a statewide vote. Then came the Madison decision.

The Alaska Supreme Court said in February that state regulatory boards had too narrowly interpreted the legislature's 1978 action in crafting net-fishing restrictions for Cook Inlet.

Basically, the court said all Alaskans qualify as subsistence users.

That opinion, however, directly contradicts the federal Alaska National Interest Lands Conservation Act of 1980.

The law says state agencies can manage fish and wildlife on federal land in Alaska — about 55 percent of all land in the state — as long as rural residents are given the subsistence priority.

After failing last session to adopt Gov. Bill Sheffield's proposal to return the priority to rural Alaskans, lawmakers are now faced with a threat of federal intervention later this year.

Unless the state passes a law to comply with ANILCA, the Department of Interior has said it will initiate on June 1 a takeover of fish and game management on federal land in Alaska.

When lawmakers get back to work next

week, they'll find Sheffield's subsistence proposal still on the table. That measure passed the House by one vote late last session, but stalled in the Senate when Bennett and other leaders said the issue needed more study.

Sen. Mitch Abood, an Anchorage Republican who chairs the Senate State Affairs Committee, carried the subsistence bill this summer. He conducted hearings around the state and has helped draft a new management proposal.

How quickly the legislature act on the issue this year could depend on how Abood and the Senate leadership decide to handle Sheffield's bill, several lawmakers said. The administration measure could be amended to include new Senate provisions, or it could be killed and replaced with a new Senate bill.

House leaders are hoping the Senate will choose simply to amend the governor's bill, a move meaning a joint House-Senate conference committee could quickly iron out differences and forward the new package to Sheffield.

Abood said he's flexible about using Sheffield's bill to incorporate new Senate proposals, but on first blush does not like the idea.

Many lawmakers fear a lack of action within the first 60 or 90 days of the 120-day session will toss the subsistence issue into the middle of election-year politics.

"It will just be a political football again in an election year," Fuller said. "I would certainly like to see it resolved as soon as possible."

Debate on subsistence bill continues

by Sue Cross
Associated Press

2/18/86
JUNEAU — The subsistence rights bill that has grown from a legislative fix for ambiguous language to a blueprint for redesigning Alaska fish and game management could pass the Senate in much the same form it's in now, the chairwoman of the Senate Resources Committee predicted Monday.

But other legislators and administrators who have worked on the measure say the Senate only increased the bill's flaws, and that simplification will be needed before it becomes law.

The Resources committee is to begin hearings on the bill Wednesday, and hopes to take action on it March 5, said Sen. Arliss Sturgulewski, R-Anchorage, head of the Senate Resources Committee.

The Alaska Federation of Natives and the Alaska attorney general's office have questioned whether parts of the bill are constitutional, if they meet federal standard, and if they would be unfair to subsistence hunters and fishermen.

Sturgulewski said in an interview that those doubts easily can be resolved.

"It's my feeling that a good many of these issues raised by the attorney general's office either are not real problems or they can be addressed by some minor wording changes," she said.

"I anticipate a bill very much like this one will pass (into law)."

The Senate State Affairs Committee added more than five pages of amendments to the 2½-page bill that passed the House last session.

Among the major policy changes inserted are instructions for the Alaska fisheries and game boards to identify stocks available for subsistence use, and to giving the boards authority to apportion the stocks as they see fit.

The apportionment clause raises the ire of Don Mitchell, attorney for the Alaska Federation of Natives. He said in a Feb. 10 analysis that the clause "makes a mockery of the subsistence priority."

Mitchell said if the provision became law, the boards could, for example, shut down subsistence fishing of king salmon, the most desirable for commercial and sport fishing, and switch sub-

sistence users to red or other less-coveted salmon species.

Sturgulewski said debate over the apportionment clause leads her to believe it will be amended.

The Senate version also calls for the fisheries and game boards to set up an appeals process, which petitioners would have to exhaust before taking a subsistence complaint to court.

Sturgulewski said that proposal would add a level of bureaucracy that is commonplace in other state programs, and one that would justify its cost by reducing the number of lawsuits filed. She said the cost has not been determined.

Jim Ayers, legislative liaison for Gov. Bill Sheffield, said the boards already hear subsistence appeals, and the attorney general's office has said any additional appeals would have to be made to the Commissioner of Fish and Game. That would be inappropriate because the commissioner only carries out policies created by the board and should not rule on its decisions, Ayers said.

No one in the commissioner's office was available to comment because Monday, President's Day, was a state holiday.

Ayers and Sturgulewski both said there are ambiguities in the bill's language that should be taken out or defined, such as what is meant by the "sound management" of fish and game required in the Senate version, and how "customary and traditional" uses should be used to determine subsistence rights.

But Ayers said that even if those points are clarified, the bill, in general, attempts too much.

"Our bill fixed what was broken. They've now taken on other issues and other discussions of problems that weren't there before they opened them up," he said.

The Department of Interior has given Alaska a June 1 deadline to enact a new subsistence law or lose control of fish and game on all federal land in the state.

Alaska has not complied with the federal Alaska National Interest Lands Conservation Act of 1980 since the state Supreme Court ruled last year that regulatory boards too narrowly limited subsistence rights to rural residents.

Ombudsman faults subsistence hunt permit point system

By CRAIG MEDRED
Daily News reporter

Big game hunters had ample reason to complain about procedures used to qualify for subsistence hunting permits this year, state Ombudsman John B. Chenoweth has told the Alaska Board of Game.

Chenoweth, in an eight-page report to the board, said a permit-scoring scheme designed to distinguish among subsistence hunters based on their perceived need for game was flawed from its inception.

"The board's decision to forego reliance on verifiable criteria, to my mind, allows individuals to interpret and apply the standards of 'customary and direct dependence' and 'availability of alternative resources' so broadly as to render them meaningless," Chenoweth said.

"Unless the current system is changed, I would guess that

future applicants would, as board member Vic Van Balenberghe observed in the course of the June proceedings, learn 'in a hurry' the significance of securing the highest possible point score, as a consequence of which '... they're gonna lie!'"

Chenoweth suggested the board develop a verifiable and quantifiable system for awarding permits in 117 hunts next year. Among the hunts are some of the most popular in Alaska, including the Nelchina Basin caribou hunt where more than 10,000 hunters annually apply for fewer than 2,000 permits.

Those permits had in the past been awarded by random drawing in a lottery. The drawings ended this year after the state Supreme Court ruled the state subsistence law gives Alaskans hunting

See Page C-3, OMBUDSMAN

Ombudsman critical of '85 subsistence hunt point system

Continued from Page C-1

or fishing for food and clothing a priority. The ruling added that if there wasn't enough fish or game to meet everyone's need, the priority could be restricted on the basis of residency and dependence on the resource.

Acting on the advice of the state attorney general, the Board of Game interpreted that to mean most permit hunts must be made into subsistence hunts. The board then developed a point system for scoring permit-hunt applicants in 52 separate permit hunts for moose, bison, caribou, sheep and goats.

The scoring system was in-

tended to favor rural and low-income residents by awarding points for local residency and dependence on local resources.

Hunters in urban areas of Alaska objected vehemently, but the hunts proceeded.

Board members defended the system by saying they did the best they could in a short period of time.

More than 4,800 permits for five species of wildlife were issued under the new regulations this fall, said Lew Pamplin, director of the state Division of Game.

Permit applications however, were down from 45,000 in 1984 to 8,600 — apparently

reflecting the opinions of many urban residents who didn't think they had a chance at getting a permit under the new rules, said Pamplin.

"My recommendation that the board reconsider the (present) approach is based upon what I believe are well-founded observations of lack of public confidence in and support of the current system," Chenoweth said. "In the public meetings I have attended, many in the audience are familiar with the identity of the successful applicants and the manner in which these applicants answered the questions, and they tend to treat it as a

joke."

He also criticized a provision of the scoring system which awards points for past hunting success, saying that will eventually create a "privileged status for a limited number of successful applicants."

And he criticized the board for writing regulations that are virtually unenforceable. The public expects enforceable laws, Chenoweth said, noting "that is a significant factor, I believe, in public perception of and support for game regulation."

The board is now reviewing what to do with permit hunts for next year.

Boards put off ¹¹⁻¹⁴⁻⁸ ^{News} action on AFN's subsistence plan

By CRAIG MEDRED
Daily News reporter

The Alaska Boards of Fisheries and Game voted 10-4 Wednesday to defer action on an Alaska Federation of Natives petition to limit subsistence hunting and fishing priorities to rural residents who have customarily and traditionally used fish and game.

The boards' decision was designed to leave resolution of the subsistence law controversy to the Alaska Legislature.

The action came after more than two hours of discussion among board members of the effects of any decision on the political and legal battles raging over the issue.

Subsistence hunting regulations approved by the boards this spring are being disputed in the courts, and the state Senate is in the midst of an effort to write new subsistence legislation.

"There are lawsuits pending on almost every side of this issue," said Jeri Museth, a fish board member from Juneau. "There are messages sent (to the courts and the legislature) no matter what way we go on this."

Board members said they did not want to limit the prerogatives of the legislature in rewriting the subsistence law, and they hinted that their action on the AFN petition might undermine the state's position in court.

All Alaskans can now qualify for subsistence privileges.

That has thrown fish and wildlife management into confusion as state officials have scrambled to develop a system for discriminating between Alaskans who hunt and fish for food and those who do so for recreation.

The state Supreme Court has ruled that any hunting or fishing for food or clothing qualifies as subsistence.

The boards met in closed session Tuesday for a briefing on the legal aspects of subsistence by Larri Spengler, a state assistant attorney general.

John Simon, a member of the fish board, said Spengler advised the boards that deferral of the AFN petition on subsistence might help stall action in the court.

Simon was one of the four board members who favored denying the petition. He said that would leave the board with a clean slate when it again considers subsistence regulations in the spring.

Even if the legislature writes new subsistence legislation, the board will need to develop those subsistence hunting and fishing regulations.

State law says subsistence hunters and fishermen have a preference over commercial and sport interests, and a state court has ruled the boards must write regulations ensuring that preference.

Simon called it "the subsistence quandary."

"It's a terribly difficult and confusing situation for the public at large," he said.

Boards delay action on subsistence

Times 11-14-85

Mary Scarpinato
Staff Writer

rural residents' priority back into state law.

The hope is that by that time the legislature will have passed a subsistence bill and the petition before the boards will be moot.

Even though the boards did not feel it was their place to accept the petition, they did not want to reject it either, and thus push AFN toward a lawsuit.

"All of us know the type of controversy that (a court battle)

causes," said fisheries board member Jesse Foster of Quinhagak. "Resentment flares up all over the state."

Last spring, the Alaska Supreme Court struck down the special rural resident categories, which had been set by the fish and game boards. Only the legislature has the power to make such policy decisions, the high court had ruled.

The state House then intro-

duced a bill on subsistence rights but the Senate stalled action with a call for further study.

AFN's petition notes that federal law requires Alaska to protect the subsistence hunting and fishing rights of rural residents in the state. The federal government has given Alaska until June 1, 1986, to pass legislation on these rights or federal officials will take over all fish and game management here.

State fish and game boards say it's not their job — but the Alaska legislature's task — to decide if state subsistence law should give priority to rural residents.

Based on that reasoning, the boards deferred until their joint meeting in the spring a petition put before them by the Alaska Federation of Natives to put

Times 9-27-85

Sheffield's support for timber industry

Dear Editor:

After reading Bob Richards' column on the timber industry in Southeast Alaska, I agree with him on two points: the Southeast timber industry is in serious trouble, and that Sen. Murkowski has been very supportive of that industry. However, regarding his comments that the Sheffield administration has not done anything, that just isn't so!

In my 16 years of involvement with Alaska's timber industry, I haven't observed any governor

as committed to helping the timber industry as Gov. Sheffield. The problems of the Southeast timber industry are indeed deep-rooted and complex. To think that the state or anyone else can quickly solve these problems is not realistic. Only time, persistence, hard work, and a little luck will do that.

John L. Sturgeon
State Forester
Department of Natural Resources
Juneau

Subsistence foreseen as hot issue in 1986

by Larry Persily
Times-Juneau Bureau

Juneau — Several legislators say they are committed to passing a subsistence law by June 1, 1986, which will be acceptable to the federal government.

The alternative, according to a Department of the Interior ultimatum, is to have the federal

government take over management of fish and game on federal land in Alaska.

"The monkey's on our back," said Sen. Mitch Abood, R-Anchorage, who said the subsistence debate will be the biggest issue of next year's legislative session.

"I'm sure we'll have some

kind of a bill" by the interior department's deadline of June 1, 1986, Abood said, adding, "We don't want the feds coming in, do we?"

The interior department this week wrote Gov. Bill Sheffield to inform him that Alaska is no longer in compliance with federal law providing fish and game

subsistence preference rights to rural Alaskans.

"I find the idea of federal management of our fish and game to be absolutely, totally untenable," said Sen. Arliss Sturgulewski, R-Anchorage, chair of the Senate Resources Committee.

See Subsistence, page A-10

Subsistence issue

Continued from page A-1

Sturgulewski said she wants a bill that defines who qualifies as a "rural" resident and what is considered to be "subsistence game." She said she is confident the conflicts will be resolved and lawmakers next session will pass a bill acceptable to the interior department.

The House this past session passed a subsistence bill designed to bring the state into compliance with federal law, though the legislation stalled in the Senate State Affairs Committee, chaired by Abood.

The Alaska Supreme Court in February struck down state subsistence regulations, taking the state out of compliance with federal law and putting the burden on the legislature to adopt new statutes guaranteeing rural residents preference for fish and game resources.

The state boards of fish and game this year adopted temporary measures to maintain subsistence rights for rural Alaskans. Subsistence hunts have been allocated on a point system measuring local residency, dependency on the resource and availability of alternative resources.

Abood already has held public hearings in Anchorage on the subsistence issue, with his committee scheduled to hold additional hearings Oct. 9-10 in Fairbanks and again in Anchorage in November.

Because of the complexity of the issue, the senator said, he decided to hold the matter until next year's session.

The governor this year had proposed legislation that would have returned Alaska to the subsistence management that existed before the court decision, with rural Alaskans having preference for fish and game resources.

"No one's going to get elected by solving this problem," Abood said, arguing it should not become a political issue.

The Senate state affairs chairman said he would hold the subsistence bill in his committee until Senate and House members reach a compromise on the issue.

House Speaker Ben Grussendorf, D-Sitka, said it's been difficult to draft subsistence legislation acceptable to urban hunters and there was a lot of pressure on the Senate from Anchorage and Fairbanks sportsmen "not to move too fast."

Though urban hunters may not favor a continuation of the rural preference for subsistence uses, Grussendorf said the legislature "probably would come up with a subsistence plan that would be much more beneficial to the urban hunters than would the federal government."

Mike Scott, an aide to Sen. Frank Ferguson, D-Kotzebue, said, "Subsistence should have the highest priority, after that there's where the problem

comes in" with the allocation of fish and game resources.

"We tried to get a compromise last year, then Abood took it upon himself to say he's going to hold hearings so it's in his hands," Ferguson said.

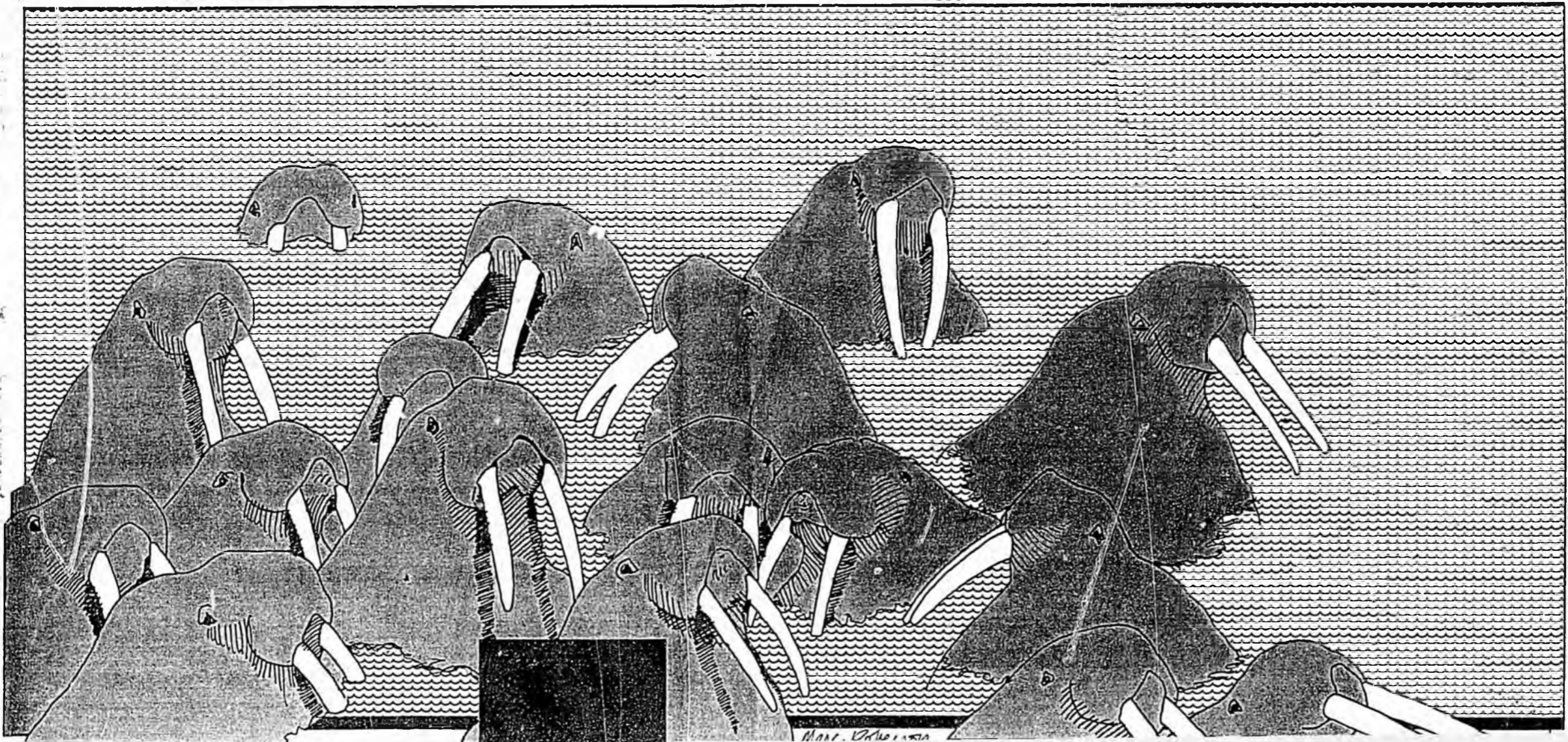
Sturgulewski commented, "I know we're going to see some saber-rattling on this now," but she is looking for next year's legislation to provide "a method of fair allocation" of Alaska's fish and game resources.

Outdoors

Daily News-Miner, Fairbanks, Alaska

Sunday, October 27, 1985—D-3

Subsistence walrus hunting: scourge of the North



By CHRISTOPHER BATIN
Correspondent

A fur-clad hunter slowly maneuvers a wooden boat among the massive ice chunks of the Bering Sea. The remaining six hunters in the boat gaze across the icy expanse of the Bering in an attempt to spot their quarry—the Pacific walrus. The situation is tense, as the walrus' belligerent behavior and habitat make it a challenge to hunt. But the occupants of the boat are not sport hunting.

Suddenly a furred mitten grabs a frost-encrusted rifle as a hunter spots a herd of walrus basking on an ice floe several hundred yards away; their long, ivory tusks reflecting the brilliance of the arctic sun. The boat operator slowly maneuvers his craft through a patch of ice fog as the hunters quickly load their rifles.

The walrus, many exceeding 3,000 pounds, fill the air with strange guttural sounds—like a hammer striking a pipe. A sentinal walrus awkwardly attempts to move its lumbering hulk toward the open sea, and the hunters begin to fire into the herd of now panicky walrus. Several walrus are killed instantly and sink before the hunters can reach them, but many more escape wounded to suffer as long as six months before dying an agonizing death from malnutrition caused, in part, by the wounds.

Several clips of ammo later, comparative quiet reigns, with the silence occasionally broken by a shot taken at an escaping walrus. The hunters proceed to land their craft and pride themselves over the gleaming, blood-stained tusks of ivory.

After a few minutes of chopping and cutting, a stockpile of walrus heads are stowed aboard the boat. The hunters soon depart, failing to salvage any of the thousands of pounds of edible meat. The headless carcasses will assume the ultimate fate of washing up on some shore several months later.

This account is not a horror story on a hunting scene that occurred a 100 years ago, but rather, a factual account of the atrocities committed by many subsistence walrus hunters.

Under the provisions of the Marine Mammal Protection Act of 1972, the killing and market use of marine mammals is prohibited by law, with one exception. Alaska Natives are allowed to harvest walrus for nonwasteful, subsistence purposes and sell the subsequent ivory handicrafts.

Village merchants, soon discovered, however, that it was difficult to sell these ivory crafts at

retail prices in village stores. Soon merchants began demanding cash for goods instead of ivory. Rather than search for a more lucrative market for their goods, many Natives began to sell raw ivory for instant cash through black market connections, which is prohibited under current regulations. Thus, a lucrative black market for ivory evolved, with illicit channels traced to Anchorage, Seattle, Portland, the East Coast, Hawaii and the Orient.

Much of this illegal ivory is destined for the Orient, where it is carved by hand and machine. The ivory is returned to the gift shops in Alaska and throughout the U.S. as a counterfeit "Eskimo handicrafts," where it can be sold over the counter at a substantial profit. The U.S. Fish and Wildlife Service estimates that these marketers process several million dollars worth of black-market ivory annually. Reports indicate that over 95 percent of all walrus shot off Alaska's west coast are killed just for their ivory.

One of the main reasons for the huge demand for walrus ivory is to replace the restricted influx of ivory from endangered African and Indian elephants. With such a restricted market, the value of ivory has increased, along with the walrus kill, which is evident through Alaska Department of Fish and Game records. The annual harvest from 1962 through 1974 averaged 1,700 animals. According to John Sease, with the University of Alaska-Fairbanks Fisheries and Wildlife Department, the current harvests vary on weather and ice conditions. He estimates that in 1984, 5,500 to 6,000 walrus were harvested, and roughly 4,000 to 4,500 walrus in 1985. Past ADF&G reports indicate that annually up to 1,500 walrus were killed but not retrieved because they sank or escaped wounded.

However, the problem of excessive walrus harvesting was compounded when Alaska decided to return management back to the federal government over a decade ago. Federal authorities had imposed unrealistic goals and regulations upon the state in managing walrus populations; goals which the federal government in its 40-year management history prior to state control had not obtained. Under federal management, there is no bag limit or regulations regarding the use of meat.

From a biological standpoint, there is reason for concern, but not from overharvesting. Several years ago, walrus populations were at an all-time high of 250,000 animals. According to the National Oceanic and Atmospheric Administration and biological experts, walrus

The walrus, many exceeding 3,000 pounds, fill the air with strange guttural sounds—like a hammer striking a pipe.

populations are currently suffering from a population decline due to overabundance. Marine Mammal biologist John Burns said that population crashes are nature's way of controlling the species. "It happens with mosquitoes and hares. It's happening with the walrus. Too many people blame the decline on the subsistence hunters. They did not initiate the decline. However, an increase in subsistence take, especially when walrus populations are declining, could create some problems in the future."

Burns also said that the economics of walrus hunting is one side of the story, and traditional use is another. "Twenty years ago, Natives harvested walrus for dog food. Now that they have snowmachines, they don't need to bring in as much meat. Only what they are going to eat. Who's to say if it's ethical to bring in meat so a dog can turn it into manure or leave it out on the ice for the crabs to feed on?"

But many sportsmen have an ethical problem with the state and federal government's current definition of "subsistence." Sportsmen question if the word "subsistence" gives a select group of people the right to indiscriminately kill walrus for a limited source of cash rather than as a source of food, and of their preference over a resource that belongs to everyone.

There are many villages that do use both meat and ivory. But this usage seems to vary according to season. According to a report by marine mammal biologist John Matthews, "Meat utilization is very poor among Native hunters. Early in the season when food supplies are low, fresh meat is welcomed by the Natives. However, as a supply of meat is cached, the utilization of walrus dropped to near zero."

Matthews observed that during a single, 18-hour period, one boat retrieved 100 walrus, but only two hearts and a stomach were kept. Much of the meat was stored on beaches where it was subjected to high tides and weather, which eventually ruined the meat before it could be utilized. Matthews concluded by stating, "... less than 30 animals or meat equivalent were returned to the village. This is less than 5 percent of the total amount available for village use."

One reason for this poor return is that hunters often fail or are unable to retrieve walrus that are sunk or lost. Matthews commented in his report: "When 10 to 15 rounds of ammunition are fired by each man of a 12-man crew into a herd of 250-300 animals and only 25 are retrieved, one has to expect a high percentage of wounded animals.

Improper ammo is another factor contributing to high losses. Many hunters are using surplus military ammunition to hunt walrus. These shells are loaded with non-expanding bullets which are designed to wound rather than kill. The result is many crippled and lost walrus.

Another factor pertinent to high loss rates is the shooting of walrus in the water. According to a 1977 ADF&G report on walrus, "Due to a lack of ice, Native hunters resorted to shooting walrus in the water. Loss rates were as high as 85 percent. Hunters attempted to butcher many of the carcasses in the water. In almost all cases, the heads were removed and the rest was left to sink."

But the problem is much more complex than the ethical issue of wanton waste. Marine mammal biologist Dan Strickland stated in a report that a friend announced an offer to buy walrus meat for his dogs at 50 cents per pound from Native villagers. He had to resort to knocking on doors to get any response. Strickland pointed out, "... this may indicate that the problem is much deeper than no freezer facilities. If the Natives are becoming too lazy to retrieve meat, which is difficult work under adverse weather conditions, and can survive quite adequately on ivory, a commercial meat project may fail entirely."

He also stated that an operational freezer was installed at Savoonga, but Natives were using it as a storehouse which was subject to frequent theft.

Several buyers have created a demand for walrus hides, offering to supply the salt and transportation for the hides in addition to paying \$150 for each hide. A walrus hide can be split up to 12 times due to its thickness and is often referred to as an exotic skin. The Natives failed to respond. The general consensus was that it appeared to be too much trouble and effort for the price.

This deteriorating responsibility by some users in utilizing the entire animal is most prevalent among the larger villages, along with what seems to be a biased attitude toward fish and game personnel.

Matthews elaborated on this attitude. "After I answered a

young hunter's question about bag limits, quotas, and what would happen if they were exceeded, the hunter became belligerent and said that any attempt to seize his ivory, legal or not, would result in him shooting that person, in this case, myself."

Matthews also quoted a Native stating that, "Fish and Game personnel were only good for shooting at." Matthews concluded his report by commenting, "It is my feeling that this type of response is becoming more prevalent at Diomedes." Other biologists have recorded similar animosities at other major villages.

However, many Natives of the smaller villages, especially along the Yukon-Kuskokwim coast, try in earnest to comply with regulations. "Y-K hunters don't consider going out after walrus without bringing in the meat," said Burns. On the other hand, biologist's field reports indicate that the larger villages of Savoonga, Gambell and Little Diomedes have little use for the tons of meat harvested annually. Strickland, in his 1977 report, writes, "I would say that 90 percent of those Natives hunting out of skin boats brought back a substantial amount of meat. However, those hunting out of speed boats are the reverse, 90 percent of those don't retrieve anything but the tusks."

The slaughter has been so great at times during the past decade that the Soviet Union has sent letters of protest concerning the number of headless walrus carcasses washing up on their beaches. Sport hunters have said that this makes the issue more than just a state problem, but a national concern.

Natives realize that waste is a problem, yet they feel that the current economic situation leaves no other alternative. Ivory is needed for economic support. After harvesting three or four walrus, the primary goal is no longer meat, but ivory."

Yet, the slaughter continues despite the benefits many Natives receive in the form of welfare checks, Bureau of Indian Affairs checks, food stamps and other federally aided programs. Subsistence users in many villages can go to the village store and purchase televisions, snowmachines and other modern appliances, paid for by the rising slaughter of walrus under the term of "traditional subsistence."

In an interview several years ago, Sidney Huntington, former member of the Alaska Board of Game, blamed the federal government for the current waste. "Regulations have prevented us from making use of the walrus. Very few people actually live a

total subsistence lifestyle and don't require much meat. They eat beef like everyone else. But walrus can be used to make soap, fertilizer, and the hides in the making of leather. But we can't start any commercial projects with a harvest of 3,000 animals."

What are the solutions to these problems? To start, management of walrus herds should be transferred back to the state. The federal government should be realistic in its requirements concerning walrus management, especially since it has offered protection in name-only and has done little for the walrus in its 45-year history of management and enforcement. Enforcement would be a major factor in curbing the abuse of black marketing and waste.

Upon receipt of management, Alaska should allow sport hunting for walrus and relax present laws, allowing Natives to become registered guides in their own areas. This would permit Natives to obtain guide licenses without the customary waiting period and prerequisites. This would help check rising walrus populations in the future, and deter black market dealings by creating a source of income for villagers.

The state should pass legislation outfitting remote coastal villagers with proper food storage facilities. Harvest should be moderately curtailed until the walrus population stabilizes and present waste of meat is controlled.

Many Natives feel that any lost aspect of their subsistence lifestyle, i.e. how much to hunt or how much to harvest, will result in a part of their heritage disappearing or being changed forever. But with the introduction of TVs, telephone and snowmachines, where do lawmakers draw the line in deciding what is "traditional" and what isn't? If the indiscriminate killing of walrus for their teeth alone and subsequent waste is part of the Native heritage, it may well be a Trojan Horse of shame that will haunt them in years to come. As one hunter attending a recent subsistence forum said, "I am proud of my hunting tradition and practices. Yet how many of Alaska's subsistence walrus hunters can actually say the same?"

Sidebar

The walrus is not the only mammal that is suffering from the indignant fate of black marketing and indiscriminate killing under the guise of subsistence. Under the provisions of the Marine Mammal Protection Act, Natives are also allowed to harvest polar bear without limit or restriction.

The take of polar bear by Na-

tives has quadrupled over the past 12 years from 20 to over 160 bears, with the harvesting of cubs and females with cubs permitted. This increased harvest is due, in part, to excessive walrus carcasses washing ashore, enticing large numbers of polar bears to come in off the pack ice to feed on the carrion. In the past, polar bears were seldom found near the mainland for reasons other than birthing.

Documentation is scarce on black market polar bear hides. However, in 1977, 800 polar bear hides went up for auction on the London market, with 80 percent of those originating from Alaska. In Japan, polar bear hides are the mainstay of cocaine dealings in some Alaska Bush areas.

Spring hunting for waterfowl is another major problem. Subsistence users are permitted to harvest molting waterfowl and kill paired birds before they have a chance to nest. Bush residents harvest over 100,000 waterfowl annually, killing not only the parents but the potential brood of each pair. This cause has been blamed, in part, for the drastic decrease in four species of Pacific Flyway geese. The federal government has failed to enact regulations stipulated in the Migratory Bird Treaty Act that would stop this harvest.

Natives continue to hunt seals, even though the need to do so is not as vital as in past years. According to Dan Strickland's notes on seal hunting in the village of Shishmaref, he states, "Towards the end of my stay, I noticed quite a few seal carcasses (that) were being left on the beach to rot, even to the point where they were unfit for dog food. I would estimate that 40 seals were in this condition. A woman commented to me that they had more than enough meat and skins and would ask the men to stop hunting, except for their reluctance to do so. It seemed both force of habit and the pleasures of hunting were factors here."

The caribou is also on the black market of waste. Subsistence users are receiving over \$40 per pound for caribou antlers. Brent Jones, an Anchorage taxidermist and guide, said several buyers set up a market for caribou antlers to be sent to the Orient to be used as aphrodisiacs. Jones stated the buyer needed 20,000 to 40,000 pounds of caribou antlers. In part, this market has been the reason for the considerable waste of caribou among subsistence hunters in rural villages.

Chris Batin is an avid outdoorsman and author of the book "How to Catch Alaska's Trophy Sportfish."

Letters

Subsistence

EDITOR, Southeastern Log:

I would like to respond to the accusations recently leveled by Governor Sheffield and Janie Leask blaming the Alaska State Senate and the Alaska Outdoor Council for the present hunting regulation "dilemma."

Since I am registered as the full time lobbyist for the Alaska Outdoor Council during the legislative session, I am fully aware of the position and lobbying effort of our organization on the subsistence issue.

Both Gov. Sheffield and Ms. Leask, the present president of AFN, took the predictable position in support of the Governor's subsistence bill which would have given the subsistence priority to only "rural" subsistence users. The Governor's proposal eventually passed the state House with a vote majority of one. The continued delays in the House clearly illustrated the divisiveness of the issue and was only passed after considerable political arm twisting and maneuvering on the part of the Governor's office.

Since the Governor's bill failed to pass the Senate, the Board of Game was forced to comply with the two 1985 Alaska Court cases' mandate that the subsistence laws be implemented. The result was the adoption of some very controversial hunting regulations which obviously infuriated many hunters throughout

the State who were suddenly excluded from participating in popular big game hunts. We might debate whether the Board had to take such drastic actions but that is not my major point of concern in this letter.

Frankly, we concur with the courts' interpretation of the law as it is now written.

The Governor and Ms. Leask took great pains to lay the blame for the present "crises" at the feet of the state Senate and its leadership. Ms. Leask in particular accused the Alaska Outdoor Council of lobbying to kill the Governor's bill in order to create some sort of urban backlash against the subsistence law. I can appreciate Ms. Leask's frustrations in not getting her bill through the state Legislature but it hardly seems appropriate to try and dupe the public by trying to discredit our organization and by presenting false information. I would like to correct a few inaccuracies for the record.

Yes, the Alaska Outdoor Council did lobby against the Governor's bill. Contrary to Ms. Leask's accusation, however, the oft printed position of the council is not to eliminate the subsistence law but rather to restructure a new bill giving a preference based on individual or family need.

It didn't take much of an experienced observer to realize the Governor's bill was in for tough sledding last session. Most of us were well aware of the administration's threats

of sweeping regulatory changes if the Governor's bill stalled in committee. For this reason, the Alaska Outdoor Council and many of its affiliated clubs, such as the Alaska Sportfishing Association, offered a substitute bill which would have met the Governor's requirements of placing the subsistence regulations at the pre-Madison point with a provision that the compromise legislation would provide a "moratorium" for only one year. This "moratorium" would have provided for a more orderly review of the recent court rulings and would have given the House, Senate and Governor's office time to structure a more acceptable State subsistence law.

The compromise moratorium bill was offered in the House and was solidly rejected by the administration and the state House leadership. Again, in the Senate, the same compromise measure was offered at the Senate State Affairs hearing during the latter part of the session. Deputy commissioner of the Alaska Department of Fish and Game, Dennis Kelso, and representatives from the Governor's office rejected the compromise temporary solution. The Governor took an all or nothing position and gave the Alaskan hunting public nothing in return.

If the Governor's office and Ms. Leask's organization were truly interested in the hunting and fishing opportunities of the urban users one must ask why they refused to consider a temporary moratorium in order to get all of us through a rapidly approaching regulatory season.

Ms. Leask does some fancy footwork by trying to convince us all that the urban and non-subsistence

rural hunters and fishermen will have more equality and more hunting and fishing time by eliminating themselves from any rights under the subsistence priority law. In other words, agree to the priority for only rural subsistence users. She carefully weaves an argument that the criteria used to discriminate between subsistence users in rural Alaska doesn't apply to downtown Anchorage. One must ask why a user must eliminate his or her use because the criteria developed by the Legislature in 1978 was unworkable. Logic says you should consider changing the criteria.

She carefully avoids the fact that rural Alaska is growing fairly rapidly in many areas and would demand the exact same regulations that are presently eliminating urban and rural non-subsistence users from many hunting and fishing opportunities. At best, the Governor's bill would only delay the inevitable for two or three years until the Boards of Fisheries and Game had complied with the State courts' ruling that they must develop regulations to protect the subsistence priority wherever subsistence occurs.

In defense of the Senate, I would like to add that there would not have been a Madison case nor an Eluska case nor any emergency game regulations, if the Governor's office, the Attorney General's office and the Boards of Fisheries and Game had chosen to abide by the state law. In essence, the dilemma was created by "rural" subsistence advocates who chose to alter the state law by administrative action rather than the normal legislative process.

My last few points are concerned

Please see Subsistence on B-15

CHRISTENSEN LUMBER & HARDWARE
presents

Subsistence

Continued from B-14

with the Governor's failure to recognize (or remember) what the key issues are now that the courts have reviewed and ruled on the state's subsistence law.

1. The state courts admonished the boards for not developing regulations protecting the subsistence priority statewide. A return to pre-Madison will not eliminate the need for the state to develop or maintain many of the controversial regulations now in effect. The Governor's bill did not deal with this issue.

2. The State law requires the elimination of commercial or sport uses before subsistence uses are restricted. We contend that the law should allow the boards to allow and blend all uses, even if subsistence is given a priority or preference. The Governor's bill did not treat this issue.

3. The state law almost implies that subsistence uses cannot be restricted or regulated before other uses are eliminated. We contend that all uses must be regulated to protect the basic resources. The Governor's bill did not treat this issue.

4. The courts ruled that the state cannot allocate fish and wildlife resources on a community basis as it had in the past. We favor any mandatory allocation or preference being based on personal or family need rather than on a citizens residence. The Governor's bill did not deal with this issue.

5. The present law is not clear on the authorities of the boards to designate which species are subsistence species (i.e. bison which were transplanted) and whether alternative resources can be used in places of low level target species. We favor the boards having this authority. The Governor's bill did not

consider this point.

Let's face up to the obvious, "rural" subsistence advocates like Ms. Leask and her strongest supporter (Gov. Sheffield) are adamant that the ultimate subsistence priority will only be given to rural Alaskans. Not only that, there is a sense of almost pure panic as if time would eventually reveal the true weaknesses and intent of the unpopular law.

The continued incremental discrimination against urban and non-vested rural users was only derailed by two fairly accurate court interpretations of the 1978 State law. Bolstered by threat of federal pre-emption, the Governor and AFN have refused to compromise and negotiate a long term settlement to this socially divisive state law. It has been this

dogmatic and uncompromising approach that has created the existing "crises," not the last minute refusal by the Senate to cave in to political pressures from the Governor's office.

If the Governor and Ms. Leask are truly interested in solutions, we would appreciate a little less political rhetoric, a lot more accuracy and a greater presence at the negotiations table.

Sincerely,
RONALD SOMERVILLE
Executive Director

MOOSE
LODGE
1092

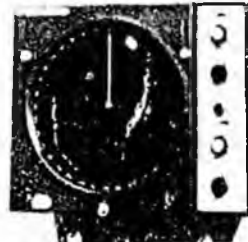


Enjoy Your Favorite
Sporting Events On Our
Giant Screen
Television

You'll Always Have A
Good time At The
PETERSBURG MOOSE CLUB

All Moose members and
guests welcome

Wanna see in the dark?
BUY FURUNO
Want LOW PRICE?
SEE PSI



Model 2400

FURUNO U.S.A. INC.

Lifeline
Limited Warranty II

PSI PUGET
SOUND
INSTRUMENT

P.O. Box 1520
Petersburg, AK 99833

772-4441



Scandia
House
INCORPORATED



"The Hotel That is so Obviously Petersburg"
Little Norway Landmark Established 1905

24 Newly Remodeled Rooms

- Color T.V.-HBO
- Suites and Kitchenettes
- Sightseeing & Fishing Tours Arranged
- Direct Dial Phones
- American & European Plans

Special Rates on

■ 3 Day Stays

■ Weekly

Most Major Credit Cards Accepted

Centrally Located Downtown
P.O. Box 689, Petersburg, AK 99833 772-4281

Saved Frank

Natives consider own panel to manage marine mammals

by Mary Scarpinato
Times Writer

Claiming the state and federal governments have failed to properly manage marine mammal populations here, Alaska natives want a new commission that would be empowered to do so.

A steering committee to organize the Alaska Native Marine Mammal Commission was selected from among about 100 interested coastal region residents who gathered here Friday.

Such a commission would work to insure natives' subsistence hunting of these species, as well as set harvest regulations.

The residents say seal, sea lion, sea otter and walrus herds are overpopulated, and their numbers are damaging fishing resources.

"Now, if you go out to get a seal, they're totally skinny and sickly because of overpopulation," said Sven Haakanson Sr.,

mayor of Old Harbor on Kodiak Island.

"Clam beds and crabs are being completely wiped out because the sea otters are killing them off," he said. "But we could harvest them (marine mammals) so it would benefit us and them (overpopulated species)."

Only natives are allowed to hunt marine mammals here, and only in numbers considered adequate to supply subsistence needs. The species are protected from any other kills under the 1972 Marine Mammal Protection Act.

But natives complain that none of these species were endangered then because of sound conservation measures already in place.

Haakanson said Kodiak Island natives had once planned a processing plant for seal catches that would have made sausages and various hide articles. "It all

went beautiful until (the act's regulations)," he said, adding that islanders had previously been harvesting 7,000 seals a year without population damage.

Under the act, federal authorities have not budgeted the manpower or funds to perform much more than token research. But natives, who are familiar with the species' habitat and biological cycles, could arrive at rational population management policies, those at Friday's meeting agreed.

The plan would be to organize and empower a native commission under federal government authority, said Tony Vaska, program developer for the Association of Village Council Presidents. AVCP is one of the leading supporters of such a commission. The Alaska Federation of Natives is sponsoring organization efforts.

Somerville says rules punish Senate

News
in
10-5-85

By ANDY RYAN
Alaska News Service

JUNEAU—New hunting regulations drafted by the Department of Fish and Game are designed to punish the state Senate for not acting this year on Gov. Bill Sheffield's proposed subsistence law, a former state game director has charged.

The proposed emergency game regulations, prepared this month by the department's staff, will be considered by the state Board of Game at a special meeting beginning here Monday.

Former state game division director Ron Somerville said he believes the proposed regulations, which could reduce the amount of sport hunting permitted in some areas of the state, are a form of retaliation for the Senate's inaction on the governor's subsistence bill.

"My general impression is that these regulations are being adopted to punish the Senate for not acting," said Somerville, an outspoken critic of the state's current subsistence law. Somerville currently serves as executive director of the Alaska Outdoor Council, a consortium of sportsmen's organizations.

Dennis Kelso, deputy director of the Department of Fish and Game, said Somerville's remarks are "ridiculous."

Kelso said the department's proposed regulations are a necessary response to a pair of recent court decisions. Those court rulings, in effect, extended subsistence hunting and fishing rights to most Alaskans under the current subsistence law.

"The department has two overriding obligations," Kelso said. "One of them is to protect the re-

(See REACTION, page 3)

REACTION . . .

(Continued from page 1)

source, and we'll do whatever is necessary to accomplish that.

"The other is to follow the law. And the Supreme Court and the Alaska Court of Appeals have both given specific direction, which the department is bound to follow."

In a May 17 memo, a department official laid the blame for the proposed new regulations at the feet of the state Senate.

"Because the Senate failed to change the state subsistence law, the Division of Boards has prepared a first draft of game regulations reorganized to accommodate the (court) decisions," division director Beth Stewart wrote in the memo.

"Beth Stewart is wrong," Somerville said in a prepared statement.

"Subsistence regulations are required because of the law and not because the Senate failed to adopt changes."

Tuesday, Kelso and his fellow deputy commissioner, Jim Ayers, accused Somerville of intentionally distorting the subsistence issue for personal political gain.

"It's a serious public policy question, and there are people who be-

lieve that as long as it's not settled, it's in their personal best interest, because it allows them a public forum to debate an issue that the citizens of the state put to rest in 1982," Ayers said.

"The majority of senators, I think, wanted to solve the problem. I think the delay of action stemmed from people like Mr. Somerville, who continued to make questionable and sometimes unfounded statements simply to keep the political atmosphere in a frenzy," Ayers said.

Rupert Andrews, a former director of the state fish division, and current president of the Alaska Outdoor Council, conceded that new game regulations are needed in light of the recent court decisions.

But he said the problems presented by the courts could have been at least temporarily solved by the Legislature this year—giving lawmakers time to work on a long-term solution—if Sheffield had been willing to compromise.

"There was no negotiation on the part of the executive branch to deal with lasting solutions," Andrews said.

Special meeting to decide who hunts

By DEAN FOSDICK
Associated Press Writer

JUNEAU—Stripped of all the political smoke and bureaucratic rhetoric, an emergency Game Board meeting scheduled to begin Monday will determine who gets to hunt what in Alaska this year.

It's expected that the panel will need 10 days to two weeks to resolve

subsistence questions raised recently by the courts. That's along with making some technical changes in Alaska's 60-year-old patchwork of game laws.

While the state Department of Fish and Game manages the state's wildlife resources, it's the fish and game boards which separately determine the allocations.

The current system of doling out fish and wildlife has been turned topsy-turvy by two recent court cases pertaining to subsistence. The rulings mean that virtually all Alaskans now qualify for subsistence rights.

Gov. Bill Sheffield introduced a bill about mid-session that would have allocated the same subsist-

ence rules by statute that had been mandated by the fish and game boards. His measure would return first subsistence rights to rural users.

But legislative leaders—particularly in the Senate—shelved the issue until next year. They contended it's too complicated and too politically charged to be solved in

just a couple of months.

That leaves it up to the Game Board to set subsistence hunting policy until lawmakers write a long-term solution.

Because of an Alaska Supreme Court ruling Feb. 22, subsistence use no longer is based solely upon where a person lives in the state. Instead, the law now provides for

subsistence permits to be issued according to three criteria: dependence upon fish and game for daily diet, local residency and access to other food sources.

"As distasteful as it might be, we can allocate fish for subsistence from other user groups—commercial or sport fishing," said Beth Ste-
(See *SUBSISTENCE*, page 3)

SUBSISTENCE . . .

(Continued from page 1)

wart, director of the Fish and Game Department's division of boards.

"But with game, you run into trouble because you hit subsistence users immediately," she said Tuesday. "There's no falling back on commercial or sport users. Here it's a case of determining which subsistence group is going to get the resource."

Lew Pamplin, who heads the state division of game, said the old random drawing method of handling permit hunts is out.

"It's no longer the luck of the draw," Pamplin said about issuing hunting permits by lottery. "There's not a legal way to do it and that's the dilemma. It throws our permit hunts up in the air to comply with subsistence."

But Pamplin said any talk about banning nonresident hunting or restricting hunters to their own game management units or subunits this year is "an exaggeration."

"There are areas, for example, where caribou numbers have never been greater," he said. "The board

wouldn't have to do anything with that. But the Nelchina (caribou) hunt will have to be managed more carefully—perhaps by using a questionnaire weighing the three subsistence requirements."

A "worst case" scenario would see the Game Board deciding to throw out all the permit hunts, Pamplin said. That would leave state officials without any way of controlling how many animals are harvested within a given area, he said.

"We wouldn't be able to manage the resource so we'd have to refund all our permit applications," Pamplin said. "That would affect other management funds, including federal matching funds."

"We'd lose a significant portion of our revenues for next year," he said.

But problems may crop up with any decision the board makes during its two weeks of deliberations in Juneau, Pamplin said.

"No matter what we (Fish and Game) do, no matter what they (Game Board) do, we'll probably be sued six ways from sundown," he said.

☆ ☆ ☆

Legislature can prevent a fish-and-game subsistence crisis

Who matter who says what about subsistence these days the message is one of panic.

Ever since February's so-called Madison decision — the Alaska Supreme Court which gave subsistence-user rights to all residents — every outdoor group in Alaska is acting out the tale of Chicken Little and "the sky is falling."

A popular scenario of what may happen runs as follows: because the decision eliminated any distinction between rural and urban subsistence use, Alaskan now qualifies to be a subsistence user or fisherman.

As a result hordes of city people intend to descend upon the streams feeding Cook Inlet and every fish north and south of Anchorage. Untold disaster will follow as the fish disappear. Tens of thousands of anglers will be unable to wet a line and everyone with a commercial interest will be in trouble. In short, chaos and consternation will reign throughout southcentral Alaska.

Recreational fishing groups are approaching apoplexy. They are worried sick their season will be shut down or curtailed because they are the first to be affected if there is a shortage of fish stocks.

Game guides are paranoid. They believe their sealife will be cut for the same reason and some have begun to make application to subsistence fish and reel.

Personal use fishing people believe a conservationist exists to eliminate them.

Others think they will be next in line and see a number of fishing days shortened by emergency closures.



Rising to the Bait

Dan Sisson

The drift fleet — next to last in the order of those to be cut — are wondering whether they too may face a limited season.

Even the natives — the original subsistence users who live in rural areas and have fished with little interference — are looking askance at the potential hordes who may compete with them.

The fisheries biologists fear they will have their carefully constructed management systems knocked into a cocked hat.

But if you think the fishing folk are running around claiming the end is near, you should talk to the game management people. Madison has absolutely paralyzed them. They realize that if everyone is a subsistence hunter and can shoot moose, caribou and bear anywhere, at anytime during the season — just because they need the meat — no intelligent game management is possible.

The moose will be exterminated regardless of sex because there simply aren't enough to go around. The 25-year effort to build up herd bulls in specific units will have been in vain. And just ponder what position big-game guides are in: if any type of hunting is to be eliminated non-resident and

guided hunts will be the first to go.

The most horrifying aspect of this looming crisis is the possibility of the federal government taking over management of the state's fisheries and game. A deputy undersecretary of the Interior Department, Bill Horn, has stated: "Our preliminary review of the Madison decision indicates that it put the state in a position of non-compliance. . . . It is possible someone could pursue the judicial remedy specified in the Alaska National Interest Lands Conservation Act and argue that we must take immediate action."

The implications of Horn's statement points to yet another dimension of the crisis: if the federal government — now facing an acute budget crisis — were to take over management of Alaska's fish and game resources where would they find the money?

Where would they find the expertise? Would the state's biologists — who often find themselves at loggerheads with federal policy — cooperate? Or would they find innumerable points of conflict?

If most people think there is potential chaos at present what would a forced return to the fish and game management policies of territorial days mean?

Even more frustrating is the complexity of the subsistence law. Rooted in federal, as well as state, law it is understood by only a few people — mainly lawyers who have studied it for more than a decade. The average sportsman doesn't comprehend it and can't be expected to. And this is part of the problem.

Most sportsmen want a quick fix and then want to go fishing. They don't have time to study the ra-

tionale of courts and judges or the opinions of attorneys general and they are light years from coming to grips with the will of Congress on subsistence.

Yet the scenarios listed above are all possible and some say even probable. If this is true then it is incomprehensible why anyone — especially a state legislator — would not want to accept a bill that returns subsistence to the pre-Madison status quo before anything drastic happens.

But the state senate appears to be running just that risk. Its leadership claims that a year's study — at least — is needed to address the problem. So it proposes to ignore the administration's efforts to restore the status quo by refusing to pass the only legislation proposed so far to avert the coming crisis.

Anyone who has taken even an elementary course in government knows that any law can be amended or changed as circumstances warrant.

The same is true of the subsistence bill now in the legislature. If passed, it would allow fish and game management personnel to proceed in an orderly manner. If further changes in the law are needed, they can be enacted at a later date. No crisis is necessary.

The irony of this situation is that if a real crisis does occur it will be a managed — even orchestrated — one, and the fishermen, guides and biologists should place the blame where it belongs and not tear one another apart.

Dan Sisson, an outdoors author and college instructor living on the Kenai Peninsula, is a contributor to Field and Stream magazine.

Anchorage Times 5-2-85

Game Board did the best it could J

Recently, the *People's Forum* published 12 letters from readers reacting to Alaska's new procedures for permit hunting and one brief letter from Joel Bennett, game board member, explaining the process. All readers were negative about the new procedures and several criticized the game board. One reader suggested that board members were "government puppets." I believe that most of the criticism of the board is misplaced and represents a widespread misunderstanding of what led to the present unfortunate situation.

When the board met in June it was obligated to establish emergency subsistence regulations so that hunting regulations in 1985 would be enforceable. The board did not decide to use local residency, degree of dependency, and availability of alternate resources to determine who could hunt. These criteria were established by the legislature and the court system in interpreting the 1978 subsistence law.

The board in going through virtually all the game regulations followed a fairly rigid procedure in establishing subsistence regulations. Each hunt was discussed with input from game division and subsistence division staff. In those cases where limited drawing permit hunts were the only way to proceed, the board was forced to apply criteria based on local residency, degree of dependency, and availability of alternate resources to determine allocation of permits. These were the criteria established by the legislature as interpreted by the courts. The board is required to operate within the legal constraints established by the legislature and the courts; those who criticize board actions must understand this.

As a game board member and a hunter, I was very disappointed with the outcome of the June meeting. I knew that there would be widespread dissatisfaction, that subsistence and sport hunters alike would face a confusing, disrupted hunting season this year and the game board would face extensive criticism, much of it unwarranted. I do not believe that the turmoil and divisiveness that has emerged is in the best interests of wildlife conservation. But I also do not lose sight of the fact that the game board did not create this situation and had limited flexibility in dealing with it.

At public meetings in Anchorage in November and January, the board will hear public testimony on subsistence regulations. This, plus existing legislation, legal interpretations, and any new court decisions and legislative actions will determine our future direction. I believe that this issue must be resolved and can be resolved and I look forward to participating in its resolution. But the public must have a clear picture of what the game board can and cannot do to improve the present situation. I think we can all agree that it does need improvement.

— Victor Van Ballenberghe, member

9-3-85 News Board of Game
Fairbanks

5/24/85 - a DN Same

Subsistence answer needed

Sen. Arliss Sturgulewski must be applauded and supported in her efforts to find a permanent solution to the very complex, but dragged out subsistence issue.

Her interest in the problem surely will get her more attention as a candidate for governor. However, Mitch Abood himself played politics with a very hot and important issue, especially to those people that truly depend on the wildlife resources. As it presently stands more people are adversely effected by the Madison discussion.

Commercial fishermen adjacent to urban used rivers and streams will suffer, such as those that fish for a lively hood, near Cordova, Valdez, and Kenai, to mention just a few.

It's sad to see the Board of Fish and Game "shot" down on something they worked so hard at, the subsistence issue. One has to wonder why we even have those two boards anymore. Anything they make a regulation must be politically blessed or the the attorney general's office must agree it cannot be challenged in court. It would be nice if the board could function without all the intrusion.

Maybe all the opponents of the subsistence bill should get out from under their political "umbrellas" and see the issue in reality of true Alaskans.

— Ken W. Chase
Anvik

Empire 3/25/85

Subsistence bill testimony heard

By KIRK McALLISTER
The Juneau Empire

While administration officials warned of potential management problems if a subsistence bill isn't passed this session, a representative of an outdoors group today characterized Gov. Bill Sheffield's subsistence proposal as "blackmail."

The House Resources Committee heard testimony on the bill for the first time this morning and got a full range of opinions.

The departments of Law and Fish and Game gave the committee the administration's view on the importance of the bill (HB 288).

Jim Ayers, special assistant to the Fish and Game commissioner, told the committee the administration wants "an immediate and thorough resolution" of the subsistence issue.

The governor's bill was submitted after the Alaska Supreme Court last month handed down a decision in the Madison vs. Alaska Department of Fish and Game case that opens subsistence use to all state residents. The court said the Board of Fisheries had interpreted state regulations too broadly by limiting subsistence to rural users.

The bill would put into law the regulations the board has already been using to allocate fish among different groups.

Larri Spengler, assistant attorney general, told the committee that the Madison decision poses two problems to the state:

- Potential disruption of management of fish and game resources.

- The state could be found to be out of compliance with the 1981 Alaska National Interest Lands Conservation Act (ANILCA). Under ANILCA, if the state is not in compliance with the federal law, the state could lose management control of the navigable waters and 60 percent of the land in the state.

Ron Somerville, executive director of the Alaska Outdoor Council, disagreed with the administration views.

"The governor is using a blackmail approach to try to get this passed in 30



ALASKA NEWS

days," Somerville said. "He's resurrecting horror stories in order to get his way."

Somerville said subsistence should be based on need instead of rural or urban residence. He suggested requiring pre-registration of subsistence users so managers would know prior to a season how much they would have to allocate.

"The Legislature is being asked to disenfranchise 85 percent of the Alaska public from subsistence use," Somerville said.

Ron Jolin, chairman of the Alaska Board of Fisheries, warned the committee that commercial and sport fisheries in some areas of the state, including Cook Inlet and the Copper River, might have to be cut back because under federal law, subsistence use has first priority.

Board of Fisheries member Bix Bonney said some streams on the Kenai Peninsula that often attract more than 20,000 anglers on Memorial Day weekend could be closed to sport fishermen to make sure subsistence uses were satisfied first.

"I'm not looking forward to facing 20,000 irate fishermen if we have to close some of these areas down," Bonney said.

Rep. Peter Goll, D-Haines, chairman of the House Fisheries Committee, gave Resource Committee members copies of the testimony his committee heard on the bill. He said the regulations used by the board prior to the Supreme Court decision had been "proven successful."

ALASKA BOARD OF FISHERIES FINDINGS
SUBSISTENCE REGULATIONS FOR THE 1985 FISHING SEASON

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, and implement the court's decision in Madison as possible in the interim, the board finds:

(1) The board will, by emergency regulation, authorize the subsistence take of smelt, herring, shellfish and bottomfish as they were allowed under the 1978 subsistence regulations.

(2) The board will, by emergency regulation, ^{hand to} authorize access by all Alaska residents to existing Tyonek, Port Graham, and English Bay subsistence salmon fisheries in Cook Inlet. Existing bag and possession limits, time, gear and area regulations and overall guideline harvest will not be adjusted 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 public interest of the public given the inadequate opportunity for public comment at this time, and uncertainty about 1985 participation levels.

(3) During 1985, the board will continue the following presently authorized personal use salmon fisheries in Cook Inlet as personal use fisheries:

the spring Kasilof gill net fishery,
the Kasilof and Kenai River sockeye dipnet fishery,
the China Poot hatchery sockeye fishery,
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.

(4) The fall coho set gill net personal use fishery will however, by emergency regulation, be identified as a subsistence fishery, as required by Madison, and will be managed under the regulations used during the 1981 season, except that current reporting requirements will apply.

(5) The Kachemak Bay salmon set gill net fishery will, by emergency regulation, be identified as a subsistence fishery, as required by Madison, and will be managed under the regulations

same capes available to all

a - quarter program

13,000 limit simply tops

Community has right to req. people to pre-register

developed for the court ordered fishery. Alaska residents will be able to participate in both of these fisheries.

(6) The board will, by emergency regulation, allow access by all Alaska residents to the following existing subsistence fisheries:

Copper River (salmon)
Iliamna/Lake Clark (salmon)
Naknek River (salmon), and
Angoon (salmon).

The bag and possession, time, area, gear, and overall harvest guidelines of each of these fisheries shall remain as described in 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 at this time.

(7) As to the Copper River subsistence and personal use salmon fisheries, which will combined into a subsistence fishery by emergency regulation, the board will retain existing regulations as to bag and possession limits, time, area, gear, and overall harvest guidelines, except that rather than separate regulations based on domicile, the regulations developed for those domiciled in the Copper Basin and other specified communities will be applied to the fishwheel fishery and those developed for those not so domiciled will be applied to the dip net 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 historical harvest. 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.

The board hereby calls for proposals from the public on all subsistence and personal use regulations to be considered at the fall/winter 1985 finfish meeting. The board will consider all proposals to establish, eliminate or modify any or all subsistence or personal use regulations any any changes in commercial or sport fishery regulations required by such regulations.

Ron Jolin, Chairman Board of Fisheries

March 27, 1985

e722 -----

un
unbx

ABC-Sturgulewski-Subsistence, 760

Pressure Builds On Subsistence as Sturgulewski Breaks With Leadership

By DEAN FOSDICK=

Associated Press Writer=

ANCHORAGE (AP) — Sen. Arliss Sturgulewski has broken with the GOP-dominated Senate leadership by pushing for passage this session of legislation giving all Alaskans subsistence rights to fish and wildlife if they limit their actions to rural areas.

The Anchorage Republican, who announced for governor April 25, wants the subsistence issue taken from the Senate State Affairs Committee, where it has been bottled up for the past two months, and given to Resources, which she chairs.

Sturgulewski has written a draft bill which, she said Monday "has the best shot" at resolving problems stemming from conflicting user groups.

She outlined her concerns and her proposed legislation in a letter Sunday to Senate President Don Bennett, Fairbanks. That, however, stirred up a tempest among some caucus members — particularly Mitch Abood, who chairs the Senate State Affairs Committee.

"If everyone conducted themselves in a fashion which would break bills out of committee, then we'd have chaos," said Abood, Anchorage. "I don't mess with other people's bills and I don't want them messing with mine."

Abood told a reporter he will give the subsistence issue its first Senate hearing Thursday and he may move a bill out of his committee sometime this weekend.

That, however, still would require action by at least two other Senate committees, floor debate and compromise with the House before snipping the issue to the governor.

With lawmakers required to adjourn by midnight Monday, that scenario appears doubtful. Adding some political weight to that conclusion is Bennett's unwavering resolve to delay action on subsistence until next year.

"The pressure is building, but I still don't think it will move," Bennett said Monday afternoon.

The issue wound up with the legislature after the Alaska Supreme Court on Feb. 22 struck down earlier regulations crafted by the state Board of Fisheries. That decision means virtually all Alaskans can qualify for subsistence rights.

Gov. Bill Sheffield introduced a bill about mid-session that would allocate the same subsistence rules by statute that had been mandated by the fish and game boards.

But Bennett has argued that lawmakers don't have enough time to deal with the controversial and complicated issue in just two months, and that it needs extensive public hearings before becoming law.

He wants the issue settled over the interim, with action taken next session.

The House, meanwhile, shipped a bill to the Senate on Saturday slightly changed from Sheffield's original measure.

A House amendment would require the Department of Fish and Game by Jan. 1, 1986, to identify trouble spots in personal use, sport or commercial fisheries around the state that may have been caused by the bill's passage. It also would commit lawmakers to deal with those problems next session.

But Sturgulewski indicated she's looking for a permanent solution not a measure requiring a legislative band-aid in 1986.

In a letter Sunday to Bennett, Sturgulewski expressed "grave concerns about the consequences of inaction."

"We are all aware of the ramifications of no legislation," she wrote. "Among these may be: the closing of some of our major sport and commercial fisheries, federal intrusion into the management of our fish and wildlife resources, unprosecuted violations of fish and game laws and potential damage to our resources," Sturgulewski said.

"I realize there are many in our state who discount these dangers, but the combined risks are grave enough to be of serious concern," she said.

Unlike Sheffield's bill, which would return to rural Alaskans the first right to use fish and wildlife for subsistence, Sturgulewski would open subsistence to all Alaska residents.

But there would be some major strings attached. Subsistence hunting or fishing would be confined to rural areas, the game or fish would have to be consumed in the same rural area where it was taken and it would have to be harvested in traditional ways.

That, Sturgulewski said, would avoid problems with the equal protection clause of the U.S. Constitution.

But Bennett accused Sturgulewski is using the issue for political gain.

"She's obviously a gubernatorial candidate and has statewide interests," he said. "She doesn't want to lose any votes about anything. The bill will get just consideration in h (Abood's) committee."

Bennett said he was expecting Sturgulewski to go it alone on still more issues before the session is wrapped up, and he hinted she may face sanctions from her peers in the 16-member Senate majority caucus.

"This is just the first," he said. "Eventually, my colleagues will have to make a decision."

ap-ag-05-06-85 1858act

WEEK

BC-Fishing-Hunters, 220

D.A.: Need Court Clarification: Issuing New Enforcement Rules
By DEAN ROSSIGNOL

Associated Press writers

ANCHORAGE (AP) — Fish and wildlife officers have been told to stop seizing evidence, executing search warrants and issuing citations in poaching cases unless so directed by prosecutors until the courts clarify a ruling allowing subsistence as a legal defense.

Anchorage District Attorney Victor Krumm said Tuesday that state prosecutors are opting for "the conservative approach" in poaching cases until they get a narrower reading on an April 12 decision from the state Court of Appeals.

"Potentially, there's no closed season on game," Krumm said. "They can claim that (subsistence) as a defense and get away with it."

The appeal court's opinion came in a case involving illegal possession of a dead deer. David Eluska was charged with having a freshly killed doe on Kodiak Island during May, when all deer hunting was prohibited.

Eluska asked a district judge in Kodiak to dismiss the charge, arguing that he was a subsistence hunter and that the state Game Board's regulations failed to provide specifically for subsistence hunting.

District Judge Roy Madsen agreed and dismissed the case, but state prosecutors appealed. They said the general regulations applied to both sport and subsistence hunting.

The appeals court rejected the state's arguments, however, saying they did not square with a 1978 state law on subsistence use.

The panel ordered that the case be retried in Superior Court. Eluska will be allowed to use his subsistence defense, but the judge will not be allowed to dismiss the case this time. It must be heard and decided on the merits of the case, the appeals court said.

"We're looking at it from several directions," Krumm said. "We're in the process of evaluating the case, we're asking for reconsideration of the ruling and we're drawing up a lot of (enforcement) options."

"I'm not ready to discuss the options yet, but some recommendations have been made to the various division heads — recommendations aimed at protecting the resource."

"Clearly, the decision was a serious matter that has to be addressed from an enforcement point of view," he said. "It's potentially very troublesome from our (prosecution) vantage point. But we don't plan to let it become open season on all the animals of the world."

The appeals court decision and an Alaska Supreme Court ruling in February striking down a rule restricting subsistence fishing to rural residents mean big problems for the state's resource managers.

"We view fishing as the immediate problem," Krumm said, indicating that the subsistence defense also might be applied in cases involving fishing.

Sports fishing seasons generally open around the state in summer while hunting seasons begin in autumn.

"We're asking the Court of Appeals to reconsider the effect of its ruling," he said. "We're going in the other direction, too, and suggesting to people in (bureau that they do something (about hunting and fishing rules) quickly."

Yearwhile, state fish and game officers have been ordered to continue investigating and documenting alleged poaching cases, but only under specific guidelines.

Those guidelines were spelled out in a memo issued April 17 by Col. Robert Henderson, director of the Public Safety Department's division of Fish and Wildlife Protection.

The memo:

"... Any violation that involves game and the possibility it was taken for subsistence purposes (i.e., taken for personal consumption), all F&W officers will follow the following guidelines:

1. Investigate and document the case.
2. Present the case to D.A.
3. No physical evidence will be seized unless so directed by D.A.'s office.
4. No search warrants will be executed unless so directed by D.A.'s office.
5. Citations will not be issued unless so directed by D.A.'s

Sturgulewski offers subsistence bill

By DEAN FOSDICK
The Associated Press

JUNFAU — Sen. Arliss Sturgulewski has broken with the GOP-dominated Senate leadership by pushing for passage this session of legislation giving all Alaskans subsistence rights to fish and wildlife if they limit their actions to rural areas.

The Anchorage Republican, who announced for governor April 25, wants the subsistence issue taken from the Senate State Affairs Committee, where it has been bottled up for the past two months, and given to Resources, which she chairs.

Sturgulewski has written a draft bill which she said Monday "has the best shot" at resolving problems stemming from conflicting user groups.

She outlined her concerns and her proposed legislation in a letter Sunday to Senate President Don Bennett, R-Fairbanks. That, however, stirred up a tempest among some caucus members — particularly Mitch Abood,

who chairs the Senate State Affairs Committee.

"If everyone conducted themselves in a fashion which would break bills out of committee, then we'd have chaos," said Abood, R-Anchorage. "I don't mess with other people's bills and I don't want them messing with mine."

Abood told a reporter he will give the subsistence issue its first Senate hearing Thursday and he may move a bill out of his committee sometime this weekend.

That, however, still would require action by at least two other Senate committees, floor debate and compromise with the House before shipping the issue to the governor.

With lawmakers required to adjourn by midnight Monday, that scenario appears doubtful. Adding some political weight to that conclusion is Bennett's unwavering resolve to delay action on subsistence until next year.

"The pressure is building, but I still don't think it will move," Bennett said Monday afternoon.

The issue wound up with the legislature after the Alaska Supreme Court on Feb. 22 struck down earlier regulations crafted by the state Board of Fisheries. That decision means virtually all Alaskans can qualify for subsistence rights.

Gov. Bill Sheffield introduced a bill about mid-session that would allocate the same subsistence rules by statute that had been mandated by the fish and game boards.

But Bennett has argued that lawmakers don't have enough time to deal with the controversial and complicated issue in just two months, and that it needs extensive public hearings before becoming law.

He wants the issue studied over the interim, with action taken next session.

The House, meanwhile, shipped a bill to the Senate on Saturday slightly changed from Sheffield's original measure.

A House amendment would require the Department of Fish and Game by Jan. 1, 1986,



Anchorage Daily News photo

See Page B-3, STURGULEWSKI

Sen. Arliss Sturgulewski

ANCH DAILY NEWS

5-7-85

Sturgulewski proposes subsistence bill

Continued from Page B-1

to identify trouble spots in personal use, sport or commercial fisheries around the state that may have been caused by the bill's passage. It also would commit lawmakers to deal with those problems next session.

But Sturgulewski indicated she's looking for a permanent solution — not a measure requiring a legislative band-aid in 1986.

In a letter Sunday to Bennett, Sturgulewski expressed "grave concerns about the consequences of inaction."

"We are all aware of the ramifications of no legislation," she wrote. "Among these may be: the closing of some of our major sport and commercial fisheries, federal intrusion into the management of our fish and wildlife resources, unprosecuted violations of fish and game laws and potential damage to our resources," Sturgulewski said.

"I realize there are many in our state who discount these dangers, but the combined risks are grave enough to be of serious concern," she said.

Unlike Sheffield's bill, which would limit the right of urban Alaskans to use fish and wildlife for subsistence, Sturgulewski would open subsistence to all Alaska residents.

But there would be some major strings attached. Subsistence hunting or fishing would be confined to rural areas, the game or fish would have to be consumed in the same rural area where it was taken and it would have to be harvested in traditional ways.

That, Sturgulewski said, would avoid problems with the equal protection clause of the U.S. Constitution.

But Bennett accused Sturgulewski of using the issue for political gain.

"She's obviously a gubernatorial candidate and has statewide interests," he said. "She doesn't want to lose any votes about anything. The bill will get just consideration in his (Abood's) committee."

Bennett said he was expecting Sturgulewski to go it alone on still more issues before the session is wrapped up, and he hinted she may face sanctions from her peers in the 16-member Senate majority caucus.

ANCH TIMES 5-7-85

Sturgulewski breaks ranks over subsistence bill

by Dean Fosdick
Associated Press

Juneau (AP) — Sen. Arliss Sturgulewski has broken with the GOP-dominated Senate leadership by pushing for passage this session of legislation giving all Alaskans subsistence rights to fish and wildlife if they limit their actions to rural areas.

The Anchorage Republican, who announced for governor April 25, wants the subsistence issue taken from the Senate State Affairs Committee, where it has been bottled up for the past two months, and given to Resources, which she chairs.

Sturgulewski has written a draft bill which she said Monday "has the best shot" at resolving problems stemming from conflicting user groups.

She outlined her concerns and her proposed legislation in a letter Sunday to Senate President Don Bennett, R-Fairbanks. That, however, stirred up a tempest among some caucus members — particularly Mitch Abood, who chairs the Senate State Affairs Committee.

"If everyone conducted themselves in a fashion which would break bills out of committee, then we'd have chaos," said

Abood, R-Anchorage. "I don't mess with other people's bills and I don't want them messing with mine."

Abood told a reporter he will give the subsistence issue its first Senate hearing Thursday and he may move a bill out of his committee sometime this weekend.

That, however, still would require action by at least two other Senate committees, floor debate and compromise with the House before shipping the issue to the governor.

With lawmakers required to adjourn by midnight Monday, that scenario appears doubtful.

Adding some political weight to that conclusion is Bennett's unwavering resolve to delay action on subsistence until next year.

"The pressure is building, but I still don't think it will move," Bennett said Monday afternoon.

The issue wound up with the legislature after the Alaska Supreme Court on Feb. 22 struck down earlier regulations crafted by the state Board of Fisheries. That decision means virtually all Alaskans can qualify for subsistence rights.

Gov. Bill Sheffield introduced a bill about mid-session that would allocate the same subsist-

ence rules by statute that had been mandated by the fish and game boards.

But Bennett has argued that lawmakers don't have enough time to deal with the controversial and complicated issue in just two months, and that it needs extensive public hearings before becoming law.

He wants the issue studied over the interim, with action taken next session.

The House, meanwhile, shipped a bill to the Senate on Saturday slightly changed from Sheffield's original measure.

A House amendment would

require the Department of Fish and Game by Jan. 1, 1986, to identify trouble spots in personal use, sport or commercial fisheries around the state that may have been caused by the bill's passage. It also would commit lawmakers to deal with those problems next session.

But Sturgulewski indicated she's looking for a permanent solution — not a measure requiring a legislative band-aid in 1986.

In a letter Sunday to Bennett, Sturgulewski expressed "grave concerns about the consequences of inaction."

ALASKA BOARD OF FISHERIES FINDINGS
SUBSISTENCE REGULATIONS FOR THE 1985 FISHING SEASON

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, and implement the court's decision in Madison as possible in the interim, the board finds:

- (1) The board will, by emergency regulation, authorize the subsistence take of smelt, herring, shellfish and bottomfish as they were allowed under the 1978 subsistence regulations.
- (2) The board will, by emergency regulation, authorize access by all Alaska residents to existing Tyonek, Port Graham, and English Bay subsistence salmon fisheries in Cook Inlet. Existing bag and possession limits, time, gear and area regulations and overall guideline harvest will not be adjusted 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 public interest of the public given the inadequate opportunity for public comment at this time, and uncertainty about 1985 participation levels.
- (3) During 1985, the board will continue the following presently authorized personal use salmon fisheries in Cook Inlet as personal use fisheries:

the spring Kasilof gill net fishery,
the Kasilof and Kenai River sockeye dipnet fishery,
the China Poot hatchery sockeye fishery,
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.

- (4) The fall coho set gill net personal use fishery will however, by emergency regulation, be identified as a subsistence fishery, as required by Madison, and will be managed under the regulations used during the 1981 season, except that current reporting requirements will apply.
- (5) The Kachemak Bay salmon set gill net fishery will, by emergency regulation, be identified as a subsistence fishery, as required by Madison, and will be managed under the regulations

developed for the court ordered fishery. Alaska residents will be able to participate in both of these fisheries.

(6) The board will, by emergency regulation, allow access by all Alaska residents to the following existing subsistence fisheries:

Copper River (salmon)
Iliamna/Lake Clark (salmon)
Naknek River (salmon), and
Angoon (salmon).

The bag and possession, time, area, gear, and overall harvest guidelines of each of these fisheries shall remain as described in 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 at this time.

(7) As to the Copper River subsistence and personal use salmon fisheries, which will be combined into a subsistence fishery by emergency regulation, the board will retain existing regulations as to bag and possession limits, time, area, gear, and overall harvest guidelines, except that rather than separate regulations based on domicile, the regulations developed for those domiciled in the Copper Basin and other specified communities will be applied to the fishwheel fishery and those developed for those not so domiciled will be applied to the dip net 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 historical harvest. The dip net portion of this guideline represents a total harvest which was not taken during the 1984 season. The harvest limit 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.

The board hereby calls for proposals from the public on all subsistence and personal use regulations to be considered at the fall/winter 1985 finfish meeting. The board will consider all proposals to establish, eliminate or modify any or all subsistence or personal use regulations any any changes in commercial or sport fishery regulations required by such regulations.

Don W. Collinsworth, Commissioner

Public Communications
Box 3 - 2000
Juneau, Alaska 99902
(907) 465-4113

MAR 25 1985



Alaska Department of Fish & Game

NEWS

FOR IMMEDIATE RELEASE

MARCH 21 1985

Boards of Fisheries and Game to Discuss Madison

JUNEAU--The Board of Fisheries will take public testimony on March 25, 1985 during its spring meeting in Anchorage regarding impacts of the recent Madison decision. On February 22 the Alaska Supreme Court handed down its decision on Madison vs. ADF&G, reversing lower court decisions on the board's interpretation and application of Alaska's 1978 subsistence law. Although the court case was brought by Cook Inlet fishermen, the decision affects the Board of Fisheries and Board of Games interpretation of the 1978 subsistence law in all of the state's subsistence regulations.

The boards had interpreted the 1978 law as a mandate to protect customary and traditional uses of fish by rural Alaskans. This interpretation was consistent with the standards set out in Alaska National Interest Lands Conservation Act.

-MORE-

March 21, 1985

The Alaska Supreme Court held that the board's interpretation was incorrect, and said that under the current statute the board must allow all Alaskans to participate in subsistence fisheries, unless fish stocks have declined to the point that commercial and sport fisheries have been eliminated. Unless the statute is amended many of the board's regulations will need revision.

At a minimum, the court's ruling apparently means that the board must recommend a regulatory plan for the 1985 fishing season. It is unclear whether the board will be asked to reauthorize every subsistence net fishery which existed, but board records indicate that this could include set net fisheries on king, sockeye and coho on the the east and west sides of Cook Inlet. The board may also have to examine subsistence salmon fishing regulations for the Copper River, Naknek--Kvichak, Lake Iliamna--Lake Clark, Angoon, and other areas.

Department of Law reviewed the Madison decision for the Board of Fisheries and the Board of Game during their joint meeting March 18, 1985, at the Captain Cook Hotel in Anchorage. This gave the boards an opportunity to discuss the regulatory impacts of the Madison decision. After

-MORE-

March 21, 1985

public testimony on March 25, 1985 at the Captain Cook Hotel, the Board of Fisheries will discuss plans for this summer's fisheries. The Board of Game may hold similar discussions on April 2, 1985 (also at the Captain Cook Hotel in Anchorage).

#####

STATE OF ALASKA
DEPARTMENT OF FISH AND GAME
PUBLIC COMMUNICATIONS SECTION
P.O. BOX 3-2000
JUNEAU, ALASKA 99802-2000

Subsistence issue clouds fishing outlook

By ANN COYNE
Daily News reporter

JUNEAU — With no legislative solution to a tangle of legal problems with fish and game laws, anglers from Southcentral Alaska face uncertain opportunities for sport fishing this summer on the Kenai Peninsula and Susitna River drainages.

State officials are hesitant to forecast horror stories, stressing that the outcome depends on who does what, when and where. And on how the courts react.

"It's hard to know exactly what will happen in the real world because it's hard to predict who will want to fish here," said Larri Spengler,

an assistant attorney general. But, "what it might mean for the Cook Inlet area is reduced or closed sport fishing."

The Alaska Supreme Court ruled in February that the legislature did not intend to exclude urban residents from taking fish and game for subsistence purposes when it passed a subsistence law in 1978. Under the ruling, known as the Madison decision, all Alaskans are eligible for the subsistence classification, which takes priority over sport and commercial classes in allocations of fish and game.

Before the court ruling, regulators allowed the subsistence priority only for rural

Alaskans.

The state Department of Fish and Game and the state boards of fish and game cannot curtail subsistence uses to allow sport and commercial harvests. Subsistence hunting and fishing can be limited only to ensure that there will be adequate stocks of fish and game in future years, said Dennis Kelso, deputy commissioner of fish and game.

Potential disruption of sport and commercial fishing this summer depends, among other things, on how many people who didn't previously qualify for subsistence assert that privilege, and where.

"We don't see this as a situation that's going to be

an immediate, full-fledged conflict. We see it as something that may build over the summer," Kelso said. "We're not predicting that suddenly commercial and sport fishing will be eliminated. We think it'll be more of a cumulative pattern."

Spengler said the Board of Fisheries decided in March to take proposals this fall on what Southcentral fisheries should be opened to subsistence users.

"We don't know whether people will agree to wait," she said. Bix Bonney, a sport fishing activist and member of the state Board of Fisheries, is worried that disruptions on the Kenai Peninsula

may come soon.

He said he got phone calls this week from people who want to catch king salmon with nets in the Kenai River and on the beach near Deep Creek and the Ninilchik River.

"I'm sure they want a written refusal so they can take it to court for an injunction allowing subsistence nets on east-side (Cook Inlet) beaches," Bonney said.

The Board of Fisheries will not voluntarily open all the popular Southcentral Alaska salmon fisheries to subsistence nets this summer, but the courts might.

"That's what the Madison decision makes us vulnerable

to," Bonney said.

At Anchor River, Creek, the Ninilchik and Siletz rivers on the Kenai Peninsula, "It doesn't take nets (to threaten) fish stocks. I'd have to shut that fishery, if it were me," he said.

In March, the Board of Fisheries allocated 13 late-run silver salmon of which return to the Kenai River, for subsistence. This will reduce opportunities for sport fishermen, Bonney said.

North of Anchorage, sport fishing in Susitna River drainages could be limited by new demands for net fishing.

See Page C-3, ANGL



Manley manhunt 'unique'

Troopers learn from tragedy, add training

By ARBY CAMPBELL



kay m. levine

TROUBLESHOOTER

□ **ESCAPING WASHINGTON TAX-FREE:** I want to buy a new car in Seattle and bring it back to Alaska without paying the Washington state sales tax. How do I go about it?

✓ There are two ways to accomplish your goal, says Jerry Lee at the Washington state Commerce and Economic Development Department:

• Get a one-way permit from the car dealer and head home. The permit costs \$10 and is good for three days.

• Get the car registered as an Alaska vehicle while you're in Washington. That involves several steps. First, go to one of 10 places that give tax-exempt cards (I'll put two addresses at the end) with \$5 and two pieces of identification showing your current address. You need the card so car dealers will believe you're an Alaskan.

Buy a car (notice this is the easy part). Wait for your check to clear so the dealer will release the car. If the car is new, be sure to get the bill of sale, lien document and original manufacturer's certificate of origin. If the car is used, you have to get the bill of sale and take your car to state police for a serial-number inspection.

Police inspect numbers only at specified — and often changing — times and places, says a worker at the Washington branch of the Alaska state Department of Motor Vehicles. Call state police for their schedule.

Having survived all that, take all your paper work to the Alaska Department of Motor Vehicles. Be ready to pay about \$60 for license plates and to fill out forms. The department is in the United Airlines Building, Suite 235, 2033 6th Ave., Seattle, Wash. 98121. The telephone number is (206) 441-3375.

The most convenient places to get the tax-exempt card, says the department worker, are: Washington Department of Revenue, 710 2nd Ave., Room 901 and Mutual of Omaha travel insurance counter at the Sea-Tac International Airport.

Anglers

Continued from Page C-1

in the Tyonek subsistence fishery, on the west side of Cook Inlet, or in Knik Arm, Spengler said.

A strong possibility exists that the courts may consider rod and reel fishing a legitimate method of subsistence fishing, Bonney said.

If all sport fishermen are considered subsistence users, that could substantially reduce the amount of fish allocated to Cook Inlet commercial fishermen, who would no longer have equal legal footing to compete against anglers for salmon allocations.

The rod and reel question also poses a frightening enforcement problem, Bonney said, because anglers who exceed the sport catch limit may try to use subsistence as a legal defense against citations. Disregard for catch limits could pose a threat to maintaining salmon runs.

Accusations fly on subsistence management

By DEAN FOSDICK
The Associated Press

JUNEAU — Gov. Bill Sheffield said Tuesday lawmakers have turned a legal-technical problem with subsistence into a disaster. But Senate President Don Bennett contends there's no problem with existing law, just the way it's being managed.

Both were talking about the ramifications of a Feb. 22 Alaska Supreme Court ruling that struck down subsistence rules drafted by the state Board of Fisheries. That decision means virtually all Alaskans qualify for subsistence rights.

Fisheries in Southcentral Alaska, especially in Cook Inlet, could be seriously disrupted this summer if the state doesn't return to a balanced system of personal use and subsistence regulations, the governor said.

A massive harvest of salmon by urban fishermen could mean sport and commercial harvests will be disrupted or shut down, administration officials have said.

Fish and Game Commissioner Don Collinsworth repeated that warning Tuesday, and also said the federal government might intervene to manage fish and wildlife on its

properties in Alaska, which make up two-thirds of the total land area in the state.

Alaska was given the freedom to manage all fish and game under the Alaska National Interest Lands Conservation Act (ANILCA) as long as the subsistence lifestyle of rural Alaskans is protected.

"The probability that ANILCA will be amended to change subsistence regulations is very slight," Collinsworth said. "Federal operators will be obliged to do what the law requires — manage fish and wildlife on federal lands with a subsistence priority."

"If the feds get involved, most people think it will be a biological disaster," Sheffield said. "The legislature has turned what was a legal-technical problem into a disaster."

Bennett sees things a different way. "If they can't manage fish and game, then they should get competent managers," he said. "The statutes enacted in 1978 and 1981 are still in force."

"The only thing challenged is the unconstitutional regulations," he said. "It's obviously a power play by a special interest group, with temporary control of government."

Manley manhunt 'unique'

Continued from Page C-1

proach him from either side, Myers said.

Silka had instead pulled off into the slough and taken a stand. Troopers changed tactics, according to the report. One helicopter would hover near his location and allow troopers Duncan and Hall out in an attempt to approach Silka.

matic rifle, hitting Silka with five bullets.

According to Hall's statement, the entire shooting occurred in about two seconds.

Three days after the shooting, Robert Larson, piloting the second helicopter, told investigators he was under the impression that troopers were to have been dropped off for a ground assault.

A number of troopers had

metro news

Assembly appoints 2 to commissions

The Anchorage Assembly Tuesday night approved two new appointments to city commissions. Lamar Cotton, an Anchorage planner, was appointed to a two-year term on the Historic Landmarks Preservation Commission. David Rychetnik, a commercial designer, was appointed to a three-year term on the Sister City Commission.

California firm to scrutinize APD

The Anchorage Police Department's personnel and operations will be scrutinized under a \$97,500 contract approved Tuesday by the Anchorage Assembly. The California firm of Hughes, Hales and Associates was

Quick subsistence fix unlikely

Juneau Empire
4-15-85

By CHUCK KLEESCHULTE

The Juneau Empire

While it might be one of Gov. Bill Sheffield's priorities entering the final month of this year's Legislature, Senate leaders on Saturday again signaled their intention to put off consideration of a revised bill to regulate subsistence hunting and fishing until next year.

Speaking before the Alaska Outdoor Council Senate President Don Bennett, R-Fairbanks, Majority Leader Sen. Rick Halford, R-Chugiak, and a bevy of potential gubernatorial candidates, all said the issues surrounding a rewrite of the state's subsistence laws are complex enough to require study

and public hearings this summer.

"When you get overweight, fat and balding there is always the chance you get out of shape enough where you can

See related story, page 3.

be moved on an issue. But right now for the subsistence bill to pass this year they (Sheffield, House and Senate members) are going to have to move me," said Bennett.

He argued the Legislature may need to completely rewrite current subsistence laws, which give preference to "customary and traditional" users of

fish and game resources when stocks run low.

Regulations adopted by the Department of Fish and Game under the 1978 subsistence law that gives preference to rural residents over urban residents in the taking of game, was attacked by hunting and outdoor groups as discriminatory in 1982, when they tried and failed to have the law overturned in a citizen's initiative.

The state's Supreme Court Feb. 22 propelled the issue back before lawmakers, when it ruled that regulations that attempted to curb the number of people who could qualify for subsist-

Continued on Page 12

Subsistence ...

Continued from Page 1

ence permits — limiting it to "rural" residents — was also discriminatory. Under the decision anyone who can claim subsistence rights gets first access to stocks, potentially exhausting supplies and threatening sport and commercial harvests.

Sheffield last month, fearing fish allocation problems this summer in Cook Inlet and Prince William Sound, proposed a stopgap measure to place into law the regulations the Supreme Court stuck down. The change would keep the current subsistence law functioning as it has in recent years.

Senate leaders, however, seemed to favor taking the opening represented by the court decision to change the concept of the 1978 law, enacting a subsistence preference based upon "need," limiting subsistence to those who need fish and game to survive economically, not necessarily to continue traditional lifestyles.

"There is no quick fix possible on subsistence. The law needs to be changed completely. People who abso-

lutely depend on subsistence, need real protection, but for those who don't they shouldn't get a preference for game that others don't have," said Halford.

Senate Resources Chairwoman Arliss Sturgulewski, R-Anchorage, said it's doubtful a measure can get through hearings and be approved this session. She suggested the "concept" of a subsistence bill that would grant the preference based on "customary and direct dependence" on stock as the main source of livelihood, local residency and a lack of alternative access to (food) resources.

Sturgulewski in her talk did not detail specifically how the bill would change current subsistence practices, except that it would prevent urban, wealthier users from qualifying for the preference — a move that could take some of the pressure off stocks.

Sturgulewski said the issue grew more complex on Friday when the state's Court of Appeals ruled that subsistence could be used as a valid legal defense by individuals arrested for proaching of game resources out of

season, provided they are entitled to the subsistence preference.

Native leaders and groups have adamantly opposed basing subsistence purely on need, arguing the change would make subsistence a form of welfare, killing Native cultures based on hunting and fishing.

The cultural provisions were worked into the federal Alaska National Interest Lands Conservation Act in 1980, raising the issue of how the federal provisions will be enforced, should the state change its law.

Steve Cowper, a former Fairbanks representative and likely gubernatorial challenger to Sheffield, favored a change in the law to base subsistence upon need.

"If you have an income above a certain level you can't get a permit. With some grandfather 'use' permits it wouldn't have to have much of an effect on rural lifestyles, but it would be fair.

"It seems we ought to take this on and settle this as soon as possible and then handle the feds," Cowper said. "We ought to get to the end of this ... stuff."

Don W. Collinsworth, Commissioner

Public Communications
Box 3 - 2000
Juneau, Alaska 99802
(907) 465-4113



Handwritten notes:
Lard. Copy
return to
Frank
Kit

Alaska Department of Fish & Game

NEWS

FOR IMMEDIATE RELEASE

MAY 22, 1985

ADF&G Issues Subsistence Regulations

JUNEAU--Since the Legislature has not yet enacted adequate personal use and subsistence fishing and hunting legislation, the Alaska Department of Fish and Game, under instructions from the Board of Fisheries, has issued emergency fishing regulations for the 1985 season. During the March meeting of the Board of Fisheries, the board instructed ADF&G Commissioner Don Collinsworth to use his limited emergency authority to make the necessary changes in the regulations if the Legislature did not enact personal use and subsistence legislation to correct deficiencies with the current law as identified by the Alaska Supreme Court in its Madison v. ADF&G decision.

Under the emergency regulations, the Naknek, Iliamna drainage, Port Graham, English Bay, and Angoon subsistence fisheries will be open to all Alaska residents.

Cook Inlet personal use coho salmon fisheries will be subsistence fisheries in 1985. In Cook Inlet, the Eastside Beach personal use coho fishery, largely composed of fish

-MORE-

MAY 22, 1985

bound for the Kenai River, will become a subsistence fishery. The 1984 harvest level of 2,500 to 3,500 fish will be increased to 13,000, and the fishery will open on August 17 instead of mid-September. The harvest levels for all other personal use and subsistence fisheries will remain as published in current regulations.

The Copper River dip net and fishwheel fisheries will be subsistence fisheries open to all Alaskans. Alaskans may apply for either a dip net permit or a fishwheel permit, but not both.

As emergency regulatory changes, these regulations are for the 1985 subsistence season only. Subsistence permits are available at regional offices and at field stations in local areas. For additional information contact your local Fish and Game offices.

#####

STATE OF ALASKA
DEPARTMENT OF FISH AND GAME
PUBLIC COMMUNICATIONS SECTION
P.O. BOX 3-2000
JUNEAU, ALASKA 99802-2000

SEN ARLISS STURGULEWSKI B65590
2957 SHELDON JACKSON
ANCHORAGE AK 99508

Chukchi News
day, May 24, 1985

Same

Kelso/Grant

Officers plan crackdown on fishing rules

By DEAN FOSDICK
The Associated Press

JUNEAU — Authorities will be patrolling Alaska's most heavily fished areas beginning Memorial Day weekend with an emphasis on enforcing sport fishing and subsistence rules, officials said Thursday.

Dan Hickey, the state's chief prosecutor, said poaching statutes have become legally murky because of two recent court cases dealing with subsistence. But Fish and Wildlife officers will be policing violations wherever they occur — and that includes some traditional subsistence fisheries, he said.

"The message is: 'Do not exceed the bag limits or you'll be cited,'" Hickey said.

Fish and Wildlife officers were ordered about five weeks ago to stop seizing evidence, executing search warrants and issuing citations in poaching cases where subsistence is alleged.

They were simply to inves-

tigate and write up the cases, turning everything over to prosecutors until the courts could clarify the rulings.

But some new enforcement rules were outlined Wednesday in a memo initialed by Hickey.

The guidelines are aimed at heading off what could be serious disruptions on the Kenai River during the weekend as holiday crowds gang up on the famous king salmon stream, Hickey said.

"As a practical matter, we don't expect a lot of people to be coming down from Anchorage with nets," he said. "It will be more a sport fishing crowd with hook and line."

Enforcement of subsistence rules this summer will depend largely on actions taken by the state Fish and Game commissioner, Hickey said.

"If it's an area historically authorized and conducted for subsistence, and if a person has a subsistence permit, fine," Hickey said. "But the real problem, the immediate

problem, is whether sport fishing bag limits are going to be enforced — and they are."

Dennis Kelso, a deputy commissioner with the Department of Fish and Game, said the agency was taking immediate action to head off problems around the heavily populated Cook Inlet in response to Hickey's advice about subsistence.

"We will enforce fishing regs in all fisheries throughout Alaska," Kelso said. "But the immediate focus is the Cook Inlet."

"Permits will be issued to Alaska residents for subsistence salmon net fishing in Cook Inlet if that fishing had previously been authorized and if the department's records indicate that such fishing actually occurred."

"No Cook Inlet subsistence salmon permits will be issued for fishing during May because no state regulations have ever allowed subsistence fishing during that month," Kelso said. "And no subsist-

ence permits will be issued for fishing with rod and reel gear because that's defined as sport fishing in Alaska statutes."

The Alaska Supreme Court on Feb. 22 struck down subsistence rules drafted by the state Board of Fisheries. That means virtually all Alaskans now qualify for subsistence rights.

The issue grew still more complicated after the Alaska Court of Appeals allowed subsistence as a legal defense in poaching cases. Prosecutors have said that means, in effect, there are no closed seasons in Alaska.

Legislative inaction on subsistence this year has forced the state to write a number of emergency regulations dealing with the issue.

Under emergency rules issued a week ago, the Tyonek, Naknek, Iliamna drainage, Port Graham, English Bay and Angoon subsistence fisheries will be open to all Alaska residents, officials said.

Don W. Collinsworth, Commissioner

Public Communications
Box 3 - 2000
Juneau, Alaska 99802
(907) 465-4113



*Can't copy
I return
send to
Frank*

Alaska Department of Fish & Game

NEWS

FOR IMMEDIATE RELEASE

May 16, 1985

Hunting Regulations Delay Announced

JUNEAU--The Alaska Department of Fish and Game has announced that the hunting and trapping regulations books normally issued by July 1 each year will not be available until late in the summer.

The recent Madison and Eluska court decisions have forced an unanticipated session of the Alaska Board of Game to consider emergency regulations designed to bring the state into compliance. The board will begin its emergency session on June 10 in the Conference Room of the Fish and Game Building, 1255 W. 8th St., in Juneau.

Although the meeting is open to the public, no public testimony or comments will be taken. Once the board has drafted emergency regulations, they will be circulated for public review and written comment.

#####

Subsistence

Interior official approves current state bill version; urges action

By SUE CROSS
Associated Press Writer

JUNEAU (AP) — Alaska won't have any trouble with the federal government if it passes the subsistence rights bill the legislature is looking at now, the assistant secretary of the interior said Wednesday.

"In my opinion, the pending bill would be certified by the Department of the Interior," said William Horn, who came from Washington to tell the Senate Resources Committee whether its draft of the measure (SCS CSHB288) would comply with the federal Alaska National Interest Lands Conservation Act.

Unless a new law is passed that conforms with ANILCA by June 1, the federal government will reassert its control over fish and game management on federal land in Alaska — approximately 55 percent of the state.

State can make changes

Horn said the federal government is worried only about compliance with an ANILCA clause that gives rural residents first crack at subsistence use of the state's fish and game. Aside from that, the state has a lot of leeway to change the bill further before passing it, he said.

"If that concern is left intact, the state can do all sorts of other things as far as giving (hunting and

fishing) priorities to other categories of people," Horn said in an interview after the hearing.

It's those other categories that have made passage through the Senate slow-going for the bill, which is stalled again in the resource committee until Monday.

Committee Chairwoman Sen. Arliss Sturgulewski, R-Anchorage, had intended to pass the bill out after Horn's testimony Wednesday, for further consideration in other Senate committees.

Amendments studied

But senators held off in order to study amendments that would further detail the state's system for allocating fish and game between subsistence, personal use, sport and commercial users.

Sen. Vic Fischer, D-Anchorage is proposing amendments that would make the fisheries board specifically consider the rights of "personal use" fishermen when writing regulations. Sports fishing is defined as use of rod and reel. Personal use fishing involves more efficient methods, but also calls for personal or family consumption of the catch.

Others on the committee argued that now that Horn has assured them the current form of the bill won't run afoul of federal law, the legislature should shoot that version through unchanged.

Problem areas noted

Horn outlined a few changes he

said could cause problems if added, such as defining "customary and traditional use" within a certain time span, or judging subsistence by individuals' customary and traditional use instead of the tradition of a community.

But he concentrated on telling the committee what would happen if it doesn't pass a new subsistence law, and why the federal government does not want that to happen.

The federal government would have to recommend use of subsistence fish and game stocks on federal land and make sure the state followed its guidance. If the state did not, the federal government would have to set up its own fish and game management system in Alaska.

Urges state action

Horn said the federal government lacks both money and expertise to do that. Alaska officials can and have done a good job of game management, he said.

"We believe very strongly in state management," he said.

The federal-state dispute rose out of an Alaska Supreme Court decision one year ago. The court ruled then that Alaska law did not specify subsistence priorities for rural users. The legislature is trying to reinstate that priority, and at the same time revamp the fish and game management system.

TO THE REPUBLICAN VOTERS OF THE STATE OF ALASKA:

In compliance with rules of the Republican Party of Alaska, the Republican State Central Committee hereby directs that a state convention of delegated representatives of the Republican Party be held in Denali Park, Alaska on May 16 and 17, 1986 for the purpose of electing a State Party Chairman, Vice-Chairman, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary; amending State Party rules; and for the transaction of such other business as may properly come before the Convention. The registered Republican voters of the several Legislative districts who are in accord with the principles of the Republican Party, believe in its declaration of policies, and in sympathy with its aims and purposes, are invited to unite under this Call in the selection of Delegates to said Convention. The convention shall consist of delegates and alternates elected by the several Legislative Districts.

DELEGATES TO THE STATE CONVENTION AND THEIR ALTERNATES SHALL BE ELECTED IN THE FOLLOWING MANNER:

- 1) On the basis of the vote for the Republican candidate of U.S. Congressman at the last preceding Alaska General Election, each District shall be entitled to the same percentage of delegates that its vote for the Republican candidate for Representative to Congress bears to the total vote in the State for such candidate. An equal number of alternate delegates shall be elected and appointed to the State Convention on the same basis and in the same manner as provided for the election and apportionment of delegates.
- 2) Each delegate and alternate shall be a qualified voter in his or her Precinct and shall be a registered Republican. Should he/she not appear on the most recently issued voter registered list as a Republican, he/she must furnish proof of registration.
- 3) All delegates and alternates shall be elected at large by a plurality at a District Convention convened on or before April 14, 1985 at such time and in such place as shall be designated by the District Committee. The District Committee shall endeavor to hold its District Convention during the week of March 30, 1986 within its district boundaries having the largest population.
- 4) District convention delegates shall be apportioned on the basis of one delegate and one alternate for each twenty-five (25) votes or fraction thereof cast in the respective precinct for the Republican candidate for Representative to Congress in the last preceding State General Election.
- 5) Precinct caucuses for the purposes of electing delegates to the District Convention shall be held between March 9 and 15, 1986 at such time and at such place as shall be designated by the District Committee.
- 6) Representation in person from at least fifty (50) percent of the precincts of a district shall constitute a quorum for the purpose of transacting business; at any properly called District convention; except that the quorum requirement for the outlying districts shall be 25% of the precincts; or precincts representing 25% of the votes cast in the last general election in that district.
- 7) There shall be no proxies at any level of the delegation selection process.
- 8) There shall be no automatic delegates at any level of the delegate selection process who serve by virtue of Party position or elective office.
- 9) No delegate or alternate to the State or District convention shall be bound by any attempt of a district or precinct to impose the unit rule or block voting.
- 10) Written notice showing date, time and place for precinct caucuses and District conventions shall be published and/or posted in publication or location of general public circulation, not less than 7 days prior to said caucuses and conventions.
- 11) District Committees shall take action to achieve the broadest possible participation in the delegate selection process and shall conduct open meetings, encouraging all legal and qualified Republican voters to participate. Participation may in no way be abridged for reasons of sex, religion, race, color, age or national origin.

THE APPORTIONMENT OF DELEGATES TO SAID REPUBLICAN STATE CONVENTION BASED UPON THE AUTHORIZED VOTE OF 325 DELEGATES IS AS FOLLOWS:

District 1..13 delegates, District 2..6 delegates, District 3..6 delegates, District 4..16 delegates, District 5..19 delegates, District 6..2 delegates, District 6-A..4 delegates, District 7..10 delegates, District 8..19 delegates, District 9..18 delegates, District 10..17 delegates, District 11..11 delegates, District 12..12 delegates, District 13..14 delegates, District 14..16 delegates, District 15..20 delegates, District 16..23 delegates, District 17..10 delegates, District 18..13 delegates, District 19..10 delegates, District 20..17 delegates, District 21..9 delegates, District 22..6 delegates, District 23..6 delegates, District 24..6 delegates, District 25..5 delegates, District 26..8 delegates, District 27..9 delegates, for a total of 325 delegates.

Gail Phillips, Secretary
January 15, 1986

Leo Rasmussen
Chairman

employees and supplies to lobby for passage of two school bonds in the October 1985 election.

The \$100 million bond package won voter approval.

2 file against Murkowski

ANCHORAGE (AP) — Sen. Frank Murkowski, R-Alaska, has gained two Democratic opponents in his bid for re-election.

William Barnes of Anchorage and Michael J. Bruner of Palmer filed within the last week in the previously uncontested race, according to the state Elections Division.

Barnes, an insurance agent, has run unsuccessful campaigns for state representative and Anchorage mayor. No information was available for Bruner.

Murkowski has a considerable jump on both Democrats in fund-raising, though the first-term senator has yet to file with the Elections Division.

7000-13/900

Subsistence bill survives Senate hurdle

JUNEAU (AP) — A bill that would re-establish priority subsistence hunting and fishing rights for rural Alaskans passed Tuesday through the Senate Resources Committee, which once was thought to be its last major hurdle.

Senate leaders now say the subsistence bill (SCS CSHB288) will be considered in at least two more committees before it can be voted on the Senate floor, and say it may not be voted on until

near the end of the session.

The Resources Committee, in its last look at the measure, adopted an amendment offered by Sen. Vic Fischer, D-Anchorage. The amendment specifies that the Board of Fisheries must consider personal use fishing along with sport and commercial fishing when drafting regulations.

Fischer said the amendment does not give personal use fishing priority over commercial or sport uses, or

even require that it be considered equally with the other uses.

However, it does create a specific category for personal use, which is the catching of fish for personal or family consumption by methods more efficient than rod and reel, as are used in sport fishing.

Fischer also expressed what seemed to be the committee's opinion in forwarding a bill that has been rewritten numerous times

since the Senate began considering it in January.

"I think we've come a long way toward creating a bill that, while it may not please everybody, is something we can live with," he said.

The committee also adopted an amendment offered by Sen. Jack Coghill, R-Nenana, that includes bison as an example of stocks that would not be identified as subsistence stocks by the Board of Game.

Bye-bye, hunting, if Senate dawdles further

The issue of subsistence is like a freight train out of control. The throttle is stuck at full-speed ahead and the train is rushing pell-mell toward the station, where, unless something changes, it's certain to crash.

No one wants to climb aboard and slow the engine, despite warnings by the Department of Interior's Bill Horn, Governor Bill Sheffield and a few (very few) men that a serious collision is imminent between the state and federal governments.

It's as if the majority of responsible people in our political system have become tongue-tied. They won't speak out for fear of offending someone or some group and everyone is holding their collective breath — hoping the runaway engine will lose its head of steam.

Aside from Horn's testimony before the Senate Affairs committee — that the federal government is **REQUIRED BY LAW** to take over management of fish and game — the other federal agencies have not said a word. The majority of state officials have remained silent, and most



**Wising
to the
Bait**

Dan Sisson

of the public is in the dark.

Their reasoning, I suppose, is why make a big noise over an issue that can be solved in minutes by a change of one or two votes. So they say and do nothing.

But the federal government, while silent, has not been idle. A group of men from the Forest Service, Park Service, Fish & Wildlife Service, BLM, BIA, FAA, the Solicitor's Office and the Army and Air Force have been meeting regularly — and seriously — for weeks, anticipating the worst case.

Under the leadership of Alaskan Ric Davidge, the coordinator of this Federal Subsistence Resource Management Program (FSRMP), a timetable has been

adopted if no subsistence bill passes the legislature in compliance with federal law.

On May 15th (less than a month from now) the FSRMP will give the state of Alaska a "notice of intent" that they are the federal agency responsible for taking over management of fish and game resources on federal lands. They will also publish documents outlining this purpose in the Federal Register — which gives them legal authority to act.

In this original notice will be specific references to all June and July hunts as well as the sportfishing and commercial fishing seasons that may be halted.

On May 30 they will publish "emergency regulations" on all other hunts if they have the necessary harvest information from the Alaska Board of Game. This will not be possible, though, if the Game Board does not meet in emergency session and agree on harvest numbers by July 31st. And if the numbers do not satisfy the federal managers, there will be **NO OPENING OF SEASONS**.

This effort is being undertaken

with the approval of the highest officials in the federal government. So, what does it mean?

It means 60 per cent of Alaska (areas now under federal control) will be automatically under federal management. It goes up to 80 percent when one includes all private and non-federal lands within or adjacent to federal boundaries, plus waters and native lands. And, when one adds federal refuges, parks and preserves — plus the fish, birds and game in them — it comes close to 100 per cent of the resources.

It means a very conservative philosophy of managing wildlife resources. The feds — unlike the state — do not automatically act on management plans recommended by their biologists.

A detailed and exhaustive analysis of all biological implications is followed by an even more exhausting and time consuming administrative procedure that federal managers are required to follow by law. The Administrative Practices Act and the National Environmental Protection Act are just two laws that require hearings, hearings and more hearings in order that fed-

eral management plans will not be litigated and shot down in the courts. In sum, it means the feds will take a lot of time before they do anything. Months, if not years.

If the state senate fails to pass a bill acceptable to the feds there will be dozens, if not hundreds, of court battles by white sport hunters, guides, sportfishermen, commercial fishermen, wilderness advocates, urban residents, rural residents, subsistence users, natives, private organizations interested in conserving a particular resource, and undoubtedly out-of-state organizations. In short there will ensue a legal nightmare that paralyzes the FSRMP's attempts to manage fish and game.

According to legal experts this tangle of suits will take at least three to four years to settle. Meanwhile there may be **NO HUNTING** and limited fishing.

Those who pay will be the urban sportsmen, because of a few politicians. Mitch Abood threw up his hands and said, "It (subsistence) is too complicated," and passed the bill to another committee. Rich Halford

introduced an amendment (that Bill Horn specifically said was in violation of federal law) and then refused to answer questions about why he had done so. Pat Rodey refuses to pass the subsistence bill out of his Senate Judiciary Committee until his fire arm bill (which is unrelated to subsistence) is reported out of the House Judiciary committee. Because of these politicians, majority of Alaskans may not be hunting for years.

Is this what we want? A frustrating and enraging scene which poisons an election year? One in which the voters are polarized over the use of resources common to all and which should be enjoyed by all?

The subsistence crisis is now a reality. Unless responsible people begin to speak out and tell a handful of state senators that they are like children, playing house with power, we will rue our silence.

Dan Sisson, an outdoors writer and college instructor living on the Kenai Peninsula, is a contributor to *Field and Stream* magazine.

ALL MEMBERS OF THE HOUSE AND SENATE

Representative Jack Fuller

April 22, 1986

Please take the time to read this article.

Thank you.

Candidates tackle AOC issues



News-Miner photo

STEVE COWPER

In a speech before Juneau Democrats in mid-April, gubernatorial candidate Steve Cowper urged a significant change in the subsistence priority law. Cowper criticized the law as a factor contributing to an "intolerable level" of racism in Alaska today. Cowper, who as a past member of the legislature voted for the priority law, said, "I think that we made a mistake in 1978 when we passed that bill based on the con-

(See COWPER, Page 3)



News-Miner photo

ARLISS STURGULEWSKI

The issue of village sovereignty has "tremendous implications" for management of our resources according to Sen. Arliss Sturgulewski, R-Anchorage.

Sturgulewski, Alaska's first woman to run for the state's top administrative post, detailed many of her concerns about fish and game issues as she addressed Council delegates at their annual meeting.

(See STURGULEWSKI, Page 3)

COWPER...

(Continued from page 1)

tinuation of cultural patterns."

"I think that the law is going to have to be changed so that subsistence permits are based on need," Cowper said.

Four days later, Cowper addressed delegates of the Alaska Outdoor Council gathered for their annual meeting in Juneau. He reiterated his position on the subsistence issue.

"We wrote something that I'm not sure anybody could read, let alone understand. And we sort of tossed it out there for the boards and for the subsistence division and the Department of Fish and Game to straighten out for us — and we left town in a hurry."

"The subsistence division and the boards have done a good job trying to administer that thing. But the courts finally got hold of it and pointed out what was in the bill — which was total confusion — and now we've got to do something about it."

Cowper also spoke about the native sovereignty issue.

"My experience is that everybody's got a different idea of what sovereignty's suppose to mean."

"I think about that thing, that we ought to sit around and wait and make sure what it is that people want, because a lot of times, when you reduce it down to a fine point, then you can figure out what to do. And you can do it in a way that won't make everybody mad and the problem goes away. But I think it's too early to decide what to do about village sovereignty except to say that any part of that movement that seeks to interfere with state laws can't be countenanced. We can't do it under the Constitution and won't do it either."

STURGULEWSKI...

(Continued from page 1)

"I have a keen respect for local government," said Sturgulewski who has spent several years working in local government. "I believe in the section of our Constitution that states that all local government powers shall be vested in boroughs and cities. I think it's very clear. I think that separate sovereign governments do not meet the constitutional mandate. I think that's very, very clear."

Speaking about the subsistence priority Sturgulewski said, "The state desperately needs a fair, equitable and lasting solution." She observed that the "solution obviously has to provide for genuine need, while dealing realistically with Alaska as it is today."

On other related issues, Sturgulewski agreed that amendments to the Alaska Native Claims Settlement Act (ANCSA) should be made only after extensive public hearings in Alaska.

In her opening comments, Sturgulewski criticized the present Administration's policy regarding the administration of the Boards of Fish and Game. "The present policy of this Administration which routes the boards access to the Governor through the Commissioner" is not healthy she said.

"I think that the Alaska system of fish and game boards, established separately from the Department, which has it's role, was designed to separate the administrative function from the regulatory function. I think that if you're going to protect the public interest in the common use of fish, wildlife and waters, you've got to have that separation."

A fresh look at the subsistence law...

Abood introduces SB 320

A fresh approach to the controversial subsistence issue was initiated by Senator Mitch Abood, R-Anchorage, during the final days of the 1985 legislative session. Abood incorporated his approach in a new bill, SB 320. Public hearings on it and the Governor's bill, HB 288, are expected in August.

Referring to the new bill, AOC board member Dr. Sam Harbo says, "It defines who qualifies for that (priority) use. The criteria that SB 320 contains can be implemented." Harbo, a former state game board member, has wrestled with implementation of the subsistence priority law since its inception in 1978.

Harbo faults the Governor's bill, HB 288, because it "would not correct the regulatory difficulty that currently does exist."

In contrast, Harbo says SB 320 does address this problem. "It specifically states that only those subsistence uses allowed by regulation are legal."

In SB 320 those who would receive the priority must have a documented history of use and an inability to obtain alternative sustenance. Those with the priority would receive a special household subsistence license and no one in the household could hold a commercial or recreational/sport license at the same time.

In addition, several other restrictions would apply to those who do receive the license. However, in contrast to HB 288,



News-Miner photo

MITCH ABOOD

licenses would not be restricted on the basis of local residency and taking by hook and line would be permitted as a subsistence use.

Harbo heads a local AOC committee making a comparative analysis of HB 288 and SB 320.

State has poor conservation law, says UAF professor

A professor of wildlife management at the University of Alaska-Fairbanks concludes that the state is accepting a "higher level of risk with regard to sustaining wildlife populations" under the current subsistence law.

Fred Dean, member of the University's wildlife faculty since 1954, explained his concern: The subsistence law, as it stands now, "makes it extremely difficult for regulatory boards to shut down a subsistence use when the animal population needs real protection." Dean believes the "restrictions may consequently be put into place only after problems have become acute."

Dean agrees that the subsistence priority law has created a resource conservation problem as well as the more commonly perceived allocation problem.

Dean's observation centers around part of the subsistence law which requires that the boards of fish or game SHALL permit harvest unless the board makes a positive determination that this harvest would interfere with maintaining a fish stock or a game population on a sustained yield basis.

The subsistence priority law contrasts with Alaskan laws for recreational and commercial harvest which indicate that the boards MAY permit taking for those purposes. In other words, in non-subsistence use protection is automatic

and does not have to be justified on a case by case basis.

Dean pointed out that the more conservative approach simplifies the regulatory and enforcement problems. "Otherwise all species, even many of the non-game forms, that should be protected or managed must have individual regulations adopted."

Dean suggests that the state could be "blocked from gathering that kind of information" necessary to uphold regulations or restrictions the boards might feel were necessary for responsible management. "It may even be financially or technologically impossible to gather that evidence in many instances," Dean concludes.

"The tendency for courts to seek absolute determinations is frequently inappropriate in resource management decisions," Dean explained. "These often must be approached with a conservative educated guess to protect long-term values from the risk of 'too little too late'. We must recognize that in practical terms many wildlife management tools are much less sensitive than we would wish. Thus a wider margin for error is advisable."

Since the 1940's conservation law and ethic in the U.S. has changed. Stimulated by the conservation leadership of Ira Gabrielson, many states changed their laws so that all species are fully protected unless specific regulations are made for harvest. Prior to the '40's most states allowed harvest of fish and wildlife unless taking was specifically disallowed.

Good

reading



From the Director's Desk

by Ron Somerville
AOC Executive Director

Is there really a crisis in the management and protection of Alaskan fish and game? In all fairness to everyone, there are some immediate resource management concerns.

It is within the realm of possibility that the recent court rulings may provide a regulatory window for relatively uncontrolled subsistence harvesting in Cook Inlet and on the Copper River and in other areas of the state. On the other hand, a crisis will only exist if the Administration creates it through its manipulation of the Boards of Fisheries and Game or by regulatory neglect.

The real political question may then be: If there is a resource or management crisis, who is to blame? Is it the Senate for not folding to the blackmail demands of the Administration that the Governor's bill be passed unamended? Or is it the House, for not passing a politically acceptable package on its way to the Senate so that at least a reasonable piece of interim legislation could have been passed to get the State through some interim period while we effectively restructured the State's subsistence law?

Last but not least, we could question the integrity and the motive of the Governor who uncompromisingly refused to accept any meaningful changes in his proposal. Unquestionably, the Governor could have negotiated a one or two year sunset provision to his bill which would have been endorsed by most of the legislators.

It appears that the Administration was more than willing to buy the resource management chaos they were predicting in order to force the legislature and the public into accepting HB 288 unamended.

Certain comments by the Governor and his Administration, certain members of the Legislature and certain special interest groups have created a growing sense of hysteria over the Alaskan subsistence issue. As a result numerous distortions of fact have occurred. A few comments on some of the myths and facts that have been circulated recently are appropriate.

MYTH: The Governor's proposed bills (HB 288 and SB 231) will return the subsistence situation to pre-Madison (Supreme Court ruling) by inserting the word "rural" into the existing state law and by creating a "personal use fishery" category.

FACT: The Governor's bills do not resolve the major problems clearly enunciated in the high court ruling. His bills will allow the Boards of Fisheries and Game to eliminate urban users from subsistence uses. But the court also ruled in that Madison opinion that:

1.) The Boards must adopt regulations giving subsistence uses an absolute priority, and

2.) The Boards must eliminate competing uses such as sport and commercial uses before restricting subsistence uses.

MYTH: The Governor's proposed leg-

islation will solve the potential crises situation involving sport fishing in Cook Inlet, commercial fishing in Prince William Sound and sport hunting throughout Alaska.

FACT: Even if the Governor's legislation had passed, there is not enough time, using the required Administrative Procedures Act, for regulations to be properly adopted before the fishing and hunting seasons commence. The only means for immediate relief is under the emergency powers of the commissioner of Fish and Game. The supreme court ruling essentially eliminated the regulations that the Boards of Fisheries had established discriminating between Alaskans on the basis of residency.

MYTH: The Governor's bills resolve problems raised by the Court of Appeals ruling on the Eluska case.

FACT: The Eluska case provided that a) the State can not continue to provide for subsistence uses under sport regulations, and b) a subsistence priority must be provided by regulation; and c) the game board may not restrict subsistence hunting at all in an area in which sport or commercial hunting is permitted.

A subsistence use, lacking regulations giving him/her a subsistence priority, may essentially harvest game unrestricted. The Governor's proposal does not deal with this issue in any way.

MYTH: The creation of a "personal use fishery" will provide for urban subsistence needs.

FACT: The personal use fishery provided in the Governor's bill gives no priority to the personal use fishery. Whenever it comes in conflict with subsistence uses, it must be eliminated along with sport or commercial uses. In addition, there is no proposed "personal use hunting" provision in the Governor's bill.

MYTH: The Governor's bills resolve the subsistence problems.

FACT: HB 288 and SB 231 further exacerbate a growing conflict between urban and rural users by giving an ultimate priority over use of common property resources to a portion of Alaskan residents based on their rural residency.

MYTH: The federal government will manage fish and wildlife if HB 288 does not pass in its present form.

FACT: Deputy Under Secretary William P. Horn in his April 18, 1985 correspondence to Representative Goll indicated that "we would afford the State an opportunity to correct the program deficiencies". He also indicated "The Department has no immediate plans to undertake activities to discharge its obligations under Sections 805 (a), (b) and (c) if it is finally determined that the Madison decision puts the State in non-compliance and there are indications that the State will act to come into compliance". However, Horn did indicate that a Federal Court could require the federal government to assume subsistence management.



Nat'l Park plans affect AK'ns

Do you:

• own property inside a national park/preserve or adjacent to a national park/preserve?

• have a mining claim inside a national park/preserve or adjacent to one?

• guide or plan to open a commercial operation or business within or adjacent to a national park?

• hunt in or near a national preserve?

Do you fish in a national park or preserve?

• want to use an ATV, snowmachine or motorboat in a national park or preserve?

• fly? Does your flight path ever take you over a national park or preserve? Do you ever do fly-in camping in one? Do you ever land on a lake, river, gravel bar or airstrip within a national park?

• take your dog or horse with you on your trips to the national parks/preserves?

• use a cabin in a national park or preserve?

• subsistence hunt, fish, trap, cut wood, or pick berries in a national park or preserve?

Do you want to see:

• more classified wilderness or less?

• more or less park rangers and visitor services in or adjacent to the national parks/preserves?

• more or less campgrounds? And if more, what kind?

Do you want to be able to start a campfire above treeline?

If these questions are of interest to you, then you need to know that the National Park Service has recently released nine draft general management plans for nine of Alaska's 13 national parks, monuments and preserves.

These plans will set the policy for the above questions for the next 10 years. For example, the land protection plans propose the Park Service's plan for acquiring private property and state lands within and adjacent to the parks. However, many land owners would rather not have their property acquired.

The public can only comment on these plans for approximately one more month. If you have things you like to do in Alaska's national parks, now is the time to find out if you will be affected by the proposed changes in the plan. Now is also the time to let the Park Service and your legislators know how you feel about those changes and what you would like to see instead.

Plans can be obtained and comments can be made by contacting: Alaska Regional Office, National Park Service, 2525 Gambell Street, Rm 107, Anchorage, AK 99503; Phone 276-4366.

Deadlines for comments are as follows:

Aniakchak National Monument and Preserve: June 20

Bering Land Bridge National Preserve: June 19

Cape Krusenstern National Monument: June 19

Denali National Park and Preserve: July 15

Gates of the Arctic National Park and Preserve: July 1

Katmai National Park and Preserve: July 8

Kobuk Valley National Park: June 19

Noatak National Preserve: June 19

Wrangells-St. Elias National Park and Preserve: July 8

The Citizens' Advisory Commission on Federal Areas was set up by the state legislature to ensure Alaskan's rights on federal lands. The Commission is currently reviewing these plans and would like to hear from Alaskan citizens on how the plans can affect them and what kind of plans they would like to see.

The Commission will be discussing these plans at its quarterly meeting in Fairbanks at the public library on June 13 and 14, starting at 1:00 p.m. on the 13th and at 9:00 on the 14th. The public is invited to attend and present their views to the Commission.

State affirms "subsistence defense"

Excerpts from *Fairbanks Daily News-Miner*, 5/23/85

JUNEAU — Except in areas where subsistence regulations exist, residents who take fish or game out of season and claim it's for subsistence use will not be cited unless authorized by a district attorney.

In national parks and monuments where valid state subsistence regulations do not exist, state wildlife officers will refer poaching violations to federal authorities for enforcement.

Those policies are part of state enforcement guidelines announced Wednesday (May 22) by Chief Prosecutor Dan Hickey

in light of the *Eluska* decision, a Kodiak poaching case that recognized subsistence use as a defense.

"Any Alaska resident, whether from a rural or urban area, can potentially and successfully assert a "subsistence defense" if the state has not adopted specific subsistence regulations consistent with *Madison* and *Eluska* and if the person believed he took the fish or game for "customary" or "traditional" uses," Hickey said in a memorandum to the commissioners of Public Safety and Fish and Game.

"What this means in effect is that a resident of the state who asserts that his

or her taking or possession involves a subsistence use cannot be convicted unless the state can prove beyond a reasonable doubt that either the regulations allegedly violated did not restrict the taking of game, or any such restriction placed an absolute priority on subsistence uses and was necessary to protect sustained yield."

He said state Division of Fish and Wildlife Protection have worked out arrangements to refer poaching cases in federal parks and monuments to federal authorities.

On other lands, Hickey said, several offenses are to be handled by normal

issuance of citations and seizures:

- All game violations by non-residents and commercial operators;

- All "non-possessory" game violations, such as wanton waste of a carcass by salvaging only the horns or hunting the same day as flying in;

- Any violations involving the illegal taking or possession of game when it occurs in an area closed all year or closed by emergency order. Emergency orders are issued after specific findings that the resource would be jeopardized by any further harvest, including subsistence taking;

(See SUBSISTENCE, Page 10)

your trips to the national parks/pre-

Bering Land Bridge National Pre-

SUBSISTENCE . . . (Continued from page 4)

- Violations involving the illegal taking or possession of game when the taking occurs in an area totally closed to a particular species, a particular sex of a species or closed during a critical period such as calving season;

- Any violation involving illegal taking or possession when the taking is clearly not for personal use, such as wolves.

Violations involving the taking or possession of game taken for consumption are to be investigated, documented and referred to local district attorney offices at the discretion of enforcement personnel, Hickey said.

However, no citations are to be issued, no evidence seized and no search warrants obtained, except at the direction of the district attorney, when:

- The game was taken in an area open during any part of the year, unless the animal taken was of a sex specifically prohibited from killing;

- The game had been taken by a resident who asserts that the taking was for personal use;

- The game had been taken in a game management area which is not covered by existing regulations that specifically provide for subsistence hunting.



Emergency regulations out; hunting-trapping books late

Emergency regulations for hunting, fishing and trapping will soon be issued.

Under emergency regulation, permits will be issued to Alaska residents for subsistence fishing in locations not open under current regulations.

Permits will be issued for subsistence salmon net fishing in Cook Inlet if that fishing had previously been authorized by state subsistence regulations and the department's records indicate that such fishing actually occurred. The permits will indicate locations and times when subsistence fishing will be allowed, gear specifications, and bag limits.

Rod and reel fishing is defined in Alaska statutes as sport fishing and thus no subsistence permits will be issued for fishing with rod and reel gear.

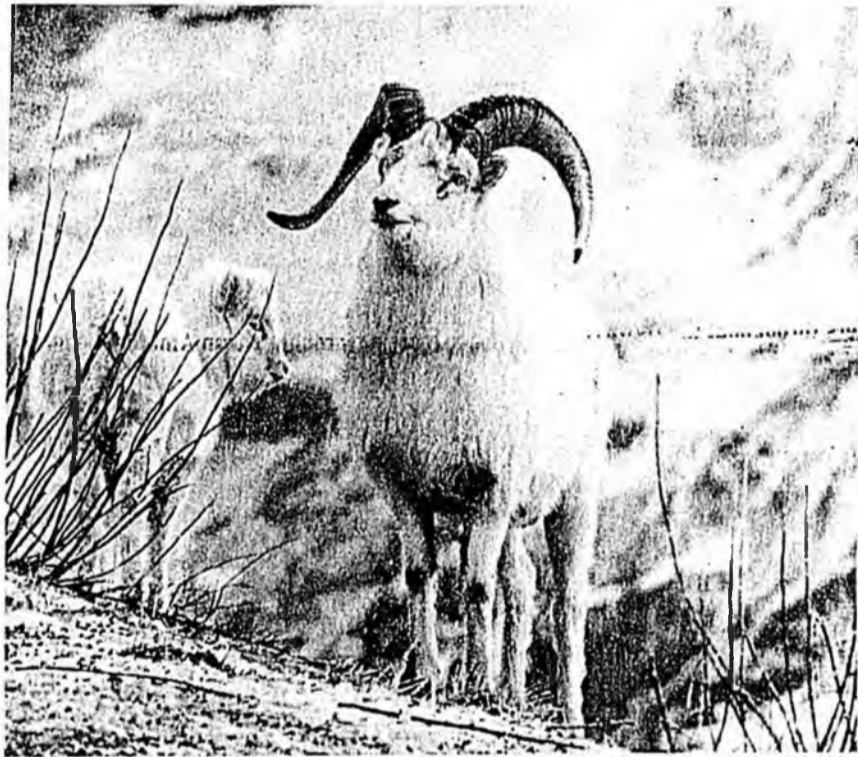
No Cook Inlet subsistence salmon permits were issued for fishing in May, since no state regu-

lations have ever allowed subsistence fishing during that month.

According to a department news release, the emergency fishing regulations, which will incorporate the requirements specified by the Department of Law, will ensure full enforceability of all fishing regulations throughout the state.

Hunting and trapping regulation books, normally issued by July 1 each year, will not be available until late in the summer according to a recent Department of Fish and Game announcement.

The recent Madison and Eluska court decisions have forced an unanticipated session of the Alaska Board of Game to consider emergency regulations designed to bring the state into compliance with the court opinions. The board began its emergency session on June 10 in the Conference Room of the Fish and Game Building in Juneau.



Study shows significant economic value associated with Dall sheep hunting

A study indicates that sheep hunters spent at least \$4.7 million associated with Alaskan hunts in 1983. Hunters purchased hunting licenses, camping equipment, guns and ammunition, paid for transportation, food, lodging, and other items.

Preliminary results of an economic analysis of Dall sheep hunting in Alaska are now available from the Department of Fish and Game.

Results of this study express not only the economic importance of sheep hunting, but also the importance of sheep habitat to Alaska's economy. Land use planners at state and local levels will be able to use these economic values to compare with economic values of other uses of Dall sheep habitat.

A significant part of the study is being funded through a grant from the Foundation for North American Wild Sheep.

The economic value of Dall sheep hunting was measured using a special

questionnaire prepared by department sheep biologists and economic and social research experts from the University of Alaska. The questionnaire was mailed in early 1984 to all residents and non-residents who hunted sheep in Alaska in 1983. These hunters were asked questions about their hunt, their expenditures, and the value of the hunt to them in economic terms.

Non-resident hunters accounted for about half of the total expenditures, even though resident hunters outnumbered them six to one. Non-residents had higher transportation costs and, by law, had to hire guides unless they hunted with an eligible resident relative.

Eighty-five percent of the hunters responded to the questionnaire. This high response rate increased the accuracy of survey results and is probably indicative of sheep hunters' strong interest in sheep hunting.



News Miner Photo

Legislative Review and Assessment

by Ron Somerville
AOC Executive Director

The 1985 session finally came to an end after 119 days of the mandated 120 day session limitation were completed. The first session of the fourteenth legislature was best described like a duck on a river, "calm and serene on top but paddling like hell underneath."

Some very complicated and controversial issues were addressed this session — some of which are still unresolved. All bills introduced this first session continue to be considered by the legislature during the second 1986 session.

All in all, I would rate our legislative success as quite good during this first session. We did reach some major legislative goals and we certainly missed some others. Considering the fact that we were monitoring a significant number of bills which affected our membership in one way or the other, I feel the products are worth looking at closely. As I have stated before, the successes can often be measured by what doesn't pass as well as by what does pass.

The AOC provided assistance to a number of organizations which were lobbying for legislation of interest to their particular area or region. Although the board of directors may have decided not to take a formal position on a piece of legislation, we were available to the clubs on a limited basis. Legislation dealing with the proposed elk transplant to southeastern Alaska, the herring stripping issue (a policy was developed on this topic at the annual meeting), Whittier access and specific budget items are examples where we provided logistical support and free advice.

Village Sovereignty:

The council's board of directors has consistently indicated that the sovereignty issue is one of highest priority. As most of the membership is aware, the Governor appointed a task force in 1984 to look into the subject of state/federal relationships with the villages. Unfortunately, the task force is not well balanced and it is questionable that a good objective evaluation will be accomplished. There are several legislators on the task force, however, that have expressed real concern about the continued efforts to acknowledge and support the creation of sovereign villages in Alaska under the Indian Reorganization Act (IRA).

There have been a number of bills introduced which either attempt to recognize the villages as having separate rights (other than as provided in the state Constitution) or to provide precedents for exercising authorities normally granted to incorporated communities under authority of the state Constitution. Several bills did pass, including HB 72 and HB 198, which may have some precedent impact on the official recognition of village councils and native tribes.

Budgets:

We did effectively lobby on budgets for the Fish and Game Department, portions of the Department of Natural Resources budget, and specific budgetary items in the capital and operating budgets. We were not as successful as we would like to have been in providing additional shooting range construction funds. We were successful in acquiring \$100,000 in the Fish and Game budget to continue the shooting range program, however. This is one area we should definitely work to improve upon next session.

Nelchina Public Use Area:

One of the AOC high priority issues in 1984 and 1985 was the creation of the Nelchina Public Use Area. Senate Bill 35 finally made it through both houses on May 12, the last day of the session. Governor Sheffield signed it into law on May 31.

The creation of the Nelchina Public Use Area is a positive act for Alaskan outdoor users. This bill protects outdoor uses while providing for other multiple uses compatible with the original purposes. The fact that the environmental, developmental and outdoor user groups agreed with the final product is a real plus for us all.

Access to Navigable and Public Waters:

The passage of HB 316 was another critical piece of legislation as it provides a guarantee of public access to navigable and public waters. The legislation provides that there is some recourse against anyone who illegally blocks public access by making it a class B misdemeanor.

HB 316 reaffirms public access rights and provides for a court remedy. It will be especially appreciated in years to come.

Critical Habitat, Refuges and Habitat Protection:

A number of bills have been introduced which would protect critical wildlife and fisheries habitat, create or expand refuges, and withdraw state public lands from disposal. Both HB 280 (Fritz Creek and Anchor River Critical Habitat) and SB 105 (Palmer Hay Flats Expansion) were supported by the council, passed the legislature in the final hours of the session and were signed into law by the Governor.

Marine Parks (HB 44) and expansion of Potter Marsh State Refuge (HB 186) were supported by the AOC with some minor amendments. Both bills were mired in committees late in the session and will be carried over to next year. Some interim work with legislators may be necessary to pry these out of committee next session.

Harrassment of Hunters, Fishermen and Trappers:

This legislation passed in 1983 and 1984 but was vetoed in both cases by the Governor. The legislation was introduced again but has died in Committee. Although the AOC still supports the legislation, we have not devoted much time to pushing it this session. We will assess our chances next year.

Subsistence:

In response to the State Supreme Court ruling which declared all Alaskans eligible for subsistence, the Governor had SB 231 and HB 288 introduced.

This Madison case ruling eliminated the process advocated by the administration which allocated subsistence on the basis of residency — particularly to rural residents.

HB 288 did finally pass the House by one vote (21-18 with one absent). Almost 6 weeks of delays were primarily caused by continued demands that the subsistence issue be properly aired for the Alaskan public with hearings and teleconferences plus the fact that the administration had trouble mustering the 21 votes necessary to pass it out of the House.

Certainly the House debate and close vote clearly illustrate the continued complexity of the subsistence issue and social divisiveness that exists today.

HB 288 will require that only "rural" residents qualify for subsistence and it will create a "personal use fishery". The AOC opposed the Governor's bill and lobbied against its passage. Many political observers gave the AOC full credit for delaying the Governor's bill in the House.

Despite the advantages of the administration proposing the legislation, the House majority favoring the bill unamended, and the continuous lobbying by supporters of the Governor's bill, we were able to keep the bush caucus from railroading the bill through the House.

Several alternatives were presented by the AOC in response to the no compromise position of the Governor. This included a sunset clause attached to any bill that passed this year, if one was determined to be necessary.

Meanwhile, the administration used every tactic possible to buy votes and threaten legislators with constituency rebellion. The Governor and his supporters continuously misrepresented the positions of the many organizations and individuals involved in the subsistence debates in an attempt to create, for the press, an image of strong public support for his bill.

Throughout the entire process the administration refused to compromise by accepting any substitute legislation, amendments or a sunset clause. The latter position clearly points out the fallacy in their position.

Although the Governor continued to predict chaos in the commercial and sport fisheries this summer plus severe reductions in hunting seasons without his bill, he refused to accept any proposals which might have provided temporary relief for those resource users. His adamant stand seems to mean he is willing to sacrifice those users for the benefit of other special interests who are advocating only subsistence uses by rural Alaskans.

The impact of the Supreme Courts ruling and the State Appeals court ruling, which declared that the lack of subsistence regulations is a valid legal defense for Alaskan subsistence users, means that all sorts of uncertainties exist over the harvesting of fish and game this year. We are definitely concerned that this administration take a reasonable approach to administering the law under the new court rulings. Severe and unreasonable regulations designed to punish Alaskans and non-residents will have to be vigorously opposed.

The Supreme Court ruling, the Appeals Court ruling and the legislative debate has, for once, clearly focused on the problems with the existing subsistence laws. They also provide the impetus for getting the legislature to address the State law to provide a permanent solution.

Since the Senate refused to pass a bill this year, subsistence will remain in front of the Senate State Affairs Committee chaired by Senator Abood. He has indicated that he will hold hearings over the interim to address the issue and prepare a fair and lasting solution to the problem. We all hope he is successful. Hopefully, our membership will actively participate in any hearings held this summer and fall.

Other Bills in Committee:

During the next session, a number of bills will have to be more actively addressed — bills dealing with shooting range construction, access funds, trapping provisions, cabin permits and purchases, recreational rivers, access, avalanche control, funding, predator control, guide licensing and habitat protection.

Legislation like constitutional amendments clarifying the rights to bear arms which we supported last session will have to be pushed harder during the second session of this fourteenth legislature.

Proposed Legislation:

The AOC board of directors voted to support legislation clearly separating the administrative staffs of the Boards of Fisheries and Game from those of the Department of Fish and Game. We will look for sponsors to introduce this legislation next session.

Final Notes

Besides the bills mentioned above, the Council did provide technical background information and amendments to specific bills as they made their way through the legislative construction process. Special emphasis was given to access provisions, leasing of state lands, and recognition of valid recreational pursuits on public lands.

Although we have an improved AOC phone tree, it is still a long way from competing with other organizations within Alaska. This grass roots communication technique must be improved if our member organizations and the AOC are to properly be represented.

In closing, I would like to remind the membership that we should start now in preparing legislation that we want to see introduced next session. Please forward any proposals (no matter how complete) to me so that I can forward them to the AOC legislative committee and board of directors. Any volunteers for the legislative committee would also be appreciated.



From the President:

"Chaos is not dangerous until it starts to look orderly."

Rupe Andrews

Dateline Juneau. February 22, 1985. Alaska State Supreme Court rules in Madison case that the state subsistence statute applies to the protection of subsistence as a use by all Alaskans.

The response of the Administration to the Madison decision was to spread chaos and panic among the several groups of resource users instead of seeking rational and long lasting solutions to the problems inherent in the original statute.

The Governor had HB 288 introduced, insisting that 1) limiting subsistence use to persons domiciled in rural areas, and 2) creating a personal use fisheries for urban dwellers would solve the problems and restore a proper balance. Chaos is not dangerous until it starts to look orderly.

Since the Madison decision the Council has presented constructive and responsible suggestions for the improvement of the 1978 statute. The AOC, through its lobbyist and executive director Ron Somerville, has worked with various Legislators in the House and Senate to suggest workable solutions to the many problems within the State's subsistence law.

Seven years after the passage of the 1978 subsistence law controversy remains — indeed the controversy has even increased. At the insistent urging of the Council and others, the Governor finally appointed a Task Force to determine not only how the 1978 law should be im-

plemented but to come up with solutions for the many problems. After the Madison case, the task force was disbanded. The one group that could have dealt in a meaningful way with subsistence no longer exists and the state Legislature is then handed a "quick fix" bill.

The Legislature is now faced with the task of restoring order to the allocation and harvesting of fish and wildlife resources.

The Administration's quick-fix bill, HB 288, is a bad bill. A bad bill is worse than no bill at all. Any plumber will tell you that a leaky pipe will not repair itself. The Legislature needs time and adequate opportunity to develop new, and long lasting solutions.

Alaska, in this writer's opinion, should prepare legislation that will accomplish what Alaskan's wanted during the statehood fight — state management of resident fish and game. Because of ANILCA, the state of Alaska must conform to certain requirements dealing with the allocation of fish and game or face the relinquishment of state management to federal management. No other state has ever been subjected to such treatment in federal law. Not only is this unfair, but it is not conducive to sound, professional management. It may even be unconstitutional. In fact, we will never know until ANILCA is challenged in federal court. We urge our next Governor to do just that.

Sitka's LaGuire on AOC Board

Bob LaGuire, Council delegate from the Sitka Sportsman's Association, was elected to the Alaska Outdoor Council's board of directors at the April annual meeting in Juneau.

LaGuire replaces Bob Rausch as AOC vice-president for the southeast region. Rausch accepted the chairman position for the Council's finance committee. Subcommittees of the finance committee include a raffle committee chaired by Warren Olson of Anchorage and three regional fund raising committees chaired by the three regional vice-presidents, Lyle Carlson of Fairbanks, Ron Swanson of Eagle River, and LaGuire of Sitka.

Swanson and Warren Hoflich of Anchorage were re-elected to their positions on the Board of Directors. Other directors include Ed Grasser of Palmer, Sam Harbo of Fairbanks and Council president Rupe Andrews of Juneau.

President Andrews appointed the following chairpersons for 1985-86 standing committees: Resolutions and policies, Tom Scarborough; Nominations, Mary Bishop; Membership, Doug Buchanan, Education, Dolores Larson; Legislative, Ron Somerville; Finance, Bob Rausch.

LaGuire arrived in Sitka from Seattle in 1947. He fished commercially in the



BOB LAGUIRE

summers and trapped in the winters. Later he worked for the U.S. Fish and Wildlife Service as a fishery management biologist in the Wrangell-Petersburg area and was director of the new state's fish and game protection division in Southeast for seven years.

During the next sixteen years LaGuire worked with the Alaska Lumber & Pulp Company as safety supervisor. He is now semi-retired and operates his own charter boat service.

Breaux supports Nongame Act

Louisiana Congressman John Breaux's bill to reauthorize the Fish and Wildlife Conservation Act of 1980 has been reported favorably by the full House Committee on Merchant Marine and Fisheries, the Wildlife Management Institute reports. Generally referred to as the Nongame Act, the statute would expire this year unless extended by Congress.

The Breaux bill (H.R. 1406) would reauthorize appropriations for the Act in fiscal years 1986, 1987, and 1988. Although the program has not been funded during its four-year existence, reauthorization nonetheless is important to allow conservationists and Congress opportunities to develop and promote dependable funding sources for those species that are not hunted or trapped.

Breaux considered several potential funding possibilities, such as excise taxes on recreational equipment and a special postage stamp, during hearings on his bill. However, he decided against such a move at present because the Administration may try to capture the income for other purposes. Currently, the Office of Management and Budget is making a grab for fishery conservation funds that come from taxes paid by anglers (Dingell-Johnson Program).

Because the Nongame Act has not been funded or implemented, Congress is somewhat lackadaisical about its reauthorization. Conservationists, therefore, appreciate the interest and efforts of Congressman Breaux to keep this important program alive and eventually get it into action.

DU works in space to benefit state's waterfowl

Waterfowl conservation efforts during the last year played to mixed reviews. There were the usual wetland losses — some 460,000 acres, according to the U.S. Fish and Wildlife Service — along with another dry year on the prairie breeding grounds in 1984.

But there were two definite gains that are expected to bode well for waterfowl management in North America, and Ducks Unlimited is proud to be part of them both.

The first has taken conservation more than 500 miles into space, to the leading edge of technology, where NASA's Landsat 5 has begun inventorying and monitoring the continent's wetlands. Initial satellite images analyzed by experts at DU's international headquarters in Long Grove, Illinois, show that the satellite can provide the data necessary to determine which wetlands must be conserved for healthy waterfowl populations.

The second gain was the implementation of DU's North American Habitat program which saw ground broken for projects in several states and the announcement of a program to grant funds to Alaska and other states with approved waterfowl conservation projects.

Some \$3 million in DU funds or 7.5% of DU's expected \$40 million in grassroots income will be available through DU's M*A*R*S*H program. M*A*R*S*H, an

acronym for Matching Aid to Restore States Habitat, will provide money to state wildlife agencies based upon DU's income. The more money raised by Ducks Unlimited volunteers in a state, the more money the state's conservation department can apply for.

For example, a state whose grassroots fund-raising campaigns raised \$500,000 for Ducks Unlimited would be eligible for \$37,500, either as an outright grant or as matching money for acquisition, development and restoration of waterfowl conservation projects. Project proposals must be submitted to DU's flyway coordinators for initial consideration. After consideration by a biologist familiar with the area, proposals will be reviewed by DU's North American Habitat Committee for final approval.



There's a need to come clean on subsistence

Andi News
Sunday May 22, 1983



Jay Hammond
bushrat'lings

LAKE CLARK — Unlike the consummate politician, able to convince both sides in any controversy that he supports their position, I'm wondrously able to convince both I'm at odds with them. Take the time I pronounced that the word "subsistence" was like the word "pornography": no one could define it, but we all knew it when we saw it.

Subsistence proponents were outraged, charging I considered subsistence a dirty word. Opponents, on the other hand, read into my comment unqualified support for the most obscene discriminatory practices. (And, I suspect, even aficionados of pornography were somehow affronted.)

Modesty compels me to confess I had some help in achieving such balanced distress. Seems a news article reporting my comments omitted the word "word" in the quote, yielding: "Hammond said subsistence is like pornography."

Taking words from one's mouth can be fully as flummoxing as putting extra ones in. My most prized example was a news story reporting my response to the question: "Why are you reluctant to run for governor?"

My verbatim answer: "Because of lack of funding and ability to put together a campaign organization in the time remaining." The abbreviated press version read simply: "Hammond stated he was reluctant to run for governor because of lack of funding and ability PERIOD."

Though the referendum vote temporarily stuffed the subsistence controversy back into Pandora's Box, the lid will not latch. Feeding on speculation, suspicion, confusion and animosity, the beast will wax fat and, aroused by the proddings of those who'd

make mischief, you can be sure he'll continue to belch and play havoc.

Such will continue until enough movers and shakers reach the conclusion that if we're compelled to define subsistence users (rather than subsistence uses) the only generally acceptable grounds for doing so must be based on economic need.

Of course, some will argue that there are spiritual and cultural "needs" as well as physical and economic.

Certainly. However, unless someone can acceptably quantify them, there simply is no yardstick by which we can measure them. To date, all attempts at such quantification suggest "Mission Impossible."

Understandable. How in the world can anyone determine, to the acceptance of either, the relative degree of spiritual subsistence loss to, say, an urbane fly fishing fanatic who'd sooner blow out his brains than hang up his rod as compared to the loss of, say, whaling privileges to a North Slope Borough employe making twice the former's salary?

Quantifying pinhead accommodations for dancing angels comes to mind as a similar exercise.

On the other hand, economic needs are much more acceptably quantifiable. Imperfect though it may be, income

level is a pretty good barometer of probable economic need.

I suspect few urban residents would resent granting low-income folk some priority should fish and game stocks not permit normal harvest. Though urban low-income folk would be treated the same as rural low-income folk on paper, few from urban areas would travel to outlying areas in which subsistence preferences are more likely to be imposed. But the point is; they could do so. That would erase one major perceived inequity.

One example of the confusion attending this issue was the applause of many urbanites to the Fish and Game Board's recent repeal of the definition of rural residents they adopted last year: those living in communities of less than 7,000 or so far from interconnecting highway systems. Many thought that repeal was a blow by them smiting inequity and discrimination.

If so, I fear they may find they jabbed with their noses. Consider: So long as the old definition of "rural" pertained, much of the state and most of its people were excluded from any application of subsistence "discrimination" whatsoever. One would assume that those affronted by subsistence preferences would like to exclude as close to 100 percent of the state as possible from their application. The rural definition went a long way toward this end. With repeal, once again 100 percent of the state and its people potentially fall under the program.

Of course, urbanites disgruntled at being treated differently from their rural brethren now can be assured equity. Those of us from rural areas will not be able to

harvest subsistence resources in urban management units vice versa. Moreover now be possible to urbane Anchorage; any game manager traversed by the high tem in which a preference has been.

This will prove it should the now "rule of Kenai or M permitted subsistence privileges denied the neighbors. When the cacophony you over subsistence to seem, by contrast, m

But, you say, consider subsistence preference; economic need still void; isfy federal law.

True. However, were to establish a defensible, easily quantifiable definition of a subsistence user based on needs believe most Alaskans find far preferable (tu quo), I suspect might be led to a conclusion and amended law in accordance.

Meanwhile, just 2, so long as Congress chorus of conflict coming from here, to consider no changes. for the state to speak one voice, both the tradition and the legislative resolution, should achieve. When I queried legislators as to just they stood on the issue, they reacted disappearing in an of gushed verbiage.

If you want simple changes, folks, keep very simple. Only how can you block off in-place grottos.

□ Jay Hammond was Alaska from 1974 to 1980

Please return to
J.S. Hammond

Legislature betting the farm on subsistence

By SEN. TED STEVENS

As an Interior Department task force works out the details of a possible federal takeover of hunting and fishing on federal lands in Alaska on June 1, I can only think of the gambler who is rash enough to bet the family farm on his last hand.

Alaska is on the verge of making such a gamble as the legislature winds down the session without approving a bill to bring the state subsistence law back into compliance with the 1980 Alaska National Interest Lands Conservation Act (ANILCA).

The only winners of this gamble would be the extremists, who have tried since statehood to deny Alaskans control over our own natural resources. The losers would include all sports hunters; all fishermen, including commercial fisherman; and every Alaskan who believes, as I do, that Alaska should manage all fish and wildlife within its borders, regardless of who owns the land.

Purely and simply, a federal takeover would be nothing less than a catastrophe for Alaska.

Under ANILCA, federal intervention is required *only* if Alaska fails to maintain a subsistence program that gives preference to customary and traditional uses of fish and wildlife by rural Alaska residents during times of shortage.

The state has substantial discretion to define the scope of this preference. The preference does not grant rural Alaska residents an absolute right to take as much fish and wildlife as they want.

The state, which understands Alaska's fish and wildlife management problems far better than federal officials 5,000 miles away, is completely free to regulate subsistence activities to prevent waste and to maintain the

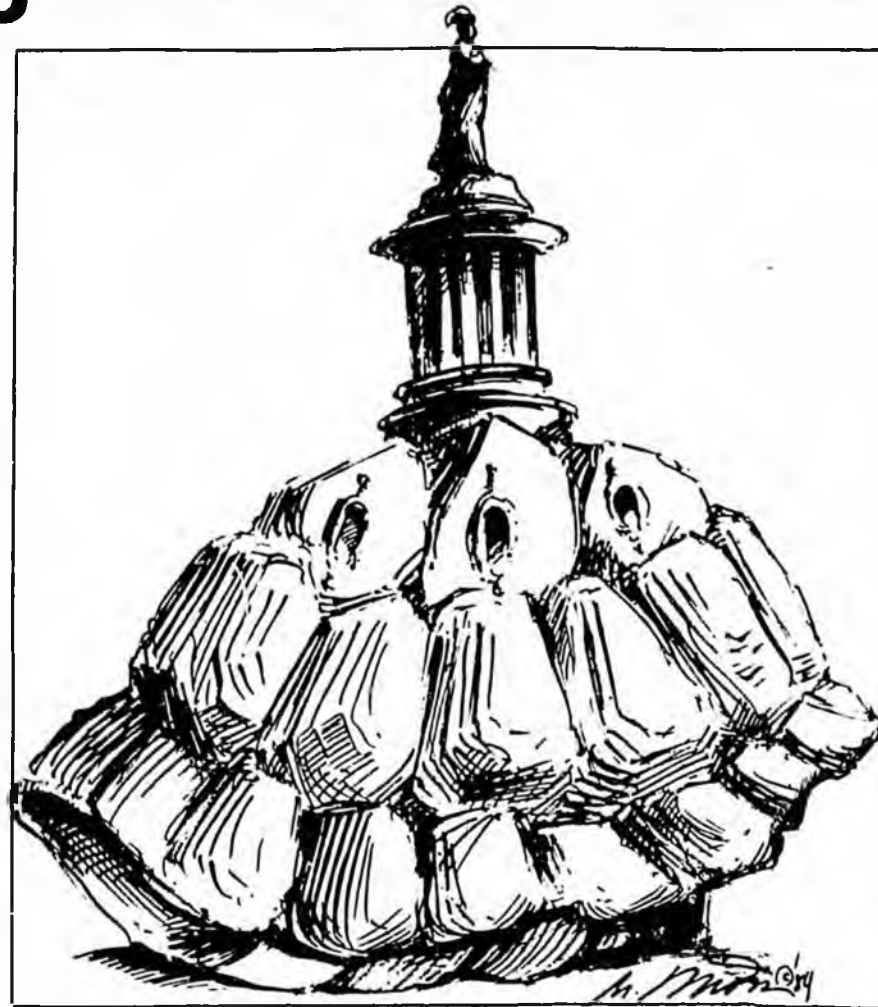
Some legislators have suggested a federal takeover won't be so bad. Would they hand over control of the permanent fund if the federal government promised to manage it well?

health of the fish and wildlife populations.

Alaskans had to defend the principle of state primacy in fish and wildlife management from the moment Alaska entered the Union. The Alaska Statehood Act delayed transfer of management authority to the new state until the Secretary of the Interior certified to Congress that the Alaska Legislature had made adequate provision for the conservation of Alaska's fish and wildlife resources. At that time, I was an assistant to the Secretary, and was able to obtain this certification quickly.

Our new state then went on to build a management program that has achieved worldwide recognition.

The Alaska lands controversy in the 1970s presented another great challenge to Alaska's traditional fish and wildlife management authority. Maintenance of that authority on all lands in our state was one of the major goals of the Alaska Lands



Resolution that our legislature adopted in 1979.

Through great effort, Alaska's congressional delegation overcame the extremist block that proposed giving the federal government new power to close federal lands in Alaska to hunting and fishing. We were able to include in ANILCA provisions that affirmed the traditional authority of the state to manage fish and wildlife

can blithely hand over a state prerogative that we have fought, at great cost, to defend for 27 years. Would they hand over control of the permanent fund if the federal government promised to manage it well?

During the transition from state to federal regulation, sports hunting and fishing seasons throughout Alaska will have to be closed.

Regardless of what may happen to sports hunting and fishing, subsistence activities will continue.

Alaska may not be able to regain the management authority forfeited on June 1 without a new fight in Congress. Nothing in existing law provides for the return of that authority to the state after a federal takeover occurs.

And, even if management authority can eventually be returned, the state will still have to pass the Interior Department's certification test. In order to do this, the legislature obviously will have to go through another long, painful session to approve a new subsistence law.

The legislature can eliminate the threat of a federal takeover this year by approving a bill that will restore the state subsistence preference program so that it once again shields Alaska. The House has already approved such a bill; the Senate has not yet scheduled a bill for floor action.

It's been my custom to refrain from comment on matters pending before our state legislature. But, given the substantial federal issues involved in this case, I feel it's important that all Alaskans know how close we are to gambling away the equivalent of the family farm.

□ Ted Stevens represents Alaska in the U.S. Senate.

on federal lands within its borders, and minimized the impact of the federal subsistence preference on the state's authority.

If the legislature does not meet the June 1 deadline, Alaska will forfeit the management authority that we won in the statehood battle.

Some state legislators have suggested a federal takeover won't be so bad. It's hard to understand how they

Urban Alaskans have stake in land, wildlife resources

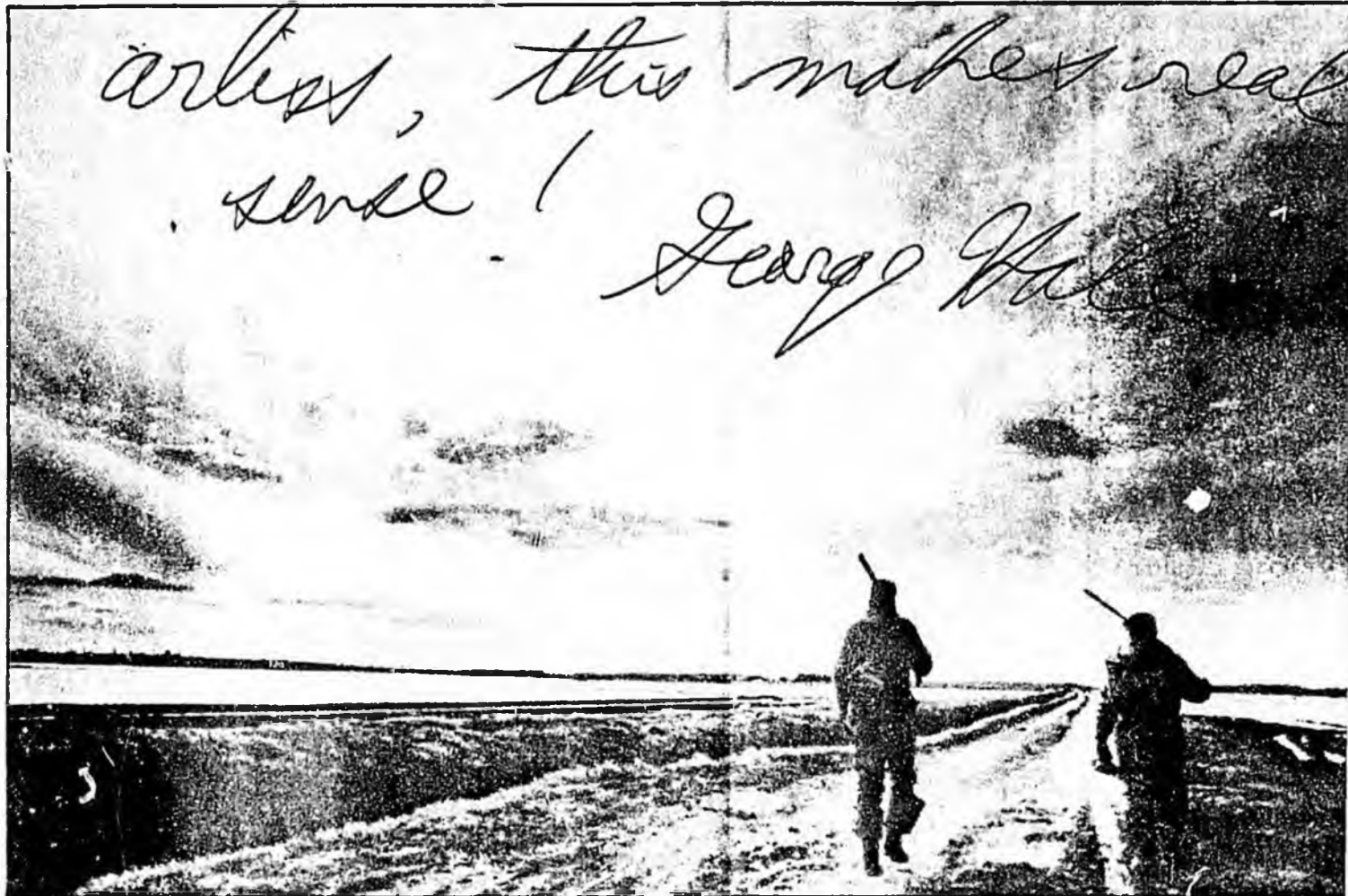
By RANDALL E. FARLEIGH

There are many sound reasons why the current federal and state subsistence priority laws and regulations for the taking of Alaska's wildlife should be repealed: These laws are premised upon a dangerous notion of cultural superiority. They create unequal rights, opportunities, and protection among our citizens' participation in our wildlife, contrary to constitutional principles.

They reduce our wildlife resources to a welfare transfer payment exempt from regulations, applying biologically based management practices necessary to preserve and maintain abundant wildlife for all. And they irrationally dedicate the resources to people who supplement their wildlife-based lifestyle with limited cash, while denying it to those who supplement their largely cash-based lifestyle with wild food.

Under the current scheme, the former are "subsistence" users entitled to priority; the latter are mere "sportsmen" effectively denied the resource. Both are subsistence users for their respective livelihoods.

Perhaps the greatest argument for elimination of the artificial user classes of fishermen and hunters is the importance and value of the wildlife opportunities to all Alaska citizens. These values were eloquently expressed in the August 13 Daily News article by Vernita Zilys. Zilys wrote of the tranquility and



well-being experienced by those who rely on fish and game in some way for their identity and livelihood. She wrote of the familial togetherness and satisfaction in hunting wildlife, preparing it for consumption, and sharing it with others. What Zilys ignored is the universal sharing of these values by most

Alaskans.

These values are not unique to Zilys' culture. These values are as important, or more so, to those in the "asphalt jungles" of urban centers who are close to losing a last meaningful contact with the land, its meaning to our ancestors, and the lessons it holds for us all.

Many people are now labeled "sport" hunters and fishermen because they happen to live a more cash-based existence in urban areas, living lives productive to a society larger than themselves and their immediate families, paying federal income taxes, Social Security taxes, unemployment taxes, and such

Some of them even work for corporations that pay income taxes and vast profits, as well. These are the same people and businesses that produce and distribute the goods and services by "rural" Alaskans in the pursuit of their private "subsistence" lifestyle: craft; shotguns; rifles; :

The New York

AUG 26 1985

sources

niton; outboard motors; snow machines; fishing nets; ATV's; fuel; medical care; expensive schools and the educational services to make them work; state-subsidized electricity; satellite television; transfer payments such as food stamps; unemployment compensation, and a multitude of state and federal assistance grants. These are also the people who are changing the face of Alaska, and should not be denied their only personal link with, and stake in, the land they must respect and preserve.

The current subsistence/sport classification system will only succeed in escalating bitter cultural divisions among our citizens and in further isolating urban residents from their cultural roots with the land, however distant, and however diverse. The majority of Alaskans now live a cash-based lifestyle to some degree, and our government's denial to them of a personal stake in our wildlife resources will bode ill, indeed, for all who treasure the land and man's special place upon it.

The subsistence priority laws must be repealed so that all Alaskans live by the same laws for noncommercial consumption of fish and game resources, and to provide for their careful management, regulation, and preservation.

Randall E. Farleigh is an Anchorage attorney and waterfowl hunter.

GEORGE E. HALE, M.D., Inc.
A PROFESSIONAL CORPORATION
801 L STREET
ANCHORAGE, ALASKA 99501

mes
for
ate
al-
the
ses
ute
sed
the
ged
air-
nu-

'Open Season' on Indians

Hunting season is under way for the Chippewa Indians in northern Wisconsin. The tribe's six bands have 85 days to bag deer, a week to spear walleye and musky and months to trap beavers, otters and bobcats in the well-stocked lakes and bountiful forests in the region's public lands. State laws allow other residents only nine days for deer hunting and shorter trapping seasons. They cannot spearfish at all and, unlike the Indians, they can't shoot deer from vehicles. Sportsmen resent what they see as the Indians' special privileges, and with tribal leaders demanding further concessions, anti-Indian sentiment is boiling over. It's "open season on Indians," declared one unofficial notice at a local courthouse, with "a bag limit of 10 per day."

The Chippewas' domain once included much of what is now Wisconsin, Michigan and Minnesota—until they were forced onto reservations by white settlers. In return, two Senate-ratified treaties in the mid-1800s gave the tribe special rights to hunt and fish south of Lake Superior. The Chippewas contend those rights afford them complete run of the territory; the Wisconsin Department of Natural Resources, however, wants the Indians to abide by its hunting restrictions. "It's impossible to have two separate governments managing one ecosystem," says the department's chief negotiator, George Meyer.

Many local residents agree. Hunters fear the Chippewas will deplete the wilderness areas. Resort owners contend that a longer

Indian hunting season will hurt the tourist trade. Already, they say, visitors have been scared off by the controversy. Other locals say the Chippewas' special rules are simply unfair. "They get cradle-to-grave welfarism—they don't need special hunting and fishing rights," says Paul Mulla, founder of a 40,000-member organization called Equal Rights for Everyone, one of several groups that have sprung up across the state seeking to abrogate the treaties. Authorities fear the tensions could erupt in violence, and the FBI is looking into a campaign that plastered the area with bumper stickers declaring "Save a

Deer, Shoot an Indian" and other offensive slogans.

The debate has been fueled by hyperbole and insensitivity toward the Chippewas. Hunting is a job, not a leisure activity, in the impoverished Indian community. "They're out there to catch a deer the fastest way possible and put it on the family table," says Kathryn Tierney, a tribal attorney. Education opportunities are scarce in the isolated area; serious health problems abound on the reservations and the lack of jobs leads many Chippewas to make their living off the land. And there seems little danger that the Indians will deplete wildlife stocks:



MARTA NORMAN—NEWSWEEK



JEFF LOWENTHAL—NEWSWEEK

Tribal judge Maulson: 'We're flexing our muscles'

even with their longer season, Chippewa hunters last year bagged only 700 deer, compared with 250,000 by other hunters. (Motorists killed another 25,000.)

In 1983 a federal court sided with the Chippewas, but the legal fight is far from over. Tribal leaders will go back to court in November to challenge state restrictions. "We're flexing our muscles," says tribal judge Thomas Maulson. "The state can't tell us what to do anymore." He and other Indians hope the law will again find in their favor. "We were told to use the white man's system," says Nancie Young, a state social-service worker and a Chippewa. "Well, we are. And we're winning." Maybe. But the bitterness between Chippewas and other residents will no doubt linger long after hunting season.

COLLEEN O'CONNOR with SHAWN DOHERTY in northern Wisconsin

Betraying the Bhagwan?

The accusation sounded familiar: something sinister was going on in Rajneeshpuram, the 6,000-strong commune built in the Oregon high desert by followers of controversial Indian guru Bhagwan Shree Rajneesh. This time, however, the allegations came not from state officials or nearby residents who have long battled the group—but from the bhagwan himself. Last week the guru charged that several of his top aides had "turned my commune into a fascist concentration camp." Their crimes, he alleged, included poisoning two local public officials, infecting the nearby town of The Dalles with salmonella and bugging the bhagwan's personal quarters.

The brunt of the allegations fell on Ma Anand Sheela, 35, the bhagwan's acerbic, pistol-packing personal secretary who served as his public voice during his three-year vow of silence that ended last fall. While the bhagwan stayed mute, Sheela oversaw the commune's most controversial projects: the 1982

takeover of the nearby town of Antelope and last fall's temporary importation of thousands of derelicts to Rajneeshpuram. Last week, while the commune reeled over the bhagwan's charges, reporters were shown an escape tunnel, secret laboratory and sophisticated wire-tap equipment purportedly used by Sheela during her tenure. Sheela and the other accused members reportedly had fled to Europe just days before the guru leveled his charges.

So far, investigators are unsure what motivated the bhagwan to make the allegations. "If he was so concerned about these possible crimes, it's odd that the perpetrators were allowed to fly the coop," said Oregon attorney general Dave Frohnmayer. While local authorities and the FBI gather clues, other problems are clouding the commune's future. The bhagwan is apparently under investigation by the Immigration and Naturalization Service for visa violations. And next month Frohnmayer will argue a suit challenging Rajneeshpuram's incorporation as a violation of church and state. Paradise, if not lost, seems to be losing.

City hunters rallying against regulations

By CRAIG MEDRED
Daily News reporter

8/14/85

Angry about inequities they see in Alaska's new subsistence hunting regulations, Anchorage big game hunters have organized to pressure state officials for changes.

Hunting-permit regulations that give rural and low-income hunters preference over urban and middle-income Alaskans are a fiasco, said Dave Chatfield, spokesman for the newly formed Southcentral

Outdoor Coalition.

The group plans a rally at 7 p.m. Aug. 14 in the East High School Auditorium to express outrage at the new hunting rules.

"We expect to have an overflow crowd," said Chatfield. "There are a lot of people out there angry about this.

"I'm a caribou hunter for the Nelchina herd, and I got angry about it."

Nelchina Basin caribou northeast of Anchorage are one of several species of big game to be allocated among hunters

on the basis of income and residency this year. In the past, about 10,000 hunters per year have participated in a random drawing for approximately 2,000 permits to hunt the animals.

This year, hunters are being required to fill out forms which will decide who gets permits based on residency in or adjacent to the Nelchina area, past success in killing Nelchina caribou, avalla-

See Page B-3, CITY HUNTERS

City hunters rallying against new subsistence regulations

Continued from Page B-1

bility of other meat and family income.

Chatfield said the scoring system makes it almost impossible for him to qualify for a permit. Anchorage big game hunter and attorney Stephen Sims leveled similar charges in a lawsuit filed against the regulations earlier this week.

The Alaska Board of Game said the regulations are necessary to carry out the mandate of a state law guaranteeing a priority for subsistence hunting and fishing — the harvest of fish or wildlife for food.

The Alaska Supreme Court early this year ruled the law requires the state to set up subsistence seasons. The court said all Alaskans who eat what they kill can qualify for subsistence, but it added that

if resources are in short supply, rural residents can be given a priority to harvest fish and game.

The state Department of Law subsequently advised the Board of Game that most of the state's approximately 50 permit hunts must be structured so that rural residents could take advantage of the priority outlined by the high court.

"Suddenly, because you live in Anchorage, because you work for a living, or because you've never been lucky enough to draw a permit before, you're out of luck," said Chatfield.

A variety of general seasons still allow Anchorage residents to hunt for most species of game in various areas of the state, but the permit hunts long have been among the most popular trips for outdoorsmen.

Many of the hunts were established to ensure high-quality, wilderness hunting conditions. The Board of Game, for instance, established hunts for trophy moose with antlers of 50 inches or larger on the Kenai Peninsula, and hike-in hunts for dall sheep with horns of a full curl or greater in the Tok area of the Alaska Range. These are now subsistence hunts.

"This is a fiasco," said Chatfield.

It is unfathomable, he added, that the state would on the one hand sell people remote homesites — primarily for hunting camps and recreation cabins — and then say those people can't hunt there because they live in Anchorage.

"Now they have the land and they can't hunt on it," he said. "I think this issue is about to blow up."

Anchorage's 'urban hunters' campaign for equal rights

by Bill Sherwonit
Times Outdoors Writer

8/4/85

Anchorage's "urban hunters" are angry and tired: angry at Alaska's current "hunting fiasco" and tired of being discriminated against.

So in an effort to gain what they feel is long-overdue recognition and respect, they've begun their own equal-rights movement.

The organization behind the movement is the Southcentral Outdoors Coalition, which will stage a rally and public-attention-getter at 7 p.m. Aug. 14 at the East Anchorage High School auditorium.

"It's time to wake up and do something about the hunting fiasco in this state," says Dave Chatfield, one of the organizers of the SOC. "Although many of the people involved in putting this group together are angry urban hunters, our primary purpose is to gain equal access to the outdoors for everyone who lives in the state, whether they're hunters, fishermen, kayakers, canoeers, hikers or climbers."

The coalition was born about a month ago, after the Board of Game instituted a tier system for determining hunter eligibility to participate in 1985 permit hunts throughout the state.

Because of that system, urban hunters in Anchorage, Fairbanks and Juneau and other cities throughout the state have been placed at the very bottom of the eligibility list for Alaskan permit hunts.

"You name it; it affects hunts for goats, caribou, sheep, bison, moose and bear — just about every one of those is involved in permit hunts. And it's nearly impossible for urban hunters to qualify for those hunts based on the current regulations," Chatfield said.

"Several of us affected (by the new system) tried to find an organization to represent the rights of all urban hunters. But there was no such organization in Southcentral Alaska. That's why we formed the Southcentral Outdoor Coalition," he added.

Organizers hope that the SOC eventually will become a chapter of the state-

wide Alaska Outdoor Council, which includes 45 affiliated sportsmen and outdoor user groups, with a membership of more than 8,000 people. For now, the SOC is an independent group, but has gotten support from the AOC.

The Coalition is on a sort of membership drive. That's where the Aug. 14 rally plays a role.

"We expect to fill the place," Chatfield said. "Our goal is to let everybody know the situation and what can be done about it. That includes legislation, litigation or change of regulations. Whatever it takes,

"We want people to join the Coalition, to sign up and help out and to contribute to the litigation fund," he added.

Among the speakers will be coalition organizers and at least one lawyer, who will discuss litigation against the new hunting rules.

The SOC has invited all sorts of officials to attend the meeting and listen to the group's pleas and complaints. Included on the guest list are state legislators and members of the Alaska Depart-

ment of Fish and Game. Gov. Bill Sheffield also may get a special invitation.

Members of the coalition realize "It may be impossible to get the hunting mess straightened out this year," Chatfield said. "But we want to get it straightened out for future years."

Gordon Culpepper, the SOC's chairman of public relations, said that "by supporting the Southcentral Outdoor Coalition, you're investing in your future to hunt. But it also involves access to public lands for all urban residents who enjoy the outdoors.

"If we allow discrimination to exist in hunting, we're opening the door for discrimination in other areas. What we're doing is carrying the ball for all sorts of outdoors activities. This (the hunting controversy) is such a hot issue, that now's the time to do something.

"A lot of people are stirred up. They want to know if there's an organization to fight for them and raise the issues. We're that organization."

FBKD 8/4/85

Game Board followed law in new rules

By VIC VAN BALLEMBERGHE

Recently, the Department of Fish and Game distributed permit applications for the new Tier II subsistence hunts and mailed notices to those who had applied for earlier permit hunts stating that they must now reapply and their original application fees would be returned. The public thereby received its first direct exposure to the new subsistence regulations and its reaction, as best I can determine, is mostly negative. Some criticism is being leveled directly at the Board of Game. I believe that most of this is misplaced and represents a widespread misunderstanding of what led to the present unfortunate situation. Clearly, many Interior hunters are dissatisfied and they de-

serve to know how the present situation arose.

When the board met in June it was obligated to establish emergency subsistence regulations so that hunting regulations in 1985 would be enforceable. A court decision following the April board meeting and its interpretation by the attorney general's office made the existing regulations unenforceable. The board did not decide to use local residency, degree of dependency, and availability of alternate resources to determine who could hunt. These criteria were established by the Legislature and the court system in interpreting the 1978 subsistence law.

The board in going through virtually all the game regulations fol-

Guest Opinion

lowed a fairly rigid procedure in establishing subsistence regulations. Each hunt was discussed with input from Game Division and Subsistence Division staff. In those cases where limited drawing permit hunts were the only way to proceed, the board was forced to apply criteria based on local residency, degree of dependency, and availability of alternate resources to determine allocation of permits. The board had no choice. These were the criteria established by the Legislature as interpreted by the

courts. The board is required to operate within the legal constraints established by the Legislature and the courts; those who criticize the board must understand this.

As a Game Board member and a hunter, I was very disappointed with the outcome of the June meeting. I knew that there would be widespread dissatisfaction, that subsistence and sport hunters alike would face a confusing, disrupted hunting season this year, and that the Game Board would face extensive criticism, much of it unwarranted. I do not believe that the turmoil and divisiveness that has emerged is in the best interests of wildlife conservation in this state. But I also do not lose sight of the fact that the Game Board did not

create this situation and had limited flexibility in dealing with it.

At public meetings in Anchorage in November and January, the board will hear public testimony on subsistence regulations. This plus existing legislation, legal interpretations, and any new court decisions and legislative actions will determine our future direction. I believe that this issue must be resolved and can be resolved and I look forward to participating in its resolution. But the public must have a clear picture of what the Game Board can and cannot do in order to improve the present situation. I think we can all agree that it does need improvement.

Vic Van Ballenberghe is a member of the Board of Game.

Hunters organizing to protest changes in subsistence regs

EMPIRE 815185

The Associated Press

ANCHORAGE — Urban hunters angered by new subsistence regulations designed to give rural and low-income hunters preference to Alaska's fish and game have organized to pressure state officials for change.

The hunting permit regulations are a fiasco, said Dave Chatfield, spokesman for the newly formed Southcentral Outdoor Coalition. The group has scheduled its first meeting for Aug. 14 in the East High School Auditorium.

"We expect to have an overflow crowd," said Chatfield. "There are a lot of people out there angry about this. I'm a caribou hunter for the Nelchina herd, and I got angry about it."

Caribou in the Nelchina Basin northeast of Anchorage are one of several species allocated to hunters this year on the basis of income and residency. In the past, about 10,000 hunters annually have participated in a random drawing for approximately 2,000 permits to hunt the animals.

This year, hunters are being required to fill out forms which will decide who gets the permits based on residency in or adjacent to the Nelchina area, past success while hunting the herd, availability of other meat and family income.

Chatfield and others said the scoring system makes it almost impossible for hunters in Anchorage, Fairbanks, Juneau and other cities to qualify for permits. Anchorage big game hunter and attorney Stephen Sims leveled similar charges in a lawsuit filed earlier this week to set aside the regulation.

"You name it, it affects hunts for goats, caribou, sheep, bison, moose and bear — just about every one of those is involved in permit hunts. And

it's nearly impossible for urban hunters to qualify for those hunts based on the current regulations," Chatfield said.

The Alaska Board of Game said the regulations are necessary to carry out the mandate of a state law guaranteeing a priority for subsistence hunting and fishing — the harvest of fish and game for food.

The Alaska Supreme Court early this year ruled the law requires the state to set up subsistence seasons. The court said all Alaskans who eat what they kill can qualify for subsistence, but it added that if resources are in short supply, rural residents can be given a priority to harvest fish and game.

The state Department of Law told the Board of Game that most of the state's permit hunts must be structured so that rural residents could take advantage of the priority outlined by the high court. There are about 50 such hunts.

"Suddenly, because you live in Anchorage, because you work for a living, or because you've never been lucky enough to draw a permit before, you're out of luck," Chatfield said.

A variety of general seasons still allow Anchorage residents to hunt for most species of game in various areas of the state, but the permit hunts long have been among the most popular.

Many of the hunts were established to ensure high-quality, wilderness hunting conditions. The Game Board, for instance, established hunts for trophy moose with antlers of 50 inches or larger on the Kenai Peninsula, and hike-in hunts for dall sheep with horns of a full curl or greater in the Tok area of the Alaska Range. Those are now subsistence hunts.

Game board asks for comments

Public comment is being sought on emergency game regulations adopted for this season in the wake of court rulings changing subsistence classifications. Comment deadline is Aug. 30.

Before making any of these regulations permanent at its November and January meetings in Anchorage, the Alaska Board of Game wants to collect comments on the effects the emergency regulations have had on hunters.

The emergency regulations took effect July 5 and were drawn up after state courts redefined subsistence hunters to include virtually all state residents. Previously, subsistence hunters were defined as rural residents who depended on wild game for their daily nutrition.

Some hunts are still covered

by a stricter subsistence definition if over-harvest of the game population is a risk.

In these subsistence hunts, game officials classify eligible hunters by a point system. They take into account dependence on game for food, local residency and the availability of other resources for livelihood.

Seasons, bag limits and other provisions also may differ between the subsistence and non-subsistence or "general hunts."

Proposals for permanent regulations will be distributed before the November and January board meetings.

Written comments on the emergency regulations may be sent to: Alaska Department of Fish and Game/Division of Boards, Box 3-2000, Juneau, Alaska 99802.

Death notices

Subsistence hearings scheduled

FBI
JUNEAU (AP)—A Senate committee has scheduled public hearings for next week in Anchorage on the highly charged subsistence issue.

Sen. Mitch Abood, R-Anchorage and chairman of the Senate State Affairs Committee, said the panel will meet Tuesday and Wednesday, Aug. 27-Aug. 28, at the National Guard armory.

The committee's next hearings are slated for Oct. 9-10 in Fairbanks, he said.

Wednesday's hearing will be on the statewide teleconference network, he said.

"We hope to come up with some kind of legislation that will hold the problem down ... correct the whole thing," Abood said in a telephone interview Monday. "That will be hard, because there's so much emotion wrapped up in the issue."

Two court decisions last spring tore holes in the way Alaska's eight year-old subsistence priority law is implemented.

The state's system of doling out wildlife resources — regulations based solely upon where a person lived in Alaska — was called into question by the courts. The decisions had the effect of giving subsistence rights to virtually every Alaskan.

The court decisions forced the state Game Board to meet in emergency session in June to come up with new regulations.

In order to meet the new subsistence guidelines, the panel changed the way about 100 hunts will be handled around Alaska this fall.

Among other things, the Game Board set up a point system in efforts to differentiate among subsistence hunters.

The formula, for big game, is based on three criteria: dependence upon fish and game for daily diet, local residency and access to other food sources.

Some urban hunters are challenging the subsistence law and emergency regulations, however, contending they are being unfairly excluded from many hunts around the state.

Nine subsistence bills were referred to the Senate State Affairs Committee before the legislature adjourned May 12. That included one by Gov. Bill Sheffield that would have returned first subsistence rights to rural residents.

"I held the issue (last session) because it pitted rural against urban," Abood said.

Group petitions for change in

subsistence definitions

Daily News-Miner, Fairbanks, Alaska, Thursday, August 8, 1985—7

By DAN JOLING
Staff Writer

The Alaska Federation of Natives has petitioned the state and federal governments to have federal law guide the Boards of Fisheries and Game in making subsistence regulations, which would again mean subsistence users would be defined as "rural" Alaskans.

Until February, that's how the state Board of Fisheries and state Board of Game had defined a subsistence user, in some cases limiting the definition to residents of communities outside the state's highway system.

However, the Alaska Supreme Court in February tossed out that interpretation, ruling that the 1978

Legislature did not intend urban residents be excluded from subsistence use. An attempt in the Legislature this session to amend the 1978 law and narrow the definition of subsistence user to rural residents was blocked in the state Senate.

The AFN petition states that in the absence of state law which conforms to the federal Alaska National Interest Lands Conservation Act of 1980, provisions of ANILCA should supercede state law.

"That's our reading of what the federal law requires," said AFN attorney Don Mitchell this morning.

"The more responsible thing to have done is pass that very simple legislation that's sitting in the state

Senate," he said.

Mitchell said there's been much confusion caused by recent court rulings and subsequent administrative action.

"It's time to end the confusion," he said.

February's Supreme Court decision was followed by a state Court of Appeals decision that said persons arrested for poaching could not be prosecuted because the state Board of Game had never drawn up specific subsistence regulations.

In previous hunting seasons, when the board applied a narrow definition of subsistence hunter, remaining permits were passed out through drawings or other methods. Since all Alaskans qual-

ified as subsistence hunters after the court rulings, the board could no longer use lotteries.

The board instead set up a questionnaire and point system to determine which Alaskans were most qualified for subsistence hunting as measured by three criteria in the 1978 subsistence law: customary and traditional use, local residency and the availability of alternative resources.

The net effect is that many urban residents, and all non-residents, who in the past have been able to put their names in a hat to be drawn for popular hunts are now virtually eliminated from consideration because they have little chance of qualifying for the "preferred" list

of subsistence hunters.

Mitchell said the three criteria were never intended to be applied to the whole population.

"Originally, that was to be done only among that small group of rural hunters who qualify as subsistence hunters in the first place," he said.

He said AFN filed the petition because the failure of the Senate to pass a revised subsistence bill "created a real management problem."

Larry Edfelt, assistant director for the Fish & Game Department's Division of Boards, said the petition will be considered by the Fish and Game boards at a joint meeting in

department has not formulated an official response.

Mitchell said federal law requires the federal government to act "in a reasonable time" but does not specify a time limit to act.

Mitchell said the short-term effect of the petition will be to increase hunting opportunities for urban hunters.

The federal ANILCA defines subsistence users as "rural" residents. It also includes provisions for the federal government to manage fish and game on federal lands if state law does not conform to the federal law or if the state does not enforce similar regulations.

AFN's petitions said the purpose of Title VIII of ANILCA "is to en-

sure that the taking of fish stocks and wildlife populations in Alaska are regulated by the State of Alaska in a manner which ensures the continuation and protection of the taking of such stocks and populations by residents of rural communities and areas for personal and family consumption."

The petitions cite a long history of federal recognition of rural residents' rights to take fish and game, including the first game law passed by Congress in 1902, a hesitation in transferring regulatory to the new state after the Alaska Statehood Act passed in 1958, and during discussions prior to passage of the Alaska Native Claims Settlement Act in 1971.

Park service prohibits use of airplanes for subsistence hunting

By CRAIG MEDRED
Daily News reporter

8/8/85

Subsistence hunters cannot use aircraft to hunt in national parks and monuments in Alaska, the National Park Service announced Wednesday.

"Subsistence hunting is allowed in seven of Alaska's national parks and monuments, but federal law limits eligibility to local rural residents and prohibits hunters from using aircraft for access," said Lou Waller, a park service subsistence specialist.

Subsistence is the use of fish and

game for food. A state law says any Alaskan can qualify to hunt for subsistence, but federal officials say that law does not extend to the national parks and monuments where subsistence hunting is allowed.

"Despite recent court rulings and changes in the state regulations, subsistence hunting in national parks and monuments is still limited to local, rural residents," said Waller.

"Those residents qualify as subsistence users on the basis of either

living in a designated 'resident zone' or carrying a permit issued by the superintendent of the unit," Waller said.

The state has established its own permit system for subsistence hunting, but that system will not apply to national parks or monuments, said Waller.

He also said the restriction on the use of aircraft for subsistence hunting will apply to flights into private in-holdings and national preserves.

Subsistence hunters will not be allowed to fly into a national pre-

serve with the intent of walking across a boundary to hunt in a park, he said. Nor will they be permitted to fly into private in-holdings to gain access to a park to subsistence hunt.

The only exception, Waller said, is for people who permanently reside on private property within a park, monument or preserve where the only reasonable access to the property is by airplane. Those people, he said, may hunt in the park or monument from their property.

"In that instance," said Waller,

"the aircraft is used for access to their home and is not being used with the sole intent to hunt within the park or monument."

Subsistence hunting, under the park service guidelines, is allowed in the Aniakchak National Monument, Cape Krusenstern National Monument, Gates of the Arctic National Park, Kobuk Valley National Park, Lake Clark National Park, Wrangell-St. Elias National Park and the new additions to Denali National Park. The Alaska National Interest Lands Conservation Act specifically provided for this hunting.

Hunters can comment

FBIS 8/1/85

By KATHI BERRY
Staff Writer

Hunters who want to comment on the Alaska Board of Game's new emergency subsistence hunting regulations should put their thoughts into writing and send them to Juneau before Aug. 30.

A 30-day public comment period on new temporary regulations began today. Copies of the new regulations can be obtained at Fish & Game Department offices throughout the state this week.

The 201-page regulation booklet contains detailed information about the hunting regulations changed by the Game Board at an emergency meeting in June. At that meeting, the board set hunting regulations specifically for subsistence hunters. Previously, all hun-

ters were governed by general hunting regulations.

The temporary subsistence hunting regulations, which went into effect July 5, will become permanent in September at the end of the comment period.

"In September, the Game Board will decide what, if any, changes need to be made as a result of the written comments we receive," said Vikki Benner, Southeast regional coordinator for the Division of Boards. "After adjustments are made, the regulations will be published again and put before the people as proposals."

Public hearings on the proposals

are scheduled for Game Board meetings during November and January in Anchorage.

"We expect to hear testimony from people on all aspects of the new subsistence regulations, from length of hunting seasons to new bag limits," Benner said.

Two recent court decisions prompted the Game Board to come up with emergency subsistence hunting regulations.

In the first, the state Supreme Court interpreted the 1978 subsistence law to mean that all state residents are subsistence hunters and that the needs of subsistence hunters must be met before a hunting

on new rules

area could be open to any other type of user.

Later, the state Court of Appeals decided that since the Game Board had no specific regulations restricting subsistence hunters, state officials could not stop subsistence users from hunting any place and any time they wanted.

Combined, the two decisions were interpreted to mean that law enforcement officers could not enforce hunting regulations over any state resident who wanted to subsistence hunt.

Since the Game Board did not have time to give the notice necessary for an official meeting, the

emergency session was scheduled to draw up temporary subsistence hunting regulations.

At the meeting, the Game Board also decided which hunts should be open to all hunters (general hunts) which should be open to Alaska only (Tier I hunts) and which should be restricted to "preferred" subsistence hunters (Tier II hunts) based on three criteria in the subsistence law.

Written comments should be mailed to the Alaska Department of Fish and Game Division of Boards, Box 3-2000, Juneau, AK 99802.

ADN

Most dall sheep hunt hopefuls likely to get permits

APCH 8/14/85
The Associated Press

Many hunters who applied for dall sheep hunting permits under Alaska's new and controversial subsistence permit system may have a good chance of hunting, said state Department of Fish and

Game officials.

Only 656 hunters applied for 412 permits, and in all areas outside Anchorage and the Matanuska-Susitna Valley, hunters who applied won permits.

Middle-income and urban hunters, however, lost out on hunts in the Chugach Mountains. Seventy-six subsistence points were needed to qualify for a popular ewe hunt near Palmer, and 71 points were needed to qualify for a ram

hunt in the Eagle River area.

A middle-income Anchorage hunter could score no more than 65 points because of residency and income — and then only if they had killed a sheep in each of the past 10 years.

Urban hunters rally against subsistence law

ADN
8-15-85

By GREG GADBERRY
Daily News reporter

If new state subsistence rules force urban sportsmen out of popular state-sponsored hunts this year, urban hunters should go to court and halt the hunts as a protest against unfair regulation, speakers from several outdoor groups said at a meeting Wednesday night.

At least one outdoor activist told the group of about 400 hunters and anglers he would sue the state himself to stop certain state-organized hunts he said had been twisted by new subsistence regulations.

The announcement about the upcoming suit — which hunter Sam McDowell said he would file today against the state — brought cheers from inside the packed and stuffy East Anchorage High School Auditorium.

The meeting had been called by several outdoor groups including the state-wide Outdoor Council and the newly created Southcentral Outdoor Coalition. The sportsmen came to talk specifically about state permit hunts, the popular hunts in which participants are chosen by random lotteries.

About fifty permit hunts are held each year for game including moose, caribou, mountain goats, sheep and even bison.

But new subsistence rules — which give rural, low-income residents priority — threaten to cut many urban, middle-class hunters out of the draw. Sportsmen are now required to tell the state where they live and how much money they make when applying for the permits.

See Back Page, HUNTERS

Hunters

Continued from Page A-1

The speeches Wednesday went beyond the popular hunts. Sportsmen expressed deep-seated anger about subsistence laws in general — which they said unfairly kept them from their lands — and resentment of the politicians and lawyers who they said turned their backs on urban hunters and anglers.

"We are being disenfranchised," McDowell said.

The outdoor council hoped to use the rally to draw hundreds of urban hunters, and their checkbooks, into a battle against the new regulations before the permit hunts begin this fall.

Ron McAlpin, an Anchorage sportsman, said he had hoped to take his daughter hunting this year during the popular caribou permit hunt in Nelchina. "Of course, she won't be able to go because she lives in Anchorage," he said.

Attorney Wayne Anthony Ross said he, too, wanted to take his children on the Nelchina caribou hunt. New subsistence regulations may

About 400 people turned out at East High Wednesday night.

effectively ban most urban, middle-class sportsmen from it, he said.

Ross said hunters willing to fight would find many willing allies. There are already several lawsuits, not including the one planned by McDowell, challenging subsistence rules, he said.

Ross suggested that hunters take checks returned by the state with unsuccessful

permit-hunt applicants and use the money in a legal fund.

"Let's use the money you get back from the state to fight the state on this one," he said.

Organizers of the meeting didn't wait for the returned checks, however. Large plastic tubs were passed through the crowd several times after pleas for monetary aid.

The tubs came back packed with cash.

Ross suggested one way to take on the state directly is for hunters to challenge in court all permit hunts this year that may be changed by new subsistence rules.

"I would rather see 850 caribou not killed this year than not get a fair chance in a drawing for a permit," he said to loud applause.

Advisory group seeks hunt closure

by Bill Sherwonit
Times Outdoors Writer

Acting on a "mandate" from approximately 150 angry urban hunters, the Anchorage Fish and Game Advisory Committee will seek a closure of all 1985 tier II subsistence permit hunts within the committee's jurisdiction.

The group met in a special emergency session Monday night at the East Anchorage High School auditorium to take public testimony on the Alaska Department of Fish and Game's emergency hunting regulations for 1985. The regulations set up a system that gives priority to rural, low-income residents in permit hunts throughout the state.

Anchorage area hunters have complained that the emergency regulations discriminate against urban residents. The hunters have begun an "equal-rights" movement to change the new rules.

Nearly everyone at Monday's meeting overwhelmingly supported a closure of tier II subsistence permit hunts. An informal show-of-hands indicated a unanimous desire to "shut down the

hunts." In addition, more than two dozen speakers called for an end to the permit hunts.

"These regulations are strictly unconstitutional at both the state and federal level," said Dale Bondurant, a 37-year Alaska resident who said he has sued the state over its subsistence laws. "Unless everybody has the right to hunt, I don't want anybody to have that right."

Sam McDowell, a local hunter-activist and a national director for the Izaak Walton League, said, "If you lose your right to hunt and fish, you lose them forever. We want all subsistence permit hunts cancelled until all people in this state have the right to participate."

In response to questions from committee members, Fish and Game Division Regional Supervisor Sterling Eide said such closures would do no significant biological damage "if the hunts were halted for one year."

After taking public testimony for nearly four hours and asking questions of state biologists, the advisory committee voted 6-3 to "request Fish and Game to enact

See Hunters, page A-10

Continued from page A-1

an immediate emergency closure of tier II subsistence hunts." The decision was based on testimony at Monday's meeting and that of 400 individuals who met last Wednesday.

Last week's meeting was an emotional rally staged by the Alaska Outdoors Council and Southcentral Outdoors Coalition. Its participants also urged a stop of the permit hunts.

The request for an emergency closure will be made to Fish and Game Commissioner Don Collinsworth.

"It's our job to take input on fish and game regulations and funnel the public's sentiment to the Department of Fish and Game," said Tim Stevens, chairman of the advisory committee. "Whether or not (Collinsworth) listens, we've been mandated to ask that he shut down the hunts."

The Anchorage advisory com-

mittee's jurisdiction includes hunts in Game Management Units 13, 14 and 16. Tier II subsistence permit hunts in those units include the Nelchina caribou hunt, sheep and goat hunts in the Chugach Mountains, the Glacier River moose hunt and a Matanuska Valley moose hunt.

Before any emergency closure could be put into effect, all the advisory committees with jurisdiction in those areas would have to be polled for recommendations. Committee in Talkeetna, the Matanuska Valley, Glennallen, Delta Junction and Paxson also would have a chance to voice opinions.

In addition, state laws require that advisory committees request emergency closures only for "biological" reasons and not social or economic ones.

Although the Anchorage advisory committee is making its request for reasons of "conservation and wise use of the resource," the principal reason for

the requested closure is because of what some say are inequities in the new permit hunt season, a non-biological concern.

If Collinsworth decides that the request is based on such a non-biological factor, he is not required to take any action.

"You're spinning your wheels," said Warren Olson, a trustee for the Alaska Outdoors Council and former advisory committee member. "As far as the subsistence regulations go, you're wasting your time. But I hope that at least you get a strong message to legislators, the governor and Fish and Game."

Only nine of the committee's 15 members were present. William Bartlett, Dennis Daigger, Robert Butt, Richard Johnson, Stan Smith and Tim Stevens voted to request the emergency closure. Cindy Lowry, Jeff Parker and David Sipos voted against the request.

AT 8-20-85

Senate committee schedules Anchorage hearings on subsistence

By DEAN FOSDICK
The Associated Press

JUNEAU — Sportsmen unhappy about the effect of subsistence laws on their hunting and fishing will have two chances to put their problem in the lap of state senators next week in Anchorage.

Sen. Mitch Abood, R-Anchorage and chairman of the Senate State Affairs Committee, said the committee will meet Aug. 27 and 28 at the National Guard armory. The second hearing will be on the statewide teleconference network, he said.

"We hope to come up with some kind of legislation that will hold the problem down . . . correct the whole thing," Abood said in an interview Monday. "That will be hard, because there's so much emotion wrapped up in the issue."

Two court decisions pertaining to subsistence tore holes last spring in Alaska's 60-year-old patchwork of game laws.

The state system of dividing wildlife resources — regulations based solely upon where a person lived in Alaska — was called into question by the courts. The decisions had the effect of giving subsistence rights to virtually every Alaskan.

Legislative inaction on the issue forced the state game board to meet in emergency session in June to come up with new regulations.

To meet the new subsistence guidelines, the game board changed the way about 100 hunts will be hand^d around Alaska this fall.

Among other things, the board set up a point system in efforts to

differentiate among subsistence hunters.

The formula, for big game, is based on three criteria: dependence on fish and game for daily diet, local residency and access to other food sources.

Some urban hunters are challenging the subsistence law and emergency regulations on grounds that they are unfairly excluded from many hunts around the state.

Nine subsistence bills were referred to the Senate State Affairs Committee before the legislature adjourned May 12, including one by Gov. Bill Sheffield that would have returned first subsistence rights to rural residents.

"I held the issue (last session) because it pitted rural against urban," Abood said. "We need to solve that thing so everyone gets a chance at the resource. It shouldn't be solved on the basis of geography."

Later hearings by the committee are scheduled for Oct. 9-10 in Fairbanks, he said.

ADN 8/20/85

NEWS RELEASE

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU
BILL SHEFFIELD
GOVERNOR



Office of the Governor
Pouch A, Juneau, AK 99811
Phone (907) 465-3500

FOR INFORMATION CONTACT: John Greely, Press Secretary Pete Spivey, Deputy Press Secretary

GOVERNOR SHEFFIELD'S WEEKLY RADIO REPORT
August 23, 1985
No. 85-150

EMBARGOED UNTIL NOON, FRIDAY, AUGUST 23, 1985

ANCHORGE--The following is a transcript of Governor Sheffield's Weekly Radio Report for Friday, August 23.

If you want to hunt and fish in Alaska just as you have in years past, please take the time to listen to this. I hope you'll listen, because the debate over our fish and game laws has strayed off the right trail, and I think I know just where it's heading.

Without question, we have a problem. Our fish and game laws are out of balance, and we need to set things straight. But if we're going to solve this problem, we've got to make sure we're all talking about the same issue.

The problem can be condensed into this simple progression:

- * We had a good system of fish and game regulation.
- * The Supreme Court said we had to change it.
- * Then, I proposed to fix the problem by putting the regulations into law, so everyone could hunt as they have the past three years.
- * But the state Senate refused to take action.
- * So the boards of Fish and Game had to make emergency regulations to conform to the Supreme Court ruling.
- * And, right now, we've got a problem.

-MORE-

The problem is not with subsistence itself. I think most Alaskans agree that subsistence is an important part of the economy and the general lifestyle in many Alaska communities. That's why the Legislature passed a state subsistence law in 1978, and that's why Alaskans voted overwhelmingly to support our law in 1982. But there's one other fact about subsistence that can't be overlooked: It's mandated by federal law - and under that federal law, it's our obligation to protect subsistence.

Our state Boards of Fish and Game have done a good job of protecting subsistence rights while fairly regulating other aspects of hunting and fishing. But last spring, the courts said we had a technical problem -- the boards were dealing with regulations that didn't match our state subsistence law.

I introduced legislation designed to correct the problem. More important, my bill was designed to allow most Alaskans to keep fishing and hunting just about like they'd always been doing. The House of Representatives agreed; they did some fine tuning on my bill, then passed it and sent it over to the Senate.

That's where things ground to a halt. The Senate took no action on the bill, and that's why things are so out of balance today. The reason is simple: Without passage of that bill, the Boards of Fish and Game were forced to write new regulations to protect subsistence.

These new regulations have angered many people, especially those in the urban areas who find themselves shut out of traditional hunting grounds. As an Alaskan who has hunted and fished over much of the state for the past 30 years, I share that frustration.

Some people are trying to turn that anger on the federal subsistence law. They're trying to tell you we can ignore the law and the federal government will look the other way.

Don't believe it, because I can tell you it's just not true. I talked again just this week with Bill Horn, the Department of Interior official responsible for managing most federal lands in Alaska. He'd like Alaska to work this out for itself, but the federal government will not hesitate to step in and enforce its subsistence law.

It only makes sense that we solve this problem ourselves, because I know we can manage our fish and game better than people sitting back in Washington D.C. But we've already lost one opportunity, and I don't know how many more we'll get.

That's why I'd like you to write or talk to the state Senator who represents you. Tell him or her that the bill I proposed and the House passed will get us out of this mess. And more important, it will bring back reasonable opportunities for all Alaskans to hunt and fish.

Urban Alaskans have stake in land, wildlife resources

By FANDALL E. FARLEIGH

There are many sound reasons why the current federal and state subsistence priority laws and regulations for the taking of Alaska's wildlife should be repealed: These laws are premised upon a dangerous notion of cultural superiority. They create unequal rights, opportunities, and protection among our citizens' participation in our wildlife, contrary to constitutional principles.

They reduce our wildlife resources to a welfare transfer payment exempt from regulations, applying biologically based management practices necessary to preserve and maintain abundant wildlife for all. And they irrationally dedicate the resources to people who supplement their wildlife-based lifestyle with limited cash, while denying it to those who supplement their largely cash-based lifestyle with wild food.

Under the current scheme, the former are "subsistence" users entitled to priority; the latter are mere "sportsmen" effectively denied the resource. Both are subsistence users for their respective livelihoods.

Perhaps the greatest argument for elimination of the artificial user classes of fishermen and hunters is the importance and value of the wildlife opportunities to all Alaska citizens. These values were eloquently expressed in the August 13 Daily News article by Vermita Zilys. Zilys wrote of the tranquility and



The New York Times

well-being experienced by those who rely on fish and game in some way for their identity and livelihood. She wrote of the familial togetherness and satisfaction in hunting wildlife, preparing it for consumption, and sharing it with others. What Zilys ignored is the universal sharing of these values by most

Alaskans.

These values are not unique to Zilys' culture. These values are as important, or more so, to those in the "asphalt jungles" of urban centers who are close to losing a last meaningful contact with the land, its meaning to our ancestors, and the lessons it holds for us all.

Many people are now labeled "sport" hunters and fishermen because they happen to live a more cash-based existence in urban areas, living lives productive to a society larger than themselves and their immediate families, paying federal income taxes, Social Security taxes, unemployment taxes, and such.

Some of them even work for corporations that pay state income taxes and vast royalties, as well. These are the same people and businesses that produce and distribute the goods and services used by "rural" Alaskans in the pursuit of their privileged "subsistence" lifestyle: aircraft; shotguns; rifles; ammu-

nition; outboard motors; snow machines; fishing nets; ATV's; fuel; medical care; expensive schools and the educational services to make them work; state-subsidized electricity; satellite television; transfer payments such as food stamps; unemployment compensation, and a multitude of state and federal assistance grants. These are also the people who are changing the face of Alaska, and should not be denied their only personal link with, and stake in, the land they must respect and preserve.

The current subsistence/sport classification system will only succeed in escalating bitter cultural divisions among our citizens and in further isolating urban residents from their cultural roots with the land, however distant, and however diverse. The majority of Alaskans now live a cash-based lifestyle to some degree, and our government's denial to them of a personal stake in our wildlife resources will bode ill, indeed, for all who treasure the land and man's special place upon it.

The subsistence priority laws must be repealed so that all Alaskans live by the same laws for noncommercial consumption of fish and game resources, and to provide for their careful management, regulation, and preservation.

□ Randell E. Farleigh is an Anchorage attorney and waterfowl hunter.

Leask saddened by editorial

Dear Editor:

I am writing to express deep disappointment with your Aug. 17 editorial entitled, "Dividing Alaskans." Although you may have had the best intentions in publishing it, you have raised a spectre which most Alaskans had hoped would disappear from our public life and you have succeeded in mixing two very strong emotional "red flags" — subsistence and race — together in an unfortunate and unnecessary coupling.

The current crisis of fish and game allocation in Alaska comes down to basic demographic facts which no one, regardless of their position on the issue, can deny. With well over a half-million people in Alaska, we have come to a point where there are simply too many hunters and fishermen trying to take too few fish and game resources. Unlimited taking cannot be allowed too few fish and game resources. Unlimited taking cannot be allowed since the state constitution requires that fish and game resources be managed on a "sustained-yield basis" before any question of allocation among users is addressed. That means that we, as Alaskans, will not be able to take everything we want, and it forces our political systems to make choices — to prioritize the uses of our limited resources, much in the same manner as we prioritize those projects we want funded in our state budget during times of limited financial resources.

Once we realize these difficult political decisions are necessary, the question then becomes: On what basis will we make these decisions? Your editorial states: "Whether intentionally or not, these requirements (the new state subsistence regulations) divide the Alaska population on the basis of race." That is not true. Subsistence regulations, in compliance with the federal law, divide the state along lines of geography, traditional

community use and dependency on limited resources. It has always been a question of economics. It's unfortunate you have chosen to define it in terms of race.

The economic fact of life in rural Alaska is that the residents (natives and non-natives alike) have their backs to the wall. The only hope that village economies have of surviving, when placed in competition with the overwhelming number of urban citizens, is to receive some priority consideration in the taking of fish and game. Jobs, income, and supermarkets are not in the villages and they won't be in the foreseeable future. If, all of a sudden no Alaskan could hunt or fish, the economic impact on Anchorage or Fairbanks would be relatively mild, despite the bitter inconvenience of losing recreational opportunities. But the sudden inability of residents of Tuntutuliak or Skwentna to hunt and fish goes beyond inconvenience. It is tantamount to economic disaster, with malnutrition, social dislocation, and migration as the inevitable results.

But perhaps the most disturbing fact about your editorial is that, as it unfolds, it strays further and further from the subsistence question, throwing in more and more racial issues which have only a distant relationship to fish and game policy.

As an example, you refer to

the Alaska Native Claims Settlement Act (ANCSA), and to the Alaska National Interest Lands Conservation Act (ANILCA) as legislation which has "generated" the current problem of hunting and fishing rights. That again is not true. ANCSA did not create this problem at all. ANILCA, as you correctly point out, "provided that subsistence uses of resources should have priority and required that the state

administer that priority." ANCSA, however, is virtually devoid of references to fish and game, other than a clear congressional extinguishment of aboriginal hunting and fishing rights. But your editorial throws ANCSA into the subsistence mix — and provides an unnecessary emotional "red flag" to people who may have never read that act.

You go even farther afield by dragging in the current process for amending ANCSA on the "1991" problems facing native people when you state, "natives are asking Congress to grant them special privileges. Their requests have stirred concern among others that they are asking too much. If this concern is allowed to fester, like the subsistence issue, it will eventually break out into something more drastic." That sounds more like a threat than a warning — as if the author would be gratified to see it "break out into something more drastic."

You describe natives as being "organized and . . . spending substantial money to promote their best interests in Congress." Despite your subsequent disclaimer that such political activity is all well and good, your description of it sounds almost like an alarm, a call to arms — particularly when you add the fact that "non-native Alaska is unorganized as a special interest group and has only its elected officials to represent it."

It took several re-readings of

your Aug. 17 editorial, but I eventually came to the conclusion that the topic of it was not subsistence. It was natives. I conclude, with sadness, that what is dividing our state racially is not subsistence, not ANCSA, not ANILCA. It is political rhetoric such as this which emphasizes the fears and resentments which can be found just beneath the surface of our public life. We owe it to each other to rise above that.

Leask, continued . . .

Real public policy issues (fish and game allocation, land ownership and use, local government, human services, fiscal policy, resource development, environment, etc.) are not going to go away. All of us in this state — native and non-native alike — are going to have to live with each other and we are going to have to solve these problems together in an intelligent, humane manner.

In a previous article appearing on your editorial page, you embraced the words of Byron Mallott, president of Sealaska Corporation, when he talked about "a vision of Alaska": "... A vision in which Alaskans pursue their individual aspirations in a framework of values that respects the rights and privileges of every other Alaskan, cares and provides for the least among them, respects and understands the ethnic differences amongst them not as the basis for separation but for distinction . . . A vision in which Alaska's people strive for excellence in every endeavor and caring and tolerance in every relationship." You then asked "Why not that as our goal?"

I respectfully suggest that the place to start is to take the high road — to appeal to the best in every individual and to hold what we now to be right — to indeed take and embrace as our goal, "a vision of Alaska."

Sadly, I again respectfully suggest that your editorial did nothing to further that goal — but rather might have even taken us a step back.

Janie Leask, President
Alaska Federation of
Natives

Governor: U.S. backs hunters

by Mary Scarpinato
Times Writer

The federal government won't flinch at taking control of Alaska fish and game stocks if the state won't protect the subsistence hunting and fishing rights of rural residents, Gov. Bill Sheffield said.

"A letter from the U.S. Secretary of the Interior is on the way (assuring federal willingness to assume this wildlife resource control)," Sheffield said in a recent interview.

And the Alaska Federation of Natives is urging the Interior Department to issue notice that fish and game boards

here will be required to act in accordance with federal guarantees of Bush resident subsistence rights unless state lawmakers pass similar board guidelines.

The AFN stance was taken on behalf of many rural natives who depend on wildlife resources. The organization fears over-harvest of fish and game.

"They'll do a lousy job of managing our fish and game," said Sheffield of the possibility of federal regulators. "That's what statehood (authority provisions) were all about."

See U.S., page A-4

AT

8-25-85

Continued from page A-1

"No one wants it to come to that," AFN attorney Don Mitchell said of possible federal regulation.

Both Sheffield and the AFN blame the state Senate for failing to pass a bill approved by the House last session that would have given force of law to earlier fish and game board policies that had brought no quarrel from federal officials.

Senators said more time was needed to study the important legislation.

The former board policies gave first priority to Bush residents' claims on wildlife as a daily livelihood source, then set sport and commercial quotas on the remainder of the resources.

The Alaska Supreme Court had struck down those board policies — not because the court disagreed with subsistence priorities, but because it found that such policy-setting authority belonged to the legislature.

In the absence of the board's rural categories, this high court ruling had the effect of allowing virtually any state resident to claim subsistence priority on wildlife stocks.

In order to protect the wildlife populations against over-harvest

by this broad new subsistence class, the boards adopted emergency regulations under powers left to them for species protection.

Under the emergency regulations, if a wildlife population would be jeopardized by all resident harvest claims, then criteria are used to restrict residents who do not depend on the resource for their livelihood.

"The current flaw is that the definition of who is a subsistence hunter or fisher is overly expansive," said Mitchell. "It does not limit subsistence hunters and fishers (as federal law does) just to hunters and fishers who live in the Bush."

Some observers to the legal and resource management problems that have arisen after the court decision feel that the federal government is not eager to take on the burden of administering Alaska fish and game.

Federal officials will want to delay any intervention until it appears that state progress toward final solutions is truly locked, the observers say.

And there may be another reason not to rush, according to the reasoning, because the annual fishing seasons are nearly closed and game seasons already have begun.

View from the governor's office



Fair way to divide fish and game resources

by Gov. Bill Sheffield

IF YOU want to hunt and fish in Alaska just as you have in years past, please take the time to read this. The debate over our fish and game laws has strayed off the right trail, and I think I know just where it's heading.

Without question, we have a problem. Our fish and game laws are out of balance, and we need to set things straight. But if we're going to solve this problem, we've got to make sure we're all talking about the same issue.

The problem can be condensed into this simple progression:

- We had a good system of fish and game regulation.
- The Supreme Court said we had to change it.
- I proposed to fix the problem by putting regulations into law, so everyone could hunt as they have since 1981.
- The state Senate refused to take action.
- The boards of Fish and Game had to make emergency regulation to conform to the Supreme Court ruling.
- Now, we've got a problem.

The problem is not with subsistence itself. I think most Alaskans agree that subsistence is an important part of the economy and the general lifestyle in many Alaska communities. That's why the legislature passed a state subsistence law in 1978, and that's why Alaskans voted overwhelmingly to support our law in 1982. But there's one other fact about subsistence that can't be overlooked: It's mandated by federal law, and under that federal law, it's our obligation to protect subsistence.

OUR STATE boards of Fish and Game have done a good job of protecting subsistence rights while fairly regulating other aspects of hunting and fishing. But last spring, the courts said we had a technical problem: The boards were dealing with regulations that didn't match our state subsistence law.

I introduced legislation designed to correct the problem. More important, my bill was designed to allow most Alaskans to keep fishing and hunting just about like they'd always been doing. The House of Representatives agreed; they did some fine-tuning on my bill, then passed it and sent it over to the Senate.

THAT'S WHERE things ground to a halt. The Senate took no action on the bill, and that's why things are so out of balance today. The reason is simple: When the Senate refused to act, the boards of Fish and Game were forced to write new regulations to protect subsistence.

These new regulations have angered many people, especially those in the urban areas who find themselves shut out of traditional hunting grounds. As an Alaskan who has hunted and fished over much of the state for the past 30 years, I share that frustration.

Some people are trying to turn that anger on the federal subsistence law. They're trying to tell you we can ignore the law and the federal government will look the other way.

Don't believe it. I talked again just this week with Bill Horn, the Department of Interior official responsible for managing most federal lands in Alaska. He'd like Alaska to work this out for itself, but the federal government will not hesitate to step in and enforce its subsistence law.

It only makes sense that we solve this problem ourselves, because I know we can manage our fish and game better than people sitting back in Washington, D.C. can do it. But we've already lost one opportunity, and I don't know how many more we'll get.

That's why I'd like you to write or talk to the state senator who represents you. Tell him or her that the bill I proposed and the House passed will get us out of this mess. And more important, it will bring back reasonable opportunities to hunt and fish for all Alaskans.

Disputes postpone hunting

FBCS 8/25/85

All Tier I and Tier II subsistence hunts on military lands have been closed or "postponed" until Army officials can settle a dispute with the Alaska Board of Game.

Also, the Delta Fish and Game advisory committee has voted to close down three Tier II subsistence hunts which fall partly under their jurisdiction.

According to the Game Board's new subsistence regulations, only hunters who have lived in Alaska for at least a year can apply for Tier I and Tier II hunts.

That rule keeps a large number of military personnel stationed in Alaska for less than a year from hunting on their own land, said Charles Canterbury, the military's public information officer.

Military personnel can usually qualify to hunt on military lands after they've been stationed on a base in Alaska for 30 days under Title 10 of the U.S. Code.

"The language in the new hunting regulations runs contradictory to what's been written in Title 10," Canterbury said. "The Army is postponing all hunts on military land until a solution to this problem can be worked out."

The decision affects three Interior hunts. Hunters will not be permitted to bow hunt for moose in the Fairbanks Management Area

on land owned by Fort Wainwright. The popular hunting area north of the Chena River around Birch Hill is included in that Tier I hunt.

The portion of the Delta Bison Tier II hunt that crosses Fort Greeley in Game Unit 20D and the Tier II moose hunt in Game Unit 14 on Fort Richardson in Anchorage have also been postponed.

Early this week, the Delta Fish and Game advisory committee likewise voted to close down three Tier II subsistence hunts under their jurisdiction—the sheep hunt in the Delta Controlled Use Area of Game Unit 20 and the caribou and bison hunts in Game Unit 20D.

According to a petition recently turned in to the Fish and Game Board commissioner, the committee wants to close the hunts because members fear the new changes in hunting regulations will allow maximum harvest on already declining game populations.

The petition will be examined by the commissioner to make sure the request meets Game Board regulations. If it does, the eight advisory committees holding concurrent jurisdiction over the Delta hunts will be asked to vote on the closures. A majority vote in favor of the request will close the hunts this fall.

Sportsmen advocate changes in subsistence hunting rules

FBI 8/25/85

By KATHI BERRY
Staff Writer

Hunters have been turning thumbs down recently on the Alaska Board of Game's new emergency subsistence hunting regulations. Hundreds of sportsmen have been advocating changes in the rules with written protests and vocal rallies.

The Division of Boards in Juneau received more than 50 letters expressing opposition to the game board's temporary regulations during the first half of a 30-day public comment period which began July 31.

According to Larry Eldfelt, assistant director of the Division of Boards, more written opposition is expected.

"We usually receive 90 percent of our comments in the final three days of the period," he said.

Despite the hunters' negative sentiments, Eldfelt said he doesn't expect major substantive changes in the temporary subsistence rules. The regulations become permanent at the end of the comment period.

"It's tough to make major changes when hunters write only that they are opposed to the new system in general," Eldfelt said. "Few of the letters suggest specific improvements or amendments to the regulations."

The Division of Boards plans to schedule several hearings for Interior residents in November so they can make more pointed comments on the then permanent proposals.

Meanwhile, Fish and Game advisory committees have taken stands against some of the more restrictive hunts in their areas and groups of urban hunters have staged rallies to criticize the new laws.

Most hunters are opposed to the new Tier II subsistence regulations, which separate hunters into categories based on a point system. Although all Alaskans can apply for the hunts, only those scoring highest on a questionnaire enclosed with the application will receive

Clear-Healy advisory committee recently asked the game board to replace the Tier II caribou hunt in game unit 20A with a general hunt.

All residents and non-residents who apply to enter a general hunt get hunting permits. General hunts are usually stopped by emergency closures when the maximum harvest for the game animal is obtained.

During the last several years, hundreds of urban sportsmen have hunted caribou in Subunit 20A, which features easy three-wheeler access from the Parks Highway 20 miles north of Healy. Last year, the hunt in the area was so popular, the unit was closed and the harvest stopped five days after it opened.

The Clear-Healy and several other advisory committees also signed petitions Wednesday requesting that Fish and Game Commissioner Don Collinsworth open the new subsistence hunts earlier. Most of the hunts were originally scheduled to open Sept. 21, nearly a month later than the hunts opened last season.

Mel Buchholtz, regional state game management biologist, said that late opening dates were set to

give the Game Board time to take care of the extra administrative work which they expected to accompany the complex application process under the new system.

Hunters opposed the late seasons because caribou and moose enter the rut toward the end of September. Meat from bulls taken during their mating season is typically tough and untasty.

Hunters argued that a long hunting season in that unit would endanger the moose population. Moose there are thought to be more vulnerable to hunters late in their rutting season, Eide said.

New dates for seven Interior hunts are listed below.

Sept. 10-Oct. 5, moose hunt in the Minto Management area of Game Unit 20B

Sept. 10-Oct. 10, moose hunt in Game Unit 25D West

Sept. 10-Dec. 31, caribou hunt in Game Unit 20A

Sept. 10-Nov. 30, Chitina bison hunt in Game Unit 11

Sept. 10-Oct. 31, Farewell bison hunt in Game Unit 19

Sept. 10-Sept. 20, Nelchina caribou hunt in Game Units 13 and 14B

Sept. 10-Sept. 20, bull moose hunt in Game Unit 13

Many of the more than 400 hunters attending a rally in Anchorage recently said they feared that the new point system—which gives preference to residents who live closest to the hunting area, who have low income and who have depended on the animals as a food source in the past—threatens to cut urban, middle-class sportsmen out of their old hunting grounds.

In response to these fears, several local Fish and Game advisory committees have taken action to change or to close the Tier II hunts in their areas. For example, the

Urban hunters' anger OK, but is it aimed at right place?

By JANIE LEASK

Tomorrow afternoon Sen. Mitch Abood, chairman of the State Affairs Committee, will chair the first of a series of Senate hearings on subsistence. As they have over the past two weeks in other forums, many Anchorage hunters will undoubtedly tell Sen. Abood exactly what groups such as the Alaska Outdoor Council want him to hear — that the 1978 state subsistence law must be repealed so that all Alaskans, whether they live in Tuntutuliak or Eagle River, can be afforded an "equal" opportunity to hunt.

Anchorage hunters have every right to tell Sen. Abood that they are angry at the way their hunting opportunities have been unfairly restricted by the regulations governing the 1985 hunting season. But as they are preparing their testimony for tomorrow's hearing I hope they will stop a moment and give some thought to the question of who it is they should be angry at.

As a result of the Alaska Supreme Court's decision last Feb. in *Madison vs. ADF&G*, all hunters, both urban and rural, are now lumped together in the "subsistence uses" regulatory category established by the 1978 law. Although this may seem like an appropriate result to many Anchorage hunters who maintain, quite correctly, that like Alaskans living in the bush they use the animals they kill to provide meat for their households, the irony is that including Anchorage hunters in the "subsistence uses" category restricts, rather than expands, their opportunity to hunt.



A.S. 18.05.255(a), which governs the Board of Game's regulation of nonsubsistence hunting, delegates the board considerable discretion to allocate hunting opportunities among nonsubsistence hunters in a variety of ways — the most popular of which is the lottery. The lucky go hunting and the unlucky stay home. The lottery system has considerable support among the Anchorage hunting community and over the years it's worked well.

Unfortunately, the Madison decision transformed urban hunters into "subsistence hunters." Rather than chance, the Board of Game must now allocate hunting opportunities among Anchorage hunters based on the application of three criteria: local residency, dependence on the game population as a mainstay of livelihood, and availability of alternative food resources.

Use of the three criteria when a game population is not healthy enough to safely sustain a harvest, even by all hunters living in a rural village, makes sense. But using the same criteria to allocate hunting opportunities

between hunters living on the same street in downtown Anchorage makes no sense at all.

So it's perfectly appropriate for Anchorage hunters to be angry. The Alaska Federation of Natives is angry too. But Anchorage hunters should not be angry with the 1978 subsistence law or with their neighbors living in the bush. Rather, they should be angry at lobbyists who worked last session to prevent passage of an amendment to the 1978 subsistence law which would have ensured that Anchorage hunters would have continued to be treated fairly. They wanted Anchorage hunters to be treated unfairly by hunting regulations adopted to comply with the Madison decision. They hoped that when Anchorage hunters got angry they would direct their anger toward repealing the 1978 law rather than amending it.

It's a serious charge but it's true. Shortly after the Madison decision was announced last February, officials of the Alaska Department of Fish and Game and the members of the Alaska Board of Fisheries and Board of Game immediately recognized that unless the legislature amended the 1978 subsistence law to return urban hunters to the nonsubsistence category prior to the opening of the 1985 hunting season, the Board of Game would have no choice but to adopt the kind of hunting regulations about which Anchorage hunters are now so upset.

As a result, the Governor sent both houses of the legislature a bill (HB 288) which would have amended the definition of "subsistence uses" in the 1978 law to limit subsistence hunting and fishing to rural Alaskans. The

Board of Game then would have had authority to continue allocating hunting opportunities among urban hunters by lottery. Most importantly, it would have conformed the 1978 subsistence law to the intent of the majority of Alaskans who implicitly voted to provide a priority for rural hunters and fishermen when they voted against repealing the 1978 law back in 1982.

The bill would not have passed the House without the support of Anchorage legislators. The Anchorage House members who voted for the bill did so because they correctly perceived that their constituents would be hurt if the law was not amended.

Sadly, the House bill died in the Senate. But it did not die a natural death. It was purposely killed by a small group of Anchorage and Fairbanks senators acting at the request of groups such as the Alaska Outdoor Council. They knew that if the Senate did not act before the session adjourned the Board of Game's hands remained tied by the Madison decision.

So Anchorage hunters have every right to package their testimony at tomorrow's hearing in a justifiable anger. The Alaska Federation of Natives intends to do the same. But before venting that anger on the 1978 subsistence law, I hope they will first take the time to ask themselves who it is they should really be angry at.

□ Jamie Leask is the president of the Alaska Federation of Natives.

Sheffield: State can lose resource control

The Associated Press

If the state fails to protect subsistence hunting and fishing rights of rural Alaskans, the federal government won't flinch at taking control of fish and game resources, Gov. Bill Sheffield contends.

"A letter from the U.S. Secretary of the Interior is on the way" assuring state officials of Uncle Sam's readiness to take control, the governor said recently.

The Alaska Federation of Natives is urging the Interior Department to issue notice that the boards of fish and game will be required to act in accordance with federal guarantees of subsistence rights.

AFN acted on behalf of many rural Natives who say they rely on wildlife resources. The organization fears over-harvesting of fish and game by urban Alaskans.

Sheffield said he feared federal control of Alaska fish and game. "They'll do a lousy job of managing our fish and game," he said.

Both Sheffield and the AFN blame the state Senate for failing to pass a measure approved by the House last

session that would have returned subsistence regulations to a status quo lost when Alaska courts said the regulations were illegal.

The court action in effect allowed all state residents to claim they were subsistence hunters and fishermen.

That prompted the boards to adopt emergency regulations that shut out hunters out of many hunts.

Hunting groups are angered at the turn of events, and refuse to absolve Sheffield of a large part of the blame.

When the governor took office in late 1982, he promised to address the issue of subsistence hunting and fishing through a task force he formed.

But the task force has been deactivated without taking action.

Sen. Don Bennett, R-Fairbanks, who was instrumental in blocking Sheffield's attempt to return the issue to status quo, has said hunting and fishing organizations want the long festering dispute between urban and rural fish and game users finally addressed.

Subsistence battle lines

8-26-85
By BRUCE SCANDLING
The Juneau Empire

Battle lines over how Alaska's fish and game should be divvied up are forming again as angry urban sportsmen fight for better access and Native groups push to protect their subsistence rights.

Native leaders and Gov. Bill Sheffield are pointing their fingers at Senate leaders, claiming inaction on the issue has thrown the state into turmoil.

"We feel very disappointed by the lack of action," said Janie Leask, president of the Alaska Federation of Natives. "We feel that it has really put the state in a very difficult position.

"The whole subsistence issue is heating up again and we could possibly be getting into the same situation as 1982," Leask said.

That's when Alaskans — after a bitter and sometimes racially charged election campaign — voted overwhelmingly to retain subsistence rights for rural, mostly Native, residents.

An Alaska Supreme Court ruling earlier this year, however, changed the way fish and game resources are allotted.

The court overturned fish and game quotas crafted by the state and said the regulations were much stricter than lawmakers had originally intended.

Sheffield immediately introduced legislation to counter the court decision, seeking to retain fish and game regulations in effect before the ruling.

That measure narrowly passed the House, but later stalled when Senate leaders said they wanted more time to study the issue. Native groups say their traditional subsistence rights have been in jeopardy ever since.

To make sure rural Alaskans retain first crack at fish and game, AFN has asked federal officials to take over management of the state's fish and game if lawmakers don't pass laws guaranteeing subsistence rights for rural residents.

The state is violating a federal law

that says rural subsistence users should have first right to Alaska's fish and game, according to petitions filed by AFN.

The Alaska National Interest Lands Conservation Act, passed by Congress in 1980, said state officials can manage Alaska's fish and game — as long as subsistence rights for rural residents are protected.

The state is in non-compliance with that federal provision and will continue to be until some sort of subsistence measure is passed by state lawmakers, AFN said.

Meanwhile, Interior Department officials have said they could rule as early as next week on whether Alaska is currently violating ANILCA. But federal takeover would not come immediately.

"They have assured the state they are ready to take control if we don't get this squared away," said Pete Spivey, Sheffield's deputy press secretary. "They don't want to take over, but it is

form

their position that they could be required by law to do so (if officials determine ANILCA is being violated)."

Sheffield had some harsh words for Senate leaders over the weekend in a weekly radio report broadcast on many stations around the state.

"The Senate took no action on the bill, and that's why things are so out of balance today," the governor said. "The reason is simple: Without passage of that bill, the boards of fish and game were forced to write new regulations to protect subsistence."

Those regulations, for the most part, have denied hunting permits to many urban residents who had been allowed to hunt in the past.

In the Anchorage area, for example, permits for the popular Nelchina caribou hunt were awarded on the basis of whether applicants had hunted the herd in the past, where applicants lived and whether applicants needed the meat to support themselves and

Continued on Page 12

Subsistence

Continued from Page 1

their families.

Because of that criteria, many urban residents ranked well down on the list of applicants and didn't qualify for permits.

"Those new regulations have angered many people," Sheffield said. "Especially those in the urban areas who find themselves shut out of traditional hunting grounds."

Senate State Affairs Committee Chairman Mitch Abood, R-Anchorage, said public hearings on the

subsistence issue are scheduled Tuesday and Wednesday in Anchorage.

"The fact of the matter is all the hunters are upset," Abood said. "These new regulations almost have the earmarks of trying to punish the people because the Senate didn't pass the governor's bill. It makes me want to get right down to the nitty-gritty and solve these problems once and for all."

Abood said he hopes to introduce his own subsistence legislation as soon as lawmakers convene in Juneau next January.

Leask, however, said the Senate may not pass any legislation next year.

"Regardless of the hardship which

the Senate's refusal to act responsibly has caused, and will continue to cause for both rural and urban fishermen and hunters, it is unlikely that the Senate will pass (Sheffield's bill) during the 1986 legislative session."

Sheffield said people shouldn't think the federal government won't assume control of fish and game management in Alaska.

"Some people are trying to turn their anger on the federal subsistence law," he said. "They're trying to tell you we can ignore the law and the federal government will look the other way.

"Don't believe it, because I can tell you it's just not true," Sheffield said.

Subsistence anger needs redirection

Anchorage sport hunters are in an uproar over regulations restricting hunting opportunities, and with good reason. But much of their anger is misdirected.

They blame the state's seven-year-old subsistence priority law for the new regulations. The real culprits are state Senate leaders who could have prevented today's impasse by acting on a bill to clear up the confusion caused by a February Alaska Supreme Court decision.

That decision, the *Madison* ruling, classified all Alaskans as subsistence users, and subsistence users have first claim on fish and game in times of scarcity under the 1978 state law. Unfortunately, there is simply not enough game for everyone — rural or urban — who wants to hunt.

Before the *Madison* decision, limited local subsistence need would be met, with the rest of the game open to urban and out-of-state hunters. When hunters outnumbered available game, lotteries were held. But once all Alaskans were classified as subsistence users, the Board of Game was left to allocate the limited wildlife among an unrealistic number of subsistence hunters.

Many responsible voices, including the Joint Board of Fish and Game, warned of potential chaos. Gov. Bill Sheffield and the Alaska House of Representatives responded with a bill which clarified that subsistence applied only to rural residents. But State Affairs Committee Chair Mitch Abood and Senate President Don Bennett refused to move the House-passed bill from committee, despite warnings that today's bitter conflict would result. In a situation that called out for leadership, Senate leaders failed.

All Alaskans suffer from this new fight over subsistence. Old wounds from the defeated 1982 initiative to repeal the subsistence law are breaking open again.

Sport and subsistence hunting can — and should — co-exist. The House-passed bill would help accomplish that by restoring a sensible balance between sport and subsistence uses. Its passage should be the first order of Senate business in January.

ADN 8-27-85

Subsistence debate evaporates

By CRAIG MEDRED
Daily News reporter

By the time the Anchorage Chamber of Commerce debate on subsistence ended Monday, the discussion had become as bitter and vituperative as the issue itself.

Charges of liar, racist and manipulator were bandied between Don Mitchell, an attorney for the Alaska Federation of Natives, and Sam McDowell, a member of the board of the Izaak Walton League.

McDowell said the state

subsistence law is an unfair and illegal usurpation of the hunting privileges of urban Alaskans.

Mitchell said the law is a vital necessity to the survival of rural Alaskans who depend on fish and wildlife for food.

Each man accused the other of legal and political manipulations to bring the issue to a potentially explosive controversy in Alaska.

The battle over who should be allowed to hunt Alaska wildlife is essentially a prob-

lem of growth, said Mitchell.

"There are simply too many of us and not enough resources," he told the luncheon audience of several hundred. If the rural Alaska lifestyle is to be preserved, Mitchell said, rural residents must be given special privileges for the harvest of wildlife.

"Of course, the folks living off the land in the Bush are different from you and I," he said. "We are not entitled to equal treatment . . . We are

into bitter accusations

entitled to be treated fairly."

"You are being hoodwinked," McDowell answered. Everyone in Alaska has an equal right to harvest the state's resources, he said.

"You are being grossly mistreated," he told the audience.

He accused Mitchell and the AFN of trying to manipulate state politics to protect the hunting privileges of rural Indians and Eskimos at the expense of the urban whites.

Mitchell labeled the statement racist.

"This is the start of what is going to be, regrettably, one of the most divisive political seasons if this is not stopped," Mitchell said.

Urban hunters are enraged because this year they have been essentially eliminated from some of the state's most popular permit hunts for bison, dall sheep, mountain goats, moose and caribou.

The state Board of Game placed restrictions on those

who could participate in those hunts after the Alaska Supreme Court ordered subsistence users — those who harvest fish and game for food — be given a priority on the state's fish and wildlife resources.

Alaska legislators in 1978 passed a law giving subsistence users that priority, but the state Boards of Fish and Game had interpreted it to mean that only the relatively

See Page B-3, SUBSISTENCE

Continued from Page B-1

few people living out of reach of the Alaska road system qualified for subsistence.

The Supreme Court said everyone qualified, but local people — whether or not they lived on a road — should be given special privileges if game was in short supply. That forced the game board to devise a point system to determine which Alaskans would get hunting permits

that used to be awarded in a statewide lottery drawing.

The point system was intentionally stacked in favor of local and low-income Alaskans. It caused immediate controversy. Nobody likes the new rules because of the disension they have caused, said Mitchell.

He and the AFN are advocating amendment of state law to limit the subsistence priority to Bush residents liv-

ing out of contact with state roads. This, Mitchell contends, would defuse the controversy by substantially decreasing the number of people who qualify for subsistence — thus leaving some game available for harvest by sportsmen.

McDowell, and other sport hunters, argue the subsistence priority must be eliminated. They tried to do that by initiative in 1982 but failed.

The state Senate is to begin hearings today on how to change state laws to give rural residents the best chance of killing a moose or caribou for food, while still providing reasonable opportunities for urban residents to hunt.

The hearings before the Senate State Affairs Committee start at 1 p.m. in National Guard Armory on Spenard Road. They will continue this evening and Wednesday.

Committee Chairman Mitch Abood, R-Anchorage, said the Senate is interested in finding a solution to the subsistence battle that will stand the test of time.

"I'm not really interested in putting a Band-aid on this thing," Abood said.

"I don't like to hear the way either one of these gentlemen is talking," he added. "You can see this thing is on a short fuse."

SPK 8/27/84

reflect those of

Equal opportunity

A state legislative committee today began hearings in Anchorage aimed at unsnarling the complicated subsistence questions facing Alaskans.

It's a difficult task that will require patience and hard work from lawmakers as well participation from Alaskans.

In the aftermath of the Board of Game's struggle to achieve a fish and game management system under conflicting state and federal laws, few Alaskans are satisfied. Now, Anchorage Rep. Mitch Abood has scheduled public hearings as the first step in drafting new legislation.

The Anchorage hearings were to be held today and Wednesday. Another round is scheduled for Oct. 9 and 10 in Fairbanks.

"We hope to come up with some kind of legislation that will hold the problem down, correct the whole thing," Abood has said. That's a difficult job, for federal law requires that Alaskans grant a subsistence priority to rural resident and state law, as interpreted recently by the state Supreme Court, does not provide for granting the priority based upon rural residency.

Many Alaskans recognize that granting such a priority may be necessary in cases of genuine need for fish and game to subsist. But we also recognize that basing the priority upon rural residency creates a discriminatory situation where some persons may hunt and others may not simply because of where they live.

Alaskans are not willing to tolerate that inequity, which stems from the unreasonable requirement of federal law. That's the reason we asked legislators not to take the easy way out during the session and simply place the wording of the federal law into the state law. To do that would have been to perpetuate an inequity that isn't supported by the majority of Alaskans.

What we need to do now is to wipe the slate clean and write our own law based on what's best for the resources in question and the people of Alaska—not what's best for the federal government.

If we use that premise as a starting point, we should be able to draft a law that recognizes the need to give subsistence hunters and fishermen a priority in some instances, but provides for equal opportunity to the maximum extent.

Angry reaction to hunt permits

8-27-85

By BRUCE SCANDLING
The Juneau Empire

A new method of awarding permits for the Berners Bay moose hunt has angered some Juneau residents, state officials say.

"I understand there have been a fair number of calls," said Paddy McGuire, a state Department of Fish and Game spokesman. "Some people are claiming the successful applicants did not provide accurate information."

Fifteen Juneau residents last week were awarded permits to hunt moose in the Berners Bay drainage between Sept. 15 and Oct. 15. In all, 147 people applied.

That's the same number of permits handed out in past years, McGuire said. But new subsistence regulations written by the state game board have changed the way the permits are awarded.

Lucky hunters, in the past, won permits in a random drawing. Anyone could submit an application and hope for the luck of the draw.

This year — after new subsistence regulations were drafted by the game board in June — permits were awarded according to how badly applicants need the meat to feed themselves and their families.

Applicants were also asked where they live in relation to the permit area; whether they've successfully hunted Berners Bay moose in the past and

whether they had other resources to provide food for their families.

They were also asked if other game or fish is available to fill their subsistence needs.

Potential Berners Bay hunters, like applicants for all other permit hunts in Alaska, were ranked according to a point system. Hunters earned more points if they lived closer to the hunt area, claimed greater need for the resource, and had killed moose in past Berners Bay hunts.

McGuire said state officials are not likely to challenge answers from applicants about how badly they needed to kill a moose for meat.

"The (game) board said it would rely on people's own judgment about how dependent they are on the resource," said McGuire. "It's a totally subjective thing ... I can't imagine any prosecutor wanting to go to court with someone" who says he or she depends on the resource for food.

But he said other answers about where applicants live — and whether they have bagged moose in past Berners Bay hunts — can be verified by Fish and Wildlife officers.

According to the new rules, for example, only one permit was to be awarded to each household. The state ombudsman is apparently investigating a complaint that at least two of the 15 permit holders live in the same house, McGuire said.

Continued on Page 12

Permits...

Continued from Page 1

Fish and Game officials have also received complaints that five members of the same family won permits, according to McGuire. He said five of the 15 winners do have the same last name, but said they live at different addresses.

Meanwhile, a Fish and Wildlife officer said today no investigation of Berners Bay permit holders is under way.

"As far as general complaints about the permit process, that's not our bag," said Lt. Conrad Seibel. "But if we get information that someone provided false information, then we would look into that; that's something we

could substantiate."

A statement at the bottom of all applications says people who are convicted of providing false information could face up to one year in jail and a \$5,000 fine.

If Fish and Wildlife officers do receive complaints about the Berners Bay permit winners, Seibel said, they probably wouldn't have time to begin an investigation until the hunt is over.

Meanwhile, McGuire said the game board may again change its subsistence regulations — a joint meeting with the state Board of Fisheries is scheduled in January.

It also depends on what action state

lawmakers take in 1986.

"I think everyone would admit this is a one-time-only, stopgap system to get us through this year," he said.

The game board was forced to quickly devise new subsistence regulations after the Alaska Supreme Court in February said virtually all state residents could qualify to take fish and game for subsistence.

The court ruling also said random permit drawings were no longer a legal way to determine who could hunt for subsistence. McGuire said that's why the board had to ask the questions about residency, reliance on the resource and availability of other fish or game.

Fur flies over subsistence considerations

by John Knowlton
Times Writer

6/27/85

Opposing sides in the dispute over allocating the state's fish and game resources openly clashed Monday as each side accused the other of lying, of being manipulative and of making racist remarks.

The forum for the debate was the Anchorage Chamber of Commerce luncheon where Sam McDowell, national director of Izaak Walton League, and Don Mitchell, counsel for the Alaska Federation of Natives, presented vastly different views on the role of state in fish and game management.

The issue surfaced last February when the Alaska Supreme Court ruled that subsistence uses can't be restricted exclusively to rural residents. The effect of that ruling was to remove the flexibility from the state boards of fish and game in determining how to allocate the state's fish and game resources, officials said.

McDowell, an outspoken critic of subsistence hunting and fishing for native rural Alaskans, all but called for a repeal of the 1982 statewide vote in support of allocating the resources for subsistence uses.

He said the law can't work because its enforcement is too entangled in fish and game politics. He also alleged a "deal" was made by proponents of the law so that voters in Southeast Alaska agreed to support subsistence if rural native interests voted against moving the capital from Juneau.

McDowell, past chairman of the Alaska Fisheries Resources Committee, also said another deal was made where rural residents agreed to support legislation placing millions of acres of the state in parks and refuges in exchange for support of the subsistence ballot proposition.

He called Mitchell "a manipulator" of urban sportsmen's fishing rights and also accused Gov. Bill Sheffield of appointing "pro-rural, pro-Bush" members of the fish and game boards.

But Mitchell said McDowell has resorted to making "racist" statements to distort the issue



Sam McDowell

and confuse voters. He predicted this could become "one of the most divisive political seasons if this is not stopped immediately since Alaska has become a state."

Mitchell said the size of the state's population has doubled since statehood while the amount of fish and game hasn't. He noted that there are 1,800 caribou a year that can be taken from the Nelchina herd and that more than 10,000 people annually apply for a permit to hunt the animals.

He said residents don't have hunting and fishing "rights" but privileges. It's up to the legislature to determine how to allocate fish and game resources when there isn't enough to go around, Mitchell said.

He and debate moderator Bux Bonney called on the legislature to approve a bill which would give the fish and game boards authority they need to allocate resources to both recreational and subsistence users of fish and game. Legislation to do that was passed by the House last year but was stalled in the Senate.

Sen. Mitch Abood, who stopped the legislation in his Senate Affairs Committee, on Monday predicted the 11-member body would approve a bill with the new regulations this next session.

Subsistence dispute 'potentially explosive'

By CRAIG MEDRED
Daily News reporter

ADN
8/28

Angry, frustrated and resentful — sometimes confused — the people of Alaska came before the Senate State Affairs Committee by the dozens Tuesday to testify on subsistence hunting and fishing.

They told senators that a law intended to protect the wild food supply of Bush residents has sowed anger and frustration.

The result, said Janie Leask, president of the Alas-

ka Federation of Natives, is "a potentially explosive situation."

The tension could almost be felt inside the gray walls of the Anchorage National Guard Armory where people waiting to testify clustered in small groups with friends and maintained a comfortable distance from strangers.

Leask faulted senators for failing to pass a bill that would have limited subsistence privileges to rural resi-

See Page C-3, SUBSISTENCE

Subsistence hearing reveals frustration, anger with law

Continued from Page C-1

ents, but Ron Somerville, director of the Alaska Outdoor Coalition, said that couldn't have solved the problems of subsistence.

A state law approved in 1978 says Alaskans who hunt fish for subsistence — food to feed themselves and their families — have a priority on the harvest of fish and wildlife.

A state Supreme Court interpretation of the law this year said all Alaskans could be considered subsistence hunters and that sport hunts must give way to subsistence when game is in short supply. That led to the elimination of about 40 of the state's most

popular sport hunts for dall sheep, caribou, bison, mountain goats and moose.

The sport hunts have been replaced by subsistence hunts essentially limited to low-income, local residents of the hunting areas.

As long as the state has a subsistence priority law and subsistence criteria that allow large numbers of people to qualify for the preference, sport hunting will continue to be severely restricted, Somerville said.

The former director of wildlife for the Alaska Department of Fish and Game said a survey done by that agency in 1981 showed that in 143 of 216 big-game hunts across Alaska, local residents

alone were capable of taking all the harvestable surplus of animals.

What that means, he said, is that a redefinition of the state law to limit subsistence to rural residents would still lock urban Alaskans out of 67 percent of the hunts.

Many urban residents spoke out angrily against subsistence hunting privileges given rural residents.

The existing subsistence priority creates a class system "for Alaska's own apartheid law," said Bob Hunter, president of the Alaska Sportfishing Association.

"It's taken our people an awful long time to realize the intent of Western societies," said the representative of the

United Tribes of Alaska. The UTA is trying to take over the power to regulate fish and wildlife harvests in the Unalakleet area.

"We cannot afford social experiments anymore," Katchatag said. "We cannot afford to wade through and comply with all of the paperwork. We are not a paper-related society. I think it's time this is brought to a head."

Conservationist attorney Jeff Parker of Anchorage advised the senators to try to find a method to limit subsistence to the absolute minimum number of people.

The hearings continue today, beginning at 9 a.m. in the armory on Spenard Road.

Subsistence hearing heats up

By Debble Reinwand
Times Writer

8/28/85

Tempers flared and diverse opinions were aired at the opening Tuesday of a two-day legislative hearing on subsistence hunting and fishing in Alaska.

At one point, the meeting was recessed after an angry exchange between a participant and a senator.

Senate State Affairs Chairman Mitch Abood, R-Anchorage, gavelled down local activist Hank Ostrosky who labeled the hearings a "publicity ploy." When Ostrosky failed to yield to the senator's ruling that Ostrosky was speaking out of order, Abood briefly recessed the meeting.

The clash between the two was indicative of the sensitivity of the subsistence issue and the question of how the state's wildlife resources should be allocated.

Residents lined up primarily in two categories — those in favor of a subsistence priority for rural residents and those who prefer an equal opportunity for all residents to hunt and fish.

At issue is how the Alaska legislature should approach changes to the subsistence law. The present controversy was sparked by a state Supreme Court decision earlier this year that said the subsistence harvesting of fish and game should be open to all Alaskans.

The Supreme Court interpretation and a later appellate court ruling prompted the state attorney general's office to direct the Alaska Game Board to adopt emergency hunting regulations that set up levels, or tiers, of subsistence users.

All Alaskan residents qualify as Tier I subsistence hunters. However, for those

situations in which game populations can not meet the hunting demand — as with permit hunts — the state set up a Tier II point system that gives priority to low-income, rural residents who live in the area of the hunts.

To further complicate matters, proposed legislation that would have established new subsistence guidelines did not pass the Senate before adjournment, prompting Abood to schedule the bills for hearings while the legislature is adjourned.

Anchorage residents, representatives from special interest groups and visitors from neighboring towns attended Tuesday's afternoon hearings at the National Guard Armory.

Janie Leask, president of the Alaska Federation of Natives, asked the State Attorney General to see the hearing, page A-1.

affairs panel to pass a bill that would give the Fish and Game boards authority to regulate subsistence use, as was the practice before the Supreme Court ruling.

"We feel the subsistence law has worsened in the past and we strongly urge the Senate to move quickly to put an end to the current situation and to pass out legislation as quickly as possible next year," Leask said.

The Alaska Outdoor Council backs a system where subsistence permits would be issued to families with an income below the poverty level, said Ron Sommerville, the group's executive director. That system would distribute the state's resources more equally among rural and urban Alaskans, he said.

Those attending the hearings agreed the legislature must address the manner in which the state's fish and wildlife are allocated and also determine what groups should be allowed to harvest them. However, there was no agreement on how that might be accomplished.

An emotional issue, the discussion on subsistence hunting and fishing included testimony from rural residents like Fred Bismark of Tyonek, a life-long resident of the state.

"Subsistence means a lot to my friends and family," Bismark said. "I don't like the argument that it should be related to a poverty level. My wife and I have raised 11 kids and I've never been on welfare or food stamps. We existed because of subsistence."

Evelyn Hash Pete, another

life-long Alaska Native, brought the sovereignty issue into the hearings, saying lawmakers have no jurisdiction over subsistence harvests in the rural areas where tribes have declared themselves sovereign nations.

"Since I don't recognize the state of Alaska... as having any authority over our villages, I have urged my people to use our

resources wisely," Pete said. "I have four sons, all of whom I'm raising to be hunters. Subsistence isn't my lifestyle, it's my life and my ancestors' life. This isn't your issue," she told the state affairs panel.

Representatives from a myriad of statewide sportfishing and hunting groups spoke before the panel, including officials from

several Anchorage groups that recently conducted meetings on the subject.

Tim Stevens, chairman of the Anchorage Fish and Game Advisory Committee, said meetings by his organization show that those who attended are opposed to the current "Tier II" subsistence hunts. Under that system urban hunters have difficulty

qualifying, Stevens said. "We are asking for an immediate closure of the Tier II hunt in the Anchorage game jurisdiction," he said. "Under this scenario, all the people don't get a fair shake."

The split of opinion over urban and rural subsistence priorities prompted Anchorage resident Terrie Gottstein to testify that

not all urban residents are opposed to subsistence use being reserved primarily for rural residents.

Nearly 100 residents spoke up on the subject during the seven hours of hearings Tuesday. The state affairs committee was scheduled to continue discussing subsistence legislation this morning at the armory.

Few solutions offered at

By CRAIG MEDRED
Daily News reporter

8-29-85

Two days of listening to Alaskans defend and attack the state's 1978 subsistence priority law left Sen. Mitch Abood, R-Anchorage, almost as frustrated as the witnesses.

A lot of emotion was expressed at the hearings before the Senate State Affairs Committee, the committee chairman said Wednesday afternoon, but few solutions were suggested.

At issue is the question of who gets to catch fish and kill game animals in Alaska.

A state Supreme Court decision says all Alaskans qualify for subsistence privileges, but notes that if fish or wildlife are in short supply those privileges can be limited to local residents. Subsistence is the taking of fish and wildlife for food.

Since many areas of the state contain more would-be hunters than surplus animals, the Alaska Department of Fish and Game has instituted a permit system — called Tier II hunts — designed to insure local residents

qualify for hunting permits.

Spokesmen for sport hunting and fishing groups have assailed the new system as biased against their members.

Abood said he sees no easy way to resolve differences between mainly urban sport hunters and fishermen and predominantly rural subsistence hunters and fishermen.

But, he said, a few things are becoming clear to him.

Some definition of subsistence has to be devised that will exempt parts of the state from the subsistence priority as Alaska changes, he said. Otherwise, sport hunting and fishing will cease to exist, he said.

Abood is dissatisfied with Gov. Bill Sheffield's suggestion that the subsistence priority law — intended to allocate fish and wildlife resources to local residents — simply be restricted to rural areas.

The term rural needs to be better defined, Abood said. Ten years ago, he said, Soldotna and Glennallen were rural.

Spotting groups have opposed Sheffield's

subsistence hearings

idea as well. They have said they want a need-based subsistence priority, which would decrease the number of people who qualify for the priority.

Spokesmen for the Alaska Federation of Natives have said such a standard would violate subsistence-protection provisions of the Alaska National Interest Lands and Conservation Act. They have threatened to force the federal government to take over management of state fish and wildlife if such a program is implemented.

There are Tier II hunts for dall sheep, mountain goats and bison, attorney Jeff Parker told Abood's committee Tuesday, even though there had been no subsistence hunts for those animals in the past. Bison were transplanted to Alaska in the early 1900s.

Those animals should be exempt from the 1978 subsistence priority law, which was intended only to protect the food supply of rural Alaskans — people who often depend on moose and caribou for a year's supply of food, Parker said.

Game board moves hunts

ANCH NEWS 8/29/88

The Associated Press

FAIRBANKS — Responding to hunters' requests, the Alaska Board of Game has moved up several big game hunting seasons nearly two weeks.

Most of the hunts were scheduled to begin Sept. 21, but were advanced to Sept. 10. Hunters opposed the late seasons because caribou and

moose enter the rut toward the end of September. Meat from bulls taken during their mating season is typically tough and untasty.

The affected hunts are those which previously were permit hunts with winning applicants selected by lottery. This year, the hunts were reserved for subsistence users as determined by residency, need and customary use.

ADN 8-30-85

Hunt permits go unclaimed

Discouraged, confused urban hunters don't bother to apply

By HAL SPENCER
The Associated Press

Alaska hunters, apparently confused and discouraged by new subsistence regulations, left 338 hunting permits unclaimed this year.

The surplus is highly unusual, said Sterling Eide, southcentral Alaska regional game supervisor. "We almost never have permits left over," he said.

The unclaimed permits will not be made available to hunters, he said. "We're not really sure what's legal" and the time it would take to answer legal questions and re-issue the permits would be too great, Eide said.

The permits, set aside for Tier II hunts, ranged from caribou hunts in the Wrangell St. Elias National Park and Preserve to moose hunts in the Tyonek and Skwentna areas, Eide said.

"The main problem has been confusion. I think people felt they wouldn't qualify, and so didn't even apply," said Evelyn Bunch, who, with her husband Ken, runs a Glennallen-area air taxi service for hunters.

"There are several different hunts that did not fill," Eide said.

There were 4,855 permits available for the newly defined Tier II hunts, and

4,517 of them were issued.

The hunt with the greatest number of unfilled permits was in the Wrangell St. Elias National Park and Preserve, where 184 caribou permits went begging.

Both Eide and Bunch said there was not only confusion over who might qualify, but also whether the park service would allow aerial access to the park.

Eide said the National Park Service had indicated it would not, until Interior Undersecretary Bill Horn stepped in and the park service "saw the error in their ways."

Other "undersubscribed hunts" included a moose hunt in the Yakutat Forelands, with 35 permits left over; the Eklutna Lake archery moose hunt, 34 permits; the Eagle River archery moose hunt, 16 permits remaining; two late winter moose hunts around Tyonek and Skwentna, with a total of 55 unfilled permits; and three sheep hunts along the Canadian border north of the Alaska Highway, with eight unfilled permits.

"Although once in awhile some kind of hunt is not fully subscribed," this year's unfilled hunts is unprecedented, Eide said.

"This year we sent back money for

approximately 50,000 permit applications," he said.

After the board of game drafted emergency regulations creating a Tier II subsistence class for largely urban hunters, "We received back 8,701 applications," he said.

Although he said he had no way of knowing, Eide suspects hunters were confused by the new rules and so didn't reapply.

"Most people were pretty sure they wouldn't get a permit if they didn't live in the area. But that was not correct in areas that were undersubscribed. People didn't know what to expect, and they were hesitant to give us another five bucks."

Tier II hunts are those in which permits previously were issued by lottery.

The lottery was abolished after the Alaska Supreme Court ruled this year that even urban hunters could claim subsistence status, prompting the Alaska Board of Game to create Tier II hunts, the qualification procedure of which favored low-income, local residents of the hunting areas.

Rural residents take most permits

BY CRAIG MEDRED
Daily News reporter

Low-income, rural residents appear to have been the big winners in the competition for limited subsistence hunting permits this fall, according to an official of the Alaska Department of Fish and Game.

Permits to hunt in many of the state's most popular permit hunts went solely to residents of the hunt areas, said Sterling Eide, regional supervisor for the Division of Game.

All 55 Delta bison permits, for instance, went to residents of Delta Junction, he said.

Last year, 12,000 Alaskans paid a \$5 fee to enter a random drawing for those permits. Most of the permits ended up in the hands of hunters from Anchorage and Fairbanks, with only a few going to Delta and other areas.

The state Board of Game this year restructured the Delta bison hunt and more than 40 other permit hunts to ensure local residents got the best chances at a permit.

The board was forced to take that action after the state Supreme Court ruled the 1978 subsistence priority law should give local residents the first option on scarce wildlife.

Before this year, the permits were awarded by lottery.

Urban sportsmen have protested the new system arguing it denies them the opportunity to qualify for coveted permits for bison, dall sheep, mountains goats, caribou and, in some cases, moose.

The new permit system — which ranked hunters on a

See Page C-3, RURAL

Rural, low-income Alaska

Continued from Page C-1

point system for residency, income, past hunting success and dependence on wildlife for food — did not exclude all urban hunters, however, Eide said.

About 40 percent of the hunters who qualified for Nelchina caribou permits came from the Anchorage and Wasilla areas, Eide said. Another 40 percent of those permits went to residents of the hunt area, he said, and the

rest were spread throughout the state.

The Nelchina caribou hunt is one of the state's most popular big game hunts, annually attracting up to 14,000 applicants for about 4,000 permits. There were fewer than half that many applicants under the new system this year.

Overall, state officials said, permit applications were down from about 50,000 last year to fewer than 9,000 this year — apparently reflecting the opinions of many urban

sport hunters that they didn't have a chance of winning any of the 4,855 permits available.

The state charged a non-refundable \$5 fee to apply for the permits. In some cases, Eide said, the scores indicate it was impossible for urban residents to win permits.

All of the winners of Delta bison permits, for instance, scored between 85 and 90

points out of a possible 90, he said. The most an Anchorage resident could score was 60; city residents automatically lost 30 points for living outside of the hunt area.

Only 636 people applied for the bison permits this year, Eide said.

The state is still compiling an analysis of exactly who

qualified under the new system.

But Eide said return addresses on applications indicate:

- All of the permits for 50-inch or larger bull moose on the Kenai Peninsula went to Peninsula residents.

- All of the permits for Chitina bison went to residents of the Copper River

Basin.

- All permits for moose in Game Management Unit 13 — an area encompassing the communities of Cantwell, Paxson, Gulkana, Copper Center and Glennallen — went to residents of that unit.

- Almost all permits for cow moose in the Matanuska-Susitna Valley went to Valley residents.

Judge to hear subsistence case

By Gene Pagano

Anchorage-area men say they are being unfairly denied a chance to hunt game. They have sued the state, claiming its 1985 regulations created an illegal, specially favored class of hunters.

E. Bondurant of Eagle and Sam E. McDowell of Anchorage are seeking to stop the state from issuing any more permits under emergency regulations adopted by the Board of Game this summer. Their lawsuit comes before Superior

Court Judge Justin J. Ripley today, challenges a part of the new rules which give preference to applicants based on where they live.

"Neither the Alaska nor the U.S. constitutions will permit such discrimination," the lawsuit says.

The new rules stem from a 1985 Alaska Supreme Court decision in which the court ruled that when animal herds are dwindling and hunters must be limited to Alaska residents only, permits must be awarded based on three criteria: the availability of alternate food sources; the "customary and direct dependence" upon the hunted animal; and local residency.

The court left Board of Game members to figure out how the ruling would work, and the board drafted a point-based application form that gave equal weight — 30 points each — to the three criteria.

In determining local residency, the board awarded points according to how near applicants live to areas they plan to hunt. For example, the highest number of points is awarded for Zone 1, which includes people who live within the hunt area. Zone 2 includes applicants who live within the game management unit encompassing the hunt area, and Zone 3 includes those living adjacent to game units. Zone 4 includes everybody else, and the fewest points are awarded that group.

The new system replaces a lottery. Bondurant and McDowell claim the method grants special hunting privileges to Zone 1 residents, such as Department of Transportation Workers, lodge owners, em-

ployees of the Federal Aviation Administration, Department of Fish and Game biologists, state troopers and others who live in the remote areas where they work.

Hunters, especially those from Alaska cities who believe they are being denied permits based partly on their Zone 4 status, have loudly and steadily objected to the new rules. However, the lawsuit by Bondurant and McDowell is believed to be the first to challenge the zones.

"It's an asinine way to do things," said Bondurant, a retired Fort Richardson automotive machinist who says he has hunted and fished for the past 30 years.

"All they're doing is counting points," he said. "I asked the state to go back and check my records, and they're not even available. They don't even have anyone verifying the answers."

Applicants are asked to estimate how much of their family's food needs are met by hunting. Lying on the application is a misdemeanor, punishable by a \$5,000 fine, one year in prison, or both.

Dan Timm is the Department of Fish and Game's Regional Management Coordinator based in Anchorage. He said Wednesday that the state will begin verifying answers — but not until late fall, after hunting season is finished.

"This is creating bad problems in some of the smaller towns, where everybody knows everybody else," said Timm. In one town, he said, high-ranking

city officials and a prominent resident all have been awarded permits, making locals wonder about the truthfulness of the applications.

"We're getting a number of calls from some pretty upset people," said Timm, adding that some suspiciously high-scoring applications will be pulled for investigation.

"This was a good-faith first attempt," he said. "I think the board might learn that next time they'll do things a little different."

Ruling on hunts due soon

Judge hears urban hunters' challenge

9/6/85
By CRAIG MEDRED
Daily News reporter

Anchorage Superior Court Judge Justin Ripley expects to decide by next week whether winners of state permits for caribou, moose, bison and mountain goats will be allowed to hunt.

Seasons for many of the special permit hunts open Tuesday.

Anchorage-area hunters Dale E. Bondurant and Sam McDowell have challenged the permit hunts, arguing the system used this year to decide who gets to hunt is illegal.

Ripley listened Thursday to arguments on whether the hunts should be postponed.

McDowell and Bondurant contend a new permit system favoring local and low-income residents is unfair and discriminatory.

Attorneys for the state say new permit regulations are intended to comply with a state Supreme Court ruling that Alaska law gives local hunters preference.

Don Mitchell, an attorney for the Alaska Federation of Natives, argues the case should be tossed out of court because neither McDowell nor Bondurant can show they will be harmed by the new regulations. The AFN has intervened in the case to protect the hunting privileges of rural, subsistence hunters.

There is no guarantee McDowell or Bondurant would have won permits under the old system, Mitchell said, so how can they argue they were harmed by the new system?

McDowell and Bondurant contend the new system denied them any chance at a permit, whereas the old system at least provided them an opportunity.

Until this year, permits for the state's most popular hunts were awarded by random drawing. There were many hunts for different types of animals across the state, but hunters were allowed to apply for only one permit per type. They paid \$5 per application.

This year the state Board of Game scrapped that system in favor of a plan that award-

Continued from Page C-1

ed permits to Alaska residents on the basis of where they lived, how much they needed the animal for food and how much money they made.

The new system was designed to insure low-income, rural residents obtained most of the permits. State officials say they were required to set up such a system after the state Supreme Court ruled state law guarantees local subsistence hunters a priority over other Alaskans if wildlife is in short supply.

Subsistence was defined by the court as the harvest of

fish or wildlife for food. The interpretation forced the state to rewrite most of its hunting regulations.

The only sport hunters left in Alaska under the new regulations are nonresidents. All residents are considered subsistence hunters.

Many hunts remain open to all hunters — even those from urban areas — but hunters had to score points to win permits for the popular hunts.

Most of the permit hunts were established over the years to limit the number of hunters, according to Alaska Department of Fish and Game officials.

Permit hunts, for instance, control how many people can hunt on the Kenai Peninsula for trophy moose with 50-inch or larger antlers, or in the Delta area for bison transplanted to the state early in the century.

In both instances, according to state wildlife biologists, there are small numbers of animals that could be killed and large numbers of people who want to kill them.

Several thousand people have annually applied for the Delta bison permits over the past few years, even though each person had a less than 1 percent chance of getting a

permit, according to state statistics.

Overall, approximately 50,000 applications were made for 4,500 permits in 1984, according to Fish and Game, so applicants on the average had a less than one in 10 chance of getting a permit.

This year, according to state wildlife biologist Dan Timm, there were only 8,701 applicants for 4,517 permits. It appears some hunters did not want to pay the \$5 fee to apply for permits because of the belief their chances of getting a permit were nil, state wildlife biologist Sterling Elde said.

Fish and Game refuses plea to close subsistence hunting

by Bill Sherwonk 9/7/85
Times Outdoors Writer

Alaska Department of Fish and Game Commissioner Don Collinsworth has denied a request that 1985 Tier II subsistence permit hunts in Southcentral be shut down.

In late August, Anchorage Fish and Game Advisory Committee chairman Tim Stevens sent a letter to the commissioner, asking Collinsworth to enact an emergency closure of all Tier II hunts within the committee's jurisdiction, which includes Game Management Units 13, 14 and 16.

Stevens contacted Collinsworth following an emergency

meeting of the advisory committee, attended by 150 angry urban hunters. Nearly all those present at the Aug. 19 meeting supported a closure of the Tier II hunts; following nearly four hours of public testimony, the committee voted 6-5 to request that the hunts be stopped.

The commissioner's response — as Stevens had anticipated — was "no."

"We can understand (the Anchorage Advisory Committee's) position and appreciate their frustration, but we can't make an emergency closure of a hunt unless the stock, species or game population is immediately threatened by the hunt," ADF&G Dep-

uty Commissioner Jim Ayers said Friday.

Ayers spoke for Collinsworth, who was on a trip with Gov. Bill Sheffield.

"The law is specific; there has to be a biological reason to order an emergency closure," Ayers added. "Our biologists have reviewed the request and informed the commissioner that there is no such biological reason. The standards — which were set down by law — have not been met, so we had to say no. The hunts will not be closed by emergency order."

Ayers also said that the commissioner's office "understands

See Tier, page A-8

Tier II hunting to continue

Continued from page A-1

that the committee was trying to make a bold and clear statement in opposition to the (Tier II) hunts; but we can't use an emergency order to make that kind of statement."

The 1985 Tier II subsistence permit hunt regulations were enacted by the Board of Game this summer, in response to rulings made earlier in the year by the Alaska Supreme Court and a state appellate court. The new regulations have set up a permit

hunt system that gives priority to those Alaskans who live in the immediate area of the hunts and who can demonstrate "dependence upon the resource."

Anchorage-area hunters have complained that the regulations discriminate against urban residents and have attempted to start an "equal-rights" movement to change the new rules.

A letter explaining Collinsworth's decision was sent to Stevens on Friday. Ironically, Stevens was out of town — on a hunting trip. But last week, before leaving Anchorage, Stevens

had criticized the commissioner for "inaction" on the request.

"I'm a little torqued," Stevens said. "(Collinsworth) didn't even have the courtesy to acknowledge receipt of our request. They've said nothing. Even if they tell us no — for whatever reasons — it shows that they're at least recognizing us."

"Our advisory committee represents the largest population in the state, but we have the least impact of any committee. This is just another example of the way we're treated."

Judge puts subsistence case on hold

by Rosanne Pagano

Times Writer

9/12/85

A Superior Court judge ruled Wednesday that hunting in Alaska should not be immediately halted until a lawsuit filed by two Anchorage-area hunters can be decided.

In his brief decision, Judge J. Justin Ripley rejected a request by Sam E. McDowell and Dale E. Bondurant, long-time hunters who have been denied 1985 game permits under emergency regulations adopted this summer.

Ripley reportedly read his order into the court record shortly after 9 a.m. Neither McDowell, Bondurant, nor attorneys for either side were present.

Ripley's order does not state why he rejected the request for a preliminary injunction; however, the main issue was whether the men would be "irreparably harmed" if the hunt was allowed to proceed.

In response to a Department of Fish and Game questionnaire, both men have stated that they are "moderately dependent" on hunted game. The men have sued the department and the Alaska Board of Game claiming that emergency regulations adopted this year because herds are smaller have illegally created a special class of hunters, with privileges based on where they live.

That lawsuit will continue. Reached at his Cooper Landing home, Bondurant said he was disappointed in Ripley's decision.

"But we've been disappointed before," he said. "We're fighting the state, the Alaska Federation of Natives and a lot of money." Last week, Ripley allowed the AFN to enter the lawsuit on behalf of natives who had received 1985 permits to hunt.

The new rules use a point system to award permits when there are fewer animals and hunts must be limited to Alaska residents only. The permits, which replace a lottery, are awarded based on three criteria; the availability of alternative resources (such as other food); the "customary dependence" upon

Asking for trouble

LET'S ADMIT right up front that we are not experts in fish and game management. Having acknowledged that, let's also say we view as one of the most troubling aspects of the Berger report the recommendation that native tribal units should take over management of fish and game resources in areas where he says they should have sovereign jurisdiction.

The words relating to tribes and sovereignty are those of Justice Thomas R. Berger, a retired Canadian judge. For the last decade or so he has made a career of holding hearings in native villages in Alaska and Canada and writing reports about what people say they want.

Hired by the Inuit Circumpolar Conference, an organization that occasionally seems to favor the creation of an independent nation in arctic regions of Canada, the United States, Scandinavia and the Soviet Union, Justice Berger completed a many-months series of hearings in Alaska with the issuance of a 200-page draft report on Tuesday.

AMONG HIS proposals was the one relating to fish and game management.

From a layman's viewpoint, he came up with a looney idea — one that would ill serve the natives of Alaska and raise enormous resentment and acrimony all across the state.

Inevitably, such a proposal, if even pursued in a public forum, will raise the issue of racism, precisely the very thing that thinking native and non-native people want to avoid. At a time when subsistence hunting and fishing laws are a divisive issue, his recommendation would simply throw gas-

Quite apart from such grave concerns, the Berger recommendation hardly seems, in our non-expert view of fish and game management, to propose a sensible or rational method of dealing with any renewable resource. Fish and game simply cannot be managed as though they exist in isolated pockets of the state, unrelated to other areas.

The Berger proposal flies in the face of the natural resource provisions of the Alaska Constitution, one of which is: "The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the state, including land and waters, for the maximum benefit of its people." Further, says the constitution: "Wherever occurring in the natural state, fish, wildlife and waters are reserved to the people for common use."

A FRACTURED system of fish and game management, with many jurisdictions setting rules and regulations, almost certainly would guarantee disaster.

From a native standpoint, were such a system in place under autonomous and above-other-law tribal governments, separate treaties might be required to administer even the most rudimentary of cooperative management programs.

For example, what would prevent one sovereign village at the mouth of a salmon-spawning river from putting a net across the waters and taking every fish? There would be nothing left for the next sovereign village 50 miles upstream.

Maybe this makes sense to Justice Berger. But surely no responsible Alaskan — native or non-native — thinks that way.

Hunters confused by regulations book

The 1985 Alaska Hunting Regulations book was designed to clear up confusion about the Alaska Board of Game's new

emergency hunting regulations. But since copies of it arrived in Fairbanks two weeks ago, they've caused nothing but con-

fusion, said Cathie Harms, Department of Fish and Game public information officer.

"We've been getting calls from confused hunters ever since we started handing them out," Harms said.

The seasons and bag limits section seems to be the area causing the greatest confusion, Harms said.

For the past several years, these topics were addressed in one section entitled "hunting seasons and bag limits." This year, there are two seasons and bag limits sections—one for general hunters and one for subsistence hunters.

State residents should refer to the section earmarked for subsistence hunters, since all peo-

ple who have lived in Alaska for at least one year are now considered subsistence users.

The subsistence section, printed on gray paper on pages 57-87, contains the season dates and bag limits for every hunt state residents are qualified to hunt in, including general hunts, Tier I hunts and Tier II hunts.

State checks hunting permits for honesty

ANCHORAGE (AP)—State game officials are checking the truthfulness of questionnaires used to award 1985 hunting permits, but one official says the hunting season may be over before any falsified applications are discovered.

"Our highest priority was getting permits into the hands of people so they can go hunt," said Paddy McGuire, spokesman for the Alaska Department of Fish and Game. "The second priority was seeing if applicants were being honest."

Investigations began after hunters who had been denied permits questioned the truthfulness of applications filed by others who had been awarded permits.

At least four applications now are being investigated, including those of two Juneau residents with the same last name, McGuire said. Regulations limit applications to one per household.

The permits were issued under emergency regulations passed this summer by the state Board of Game. Applicants had to answer a two-page questionnaire that asked how much they depend on game for food, if they had killed big game before, if they could afford to buy food instead, and how near the hunting area they live.

Giving false answers is a misdemeanor punishable by a maximum fine of \$5,000 and one year in jail. "We thought that was enough of a deterrent," McGuire said.

Nobody checked to see if any of the 8,701 applicants were being honest before granting the permits, McGuire said. "If we had to review all those, permits still wouldn't be out," he said. The state issued 4,517 permits.

One applicant, Cordova resident Bob Blake, said the questionnaire leaves too much room for creative answers.

Mixing land with people led to subsistence issue

The "subsistence issue" has become so polarized that it is dividing Alaskans into two warring camps. This unforeseen outcome of a highly idealistic concept is distressing to all of those who supported the protection of subsistence rights as a part of the Alaska National Interest Lands Conservation Act.

The genesis of the concept of a partnership between the supporters of new and expanded national conservation units and the Natives and rural-based white settlers who depended upon subsistence resources as an integral part of their domestic economy may be traced to the writings of Raymond F. Dasmann.

I realized this recently when I was called upon to explain the elements of the subsistence struggle to an intelligent and concerned Alaskan visitor from back east. She had just returned from spending time in Eagle, and also visiting some of the young people living off the land along the Yukon River and its tributaries near Eagle. (Some of them were written up by John McFee in "Coming Into the Country.") I used Dasmann's writings to unravel some of the beginnings of subsistence.

Dasmann presented a paper entitled "National Parks, Nature Conservation, and 'Future Primitive'" to the South Pacific Conference on National Parks in Wellington, New Zealand in February 1975. He was then senior ecologist for the International Union for the Conservation of Nature and Natural Resources, based in Morges, Switzerland.

He traced the history of the national park movement from its beginnings in the setting aside of Yellowstone National Park in 1872. He also noted that 40 years earlier, a prominent artist of the Wild West, George Catlin, had been terribly disturbed by the destruction of the bison and the Indian culture dependent upon it. To preserve both, Catlin had advocated the creation of a vast park encompassing the entire Great Plains. Catlin's park would have left both the people and the wildlife undisturbed to pursue their entwined destiny.

But this was not to be, and conservation efforts concentrated on protecting limited wild areas as havens for the natural flora and fauna, but devoid of people. As Dasmann muses, "But is there not cause to wonder that it was



Celia Hunter

Views expressed here do not necessarily represent those of the Daily News-Miner

accepted that those lands outside the national parks were going to be beaten and battered, or used in such a way that any hope for the survival of wildlife in their vicinity was to be considered an idle dream? Is it not strange that it was taken for granted that people and nature were somehow incompatible, and that the drive for profit or power must take precedence over any concern for the kind of world in which people will live?"

One of Dasmann's contributions to the thinking about aboriginal peoples and their plight when they encounter the dominant technologically oriented white culture is the classification of all people as either ecosystem people or biosphere people.

The first includes all indigenous, traditional cultures; the latter, those peoples tied in with the global technological civilization. He points out that ecosystem people usually live within a one or two ecosystems, upon which they are completely dependent for survival. This is also termed "obligate subsistence"—the starting point of the continuum of subsistence which culminates in total independence from direct connection with the natural world.

Biosphere people draw their support, not from the resources of any one ecosystem, but from the entire biosphere (in short, the whole world supplies their needs). As he points out, "Biosphere people can exert incredible pressure upon an ecosystem they wish to exploit, and create great devastation—something that would be impossible or unthinkable for people who were dependent upon that particular ecosystem."

He pursues this thought by pointing out that biosphere people are the ones who create national parks, but that ecosystem people have always lived in the equivalent of a national park. In the past, when biosphere people sought to pre-

serve an area, it was accepted that any ecosystem people therein would be removed, with disastrous consequences to those people.

His proposition, which has been embodied in ANILCA, was that "the rights of members of indigenous cultures to the lands they have traditionally occupied must be recognized, and any plans for establishing parks or reserves in these lands must be developed in consultation with, and in agreement with, the people involved."

This, then, was the philosophical basis for protecting subsistence rights within the newly created conservation units. It is a misfortune for all Alaskans that the process of administering subsistence usage has become so divisive and seemingly without a peaceful resolution.

Each player in the resultant contest over the allocation of fish and wildlife seems intent on establishing his individual priority without much regard for the overall well-being of the resources which are at the heart of the struggle.

Dasmann has a certain pessimism as he contemplates the "real world." As he notes: "I cannot see much hope for the future of either parks or people, unless some of the old sense of belonging to the natural world, of being a part of nature, and not hostile to it, is restored."

The "future primitive" which he and other thinkers envision as a new, mature ecosystem—stable, diverse, in symbiotic balance again—may instead turn out to be a return to a "past primitive" of Stone Age peoples setting out once again on the long, slow trip toward their future—after they have "destroyed the earth in order to save it."

Celia Hunter is a former wilderness camp owner and its chairman of the Board of Trustees of the Alaska Conservation Foundation. Hunter's column was published on Saturday this week only and will resume its normal publication schedule every other Thursday on Thursday, Aug. 15.

'False' subsistence claims to be checked

By CRAIG MEDREN
Daily News reporter

State officials are investigating the possibility that about 30 of 8,000 applicants for subsistence hunting permits lied about their residency, income or past hunting experience, officials of the Alaska Department of Fish and Game said Friday.

Hunters this year competed for permits by filling out questionnaires about their historic use of wildlife and their dependence on it for food.

Hunters who lied on applications could be charged with misdemeanors punishable by

9-15-85
a maximum fine of \$5,000 or one year in jail, said Paddy McGuire, a fish and game spokesman in Juneau.

But Sterling Eide, the agency's regional wildlife supervisor in Anchorage, said some answers could be open to broad interpretation.

The state Board of Game, in establishing the questionnaire by emergency order late this summer, refused to set income guidelines for questions dealing with dependence on the resource or availability of alternative resources.

Hunters were left to indi-

See Back Page, SUBSISTENCE

Subsistence hunting application claims to be investigated

Continued from Page A-1

vidually decide whether they were heavily, moderately, slightly or not dependent. The greater their dependency the more points they scored.

"In nearly every case (under investigation), there were public complaints related to levels of income being so high they shouldn't have scored as high as they did," Eide said. "That is what most of the complaints are about."

"People called in and said, 'I don't think so and so should have gotten a permit,'" McGuire said. "I think the board recognized that this is an extremely difficult thing to pin down."

"The income question is a tough one," Eide added. "I don't know how we can look at it."

The Alaska Federation of Natives and other groups have opposed a definition of subsistence based on income. They argue that poverty shouldn't be a prerequisite for subsistence.

McGuire said there were also a few permits red-flagged

because of apparent claims of past hunting in closed areas or because of "discrepancies related to residency."

"We found some people who have residences that are not where they claim them to be," Eide said. Place of residency accounted for 30 of the 90 points on the questionnaire.

In another case, Eide said, a family apparently received six permits. Permits were to have been limited to one per family.

In 15 additional cases, hunters received more than one permit, he said. They were to have been limited to one.

Only one complaint involved an Anchorage hunter, Eide said.

All of the questioned permits have been turned over to troopers with the state Fish and Wildlife Protection Division.

Eide said fish and game, the agency which administers the permit hunts, also plans to select some permits for further study at the end of the year.

"We want to go through and select about 50 at the end of the season of people who have probably done something wrong," said Eide.

Those selections might include hunters who never killed an animal in the hunt area, but claimed to be highly dependent on the wildlife there.

"We need to know whether that sort of question is valid in the future," Eide said. "I agree it's a subjective decision."

The AFN is advocating that the state return to a law that restricts subsistence to Bush residents. The state Board of Game had limited subsistence in that way until this spring when the Alaska Supreme Court ruled all Alaskans were entitled to a subsistence priority established by the legislature in 1978.

The ruling ended sport hunting by Alaska residents. It made them all subsistence hunters and forced the board to set up criteria for qualifying for permit hunts.

Hunters historically competed for sport-hunting per-

mits in a random drawing, but the attorney general rejected that system in the wake of the Supreme Court ruling.

Current regulations leave many areas of Alaska open to all hunters — with no need for special permits. But many sportsmen remain enraged at the changes in the popular permit hunts.

Two Anchorage-area hunters have filed suit against the new system. The suit is pending.

McGuire said hunting seasons likely will be over before the review of the questioned permits is finished. No effort was made to screen the 8,701 applications for truthfulness, he said.

"Our highest priority was getting permits into the hands of people so they can go hunt," McGuire said. "The second priority was seeing if applicants were being honest. If we had to review all those, permits still wouldn't be out."

The state issued 4,517 permits. Many of the hunts started Tuesday.

TIME 9/15/85

Subsistence statement released

Indicating support for actions taken by the Alaska Board of Fisheries prior to the state Supreme Court's Madison decision of last February, the Alaska Sportfishing Association has released a six-point position statement on the subject of subsistence, as it relates to fisheries.

"We hope these six positions can be adopted as an amendment to the state's subsistence statute," explained ASA Executive Director Russ Redick, formerly the Southcentral regional supervisor for the Sport Fish Division of the Alaska Department of Fish and Game.

"We plan to work with legislators to seek enactment of such an amendment, as well as continue to work closely with the Board (of Fisheries) on this highly controversial subject," Redick added.

The first step in working with the legislature came recently when Bob Hunter, past president and current legislative coordina-

tor for the ASA, presented the group's position statements as testimony at Sen. Mitch Abood's Senate hearing on subsistence.

The ASA represents 1,150 individual and 80 business members statewide, although most of the anglers live in the Cook Inlet area, Redick said.

"That's part of the reason we're concerned," he said. "Cook Inlet sport fisheries need to be managed very carefully as they take the greatest pressure from residents and visitors alike."

The ASA's six-point position statement follows.

- Subsistence harvest should be based on meeting the protein needs and, in some cases, significant cultural needs of the harvesters. One species should be interchangeable with another comparable species and harvest should occur on those species most abundant and best able to withstand the harvest.

- Certain areas exist where the fishery resources are so sen-

sitive that the efficient harvest methods associated with subsistence fishing (i.e., gill nets) would destroy those resources. The Board of Fisheries must continue to have the authority, upon a formal finding of fact, to close such areas to subsistence fishing while still allowing less efficient methods of harvest, such as sportfishing with pole and line.

- The definition of subsistence gear in AS 16.05.940(22) is proper and should not be amended. That definition does not normally allow pole and line to be used as subsistence gear.

- A set of personal-use fishing regulations is needed to allow the harvest of fish when they occur in numbers exceeding escapement and commercial/consumptive needs.

- Rainbow/steelhead trout shall not be subject to a subsistence priority. The Board of Fisheries shall continue to have the authority to allocate the harvest of this species to any user group without priority on a case-by-case basis.

- Subsistence fishing in Cook Inlet waters should be limited to the areas adjacent to English Bay, Port Graham and Tyonek as previously designated by the Board of Fisheries. All other non-commercial net fishing in Cook Inlet should be conducted under

personal-use regulations.

"The last statement is the only recommendation of ASA relating to a specific area of the state," Hunter noted. "We must face the fact that Cook Inlet is unique. More than half the state's population resides in this drainage and most of these people have access only to Cook Inlet fishery stocks. According to Fish and Game data, some 140,000 anglers and several thousand commercial fishermen use Cook Inlet fisheries — in addition to persons wishing subsistence fishing privileges.

"We have no objection to continued subsistence harvests by any Alaskan in the three communities originally set aside as subsistence communities," Hunter added. "However, in basic fairness to all Alaskans living in the Cook Inlet area, and to avoid the inevitable future chaotic controversy associated with priority-mandated gill-net fisheries, subsistence fishing should not be permitted in the remainder of Cook Inlet."

Redick emphasized that the group believes gill-net or dip-net fisheries may be desirable in certain times and sites in Cook Inlet, but ASA believes that it is critical that these fisheries be permitted on a non-priority basis under personal-use regulations.

Subsistence is more than food

By VERNITA ZILYS

I am often asked what "subsistence" is. I have yet to think of a brief way to answer. In the months since the *Madison* and *Eluska* court decisions were handed down I find that, in addition to defining subsistence, I must increasingly defend its very practice.

It is comforting to me that often people who are not familiar with subsistence will take time to read the volumes of information available on the subject, and when they understand what it is, agree that subsistence uses of Alaska's fish and game should have priority over all other uses. I take care to say "uses" because the use of the word "users" provokes argument and tension.

For 10 years of my life I lived in Unalakleet. I took back on those years with mixed feelings. A part of me wishes that I could raise my children the way I was raised: to relish fresh meat, fish and other foods the family took from the land. A part of me protests that the way we lived is no more and my children must be raised to survive in the city, in the age of technology.

I have made a decision to abandon the subsistence lifestyle, but there are thousands of people out there who have either chosen subsistence, or who wish to continue to live as their ancestors did.

Subsistence is not a paper-cutout sort of issue. There are more sides and subtle aspects than anyone can recognize. One looks at the taking of a moose, for instance. What you do is get in a boat and go into the wild land, because that is where the moose are. You may walk for miles and come back empty-handed or you may shoot a moose and bring it down. You do the grisly job of skinning and butchering and the grunt work of hauling the meat back to the river. You go home and you eat the moose.

Is that subsistence? Yes, I say, but that is not all there is to subsistence.

In my family there were seven children. I would say that during the time I was growing up, 90 percent of the food we ate came from the land and the waters. We ate plain dried fish, smoked fish, boiled fish, half-dried boiled or baked fish, fish dried and preserved in a barrel of seal oil, fresh fish roasted or fried, and pickled fish. The fish came from a net set in the river, and my mother and sisters spent hours cleaning fish, filleting fish, hanging fish to dry or smoke.

And that was just fish.

Many families still spend the long summer days setting nets and checking them, hauling fish and processing it. They reap the harvest and in the winter, they survive. The fish is memories of summer and familial togetherness — and it is high quality nutrition. It is not only good for the body, it tastes like heaven.

Compare this food with the cellophane wrapped seafood at the local supermarket, which is undoubtedly good for you but just not up to the standard of one who grew up eating fish minutes out of the water. There IS no comparison to be made. Then compare the fish I grew up eating to the food I am now accustomed to eating, which often tastes great but which may not be so good for my health: potato chips, for instance, or beef that comes not from the land but some high-tech industrial farm.

The most difficult aspect of subsistence to explain is how taking food from the land can form the underpinning of a whole culture. During the subsistence repeal effort in 1982, the idea that something more than nutrition is derived from fish and game was scoffed at by many opponents of the subsistence priority. They dismissed the concept that the acts of hunting and



fishing and eating could become so thoroughly ensconced in a group of people that the would not be who they were without those acts.

Well, I have begged to differ so often that it has become almost reflex for me to refuse to attempt explanation. My memories of life in Unalakleet are clear, and for a long time it was enough that I understood this concept.

find myself able to describe certain things that my parents did, which values they were their parents.

A family was like a moose. The moose was butchered, was stored in the exclusive family, not merely in the peo dinner. Anyone who the house left w

More than food — It's a way of life



piece of meat. Certain people — widows, someone disabled, the elderly — did not have to stop in for their meat. My mother sent us over to their home with it.

The feeling I remember was that food always tasted better if you had shared your bounty with others. Not for charity — not to reciprocate: I never got the idea that the principle of "I give you and you give me" was at work. What I received from watching and participating in this exercise of sharing was a value — the virtue of sharing put in practice.

Being on the land with my parents gave them another opportunity to show us the practice of our culture's values. I always feel a little self-conscious about trying to explain how respect for the land was instilled in me. It is the same kind of embarrassment I feel explaining my religious beliefs, and for good reason: respect and reverence for the land, even a deep LOVE for the land amount to the religion of Inupiaq people.

One does not harm the land, or deface it intentionally. We receive tranquility and beauty and a marvelous feeling of well-being. Say "subsistence" to me, and in my mind's eye I see the people on the land. I think of growing up so close to the land that even in the city, where I am surrounded by concrete and noise and crowds, I look to the land I CAN see: the mountains, the water. I look at the sky every morning and every evening while I am walking and I wonder how anyone could believe that when one's very life revolves around the practice of getting food from the land, the food is all that counts.

As long as there are people who continue to rely on fish and game for their livelihood and their identity, there must be a subsistence priority. The words in the 1978 statute, to the effect that subsistence constitutes the "highest and best use" of fish and game,

were not spoken or written idly. Eons before man thought he wanted to get a fish for the record books or to mount in his den, millennia before the dollar was invented, subsistence was the only way of life, and the taking of fish and game was ALL for the purpose of survival.

Now that competition for our natural resources is increasing, those who continue to live the old way are finding that only a few people see any reason for them to persist. After all, the miracles of technology are bringing our remote villages to the brink of the 21st century. There is sharp criticism of adaptation of modern tools and equipment, even guns, for the taking of subsistence resources. I say this is just the way a culture survives. I believe that subsistence deserves a priority over other uses no matter what weapons are used to take game.

My job requires me to take political positions on issues such as subsistence. Often, it is difficult for me to separate out the process of taking such stands from my broader viewpoint as an ex-villager. Subsistence has been an issue that has provided me with insights into how others see me and other Alaskans. At times I have not been able to keep from weeping — as a Native first, then as a person not always able to stay unemotional and calm — while strangers dissect, examine and criticize people and practices made real to me by a lifetime of exposure and participation.

I hope that as debate on this topic continues to heighten and advance, a genuine effort will be made to determine the value of subsistence, not just as an economy, but as a way of life.

□ Vernita Zilva is subsistence and natural resources director for Rural Alaska Community Action Program Inc.

and eating could be thoroughly ensconced up of people that the not be who they were those acts. I have begged to differ that it has the one reflex for me to refuse npt explanation. My is of life in Unalak-clear, and for a long was enough that I ood this concept. I

find myself able only to describe certain things my parents did which hint at the values they were taught by their parents.

A family was lucky and got a moose. The meat was not butchered, wrapped and stored for exclusive use by that family, nor did they merely invite people over to dinner. Anyone who came by the house left with a large

Act and any other existing law, including this Act) with regard to selection and transfer of any federal lands located within conservation system units, national forests, the National Petroleum Reserve-Alaska, or any other lands withdrawn or classified for Federal purposes, including military reservations.

Further, it is clear that Section 908 does not have the effect of enlarging or diminishing the State's entitlement to receive federal lands under the Alaska Statehood Act or any other applicable law. And, it should be stressed, the "future selection applications" which are referred to in subsection (e) of Section 908 will not by themselves give the State any vested rights to public lands which, at the time of the filing of such applications, are not available to the State for valid selections under the Alaska Statehood Act or other applicable law.

In short, these "future selection applications" will have the effect of merely expressing the interest of the State in selecting and receiving the applied for lands, if and when Congress at some future date should decide to make such lands available for selection by the State and provided that the State has not at such later time already received its total entitlement to federal lands.

Title VIII—Subsistence Management and Use, and other subsistence provisions.

Of all the groups in Alaska with a stake in passage of the Alaska National Interest Lands Conservation Act, no group will be more profoundly affected than the Alaska Native residents of the more than two hundred Native villages scattered throughout rural Alaska. The cultural identity of those residents, and the economy of their villages, remain intertwined today, as they have for generations, with the harvest of fish, wildlife and plants, for subsistence uses.

With only a few exceptions, the Alaska Native villages to which I am referring are located along the Alaska coastline or upon the shore of one of Alaska's lakes or rivers. The location of these villages is no accident. Prior to the intrusion of western culture into Native Alaska in the late 1800's, most Alaska Natives traveled from hunting camp to fish camp, and fish camp to hunting camp, following the natural cycle of the seasons and the migratory patterns of the fish and wildlife in their area. With the arrival of the missionary and the schoolteacher, more permanent villages were established. Those villages were located in the most advantageous locations from which to subsistence hunt, fish, and gather. Today, the same social, cultural, and economic purpose of these same villages remains. Indeed, the only purpose in an economic sense of almost every Native village is to serve as a staging area from which the residents of the community continue to participate in the subsistence way of life which is central to their cultural identity.

If for any reason, Mr. Speaker, the fish stocks and wildlife populations which are the subject of Alaska Native subsistence uses are significantly reduced, either as the result of the degradation of habitat, the overharvesting of subsistence resources by urban or non-resident sport hunters and fishermen, or a prohibition of subsistence uses of fish and wildlife on portions of the public lands such as national parks and monuments, then the Alaska Native Culture as we know it will simply cease to exist. And the rural Native villages which are the strongholds of that way of life will be abandoned as their residents are unwillingly drawn to Anchorage, Fairbanks, and other urban centers. Indeed, if rural Alaska is to continue to exist, the Alaska Native subsistence way of life and the fish stocks and wildlife populations upon which the continuation of that way of life depends must be adequately protected by the Congress.

Mr. Speaker, in 1971 the Congress passed

the Alaska Native Claims Settlement Act, an historic benchmark in the relationship between the Alaska Native people and the Congress. That legislation authorized the conveyance of forty-four million acres of land, located primarily around the Native villages to which I have referred earlier, to villages and regional corporations established by the Act. At that time the Congress realized, however, that the lands conveyed to Native corporations would be insufficient to adequately protect subsistence resources and provide for subsistence uses. It recognized that the continuation of the Alaska Native subsistence way of life also depended upon the use of Federal and State lands for subsistence uses, and the protection of such uses on those lands as well as on Native lands.

In furtherance of this objective, the Settlement Act bill enacted by the Senate included a provision on subsistence hunting by Alaska Natives. Unfortunately, that provision was not adopted by the Conference Committee, which in its stead substituted the following language in the Report of the Managers: "The Conference Committee expects both the Secretary and the State to take any action necessary to protect the subsistence needs of the Natives."

The Conference Committee's recognition of the joint responsibility of the Federal and State governments to protect Alaska Native subsistence activities is consistent with the historic trust responsibility of the Federal government to the Alaska Native people, a responsibility which transcends the termination of aboriginal hunting and fishing rights by the Settlement Act. It also is consistent with the policy adopted by the United States government when it signed the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights in 1977. Article I of both covenants states that "in no case may a people be deprived of its own means of subsistence." And Article XXVII of the International Covenant on Economic, Social, and Cultural Rights guarantees that ethnic minorities in the United States, of which the Alaska Native people are a pre-eminent example, shall not be denied the right to enjoy their own culture.

Regretably, during the time period between the enactment of the Alaska Native Claims Settlement Act and the introduction of H.R. 39 in the 96th Congress, neither the Secretary nor the State of Alaska made sufficient effort to abide by the direction of the Conference Committee. Overwhelming evidence of their failure, or at best their indifference, was thoroughly documented in hearings held by both the House Interior Committee and the Senate Energy and Natural Resources Committee during the 95th Congress, and by the House Interior Committee again last year. I would direct any member of this body interested in a more detailed exposition of the subsistence issue to the hearing records and reports of both of those committees as well as the hearing record and committee reports published by the House Merchant Marine and Fisheries Committee which also was actively involved in the subsistence issue.

Although I have my disagreements with several of the provisions of the version of H.R. 39 passed by the Senate, I am particularly proud of the subsistence language in the bill because it fully reflects the commitment that Congressman Selberling, Gudger, and I, with other members of the Interior Committee, made to the Alaska Native people at the beginning of the 95th Congress. At that time we promised that any legislation enacted into law would recognize the importance of the subsistence way of life to the survival of the Alaska Native people, and would contain management provisions which recognize the responsibility of the Federal

government to protect the opportunity for generation to generation for the continuation of subsistence uses by the Alaska Native people so that Alaska Natives now engaged in subsistence uses, their descendants, and their descendants' descendants, will have the opportunity to determine for themselves their own cultural orientation and the rate and degree of evolution, if any, of their Alaska Native culture.

We made good on that promise by including a detailed subsistence title in the version of H.R. 39 which was passed by the House of Representatives during the 95th Congress. The Senate Energy and Natural Resources Committee rejected the "State subsistence program" requirement of our subsistence title, and adopted a "judicial enforcement" approach in lieu of our "Secretarial action" section to ensure that the State will meet its responsibilities. But with those two relatively minor exceptions, the Committee adopted our subsistence title conceptually intact.

During the 96th Congress, I studied the subsistence provisions of the bill reported the previous Congress by the Senate Energy Committee, and after being certain that with the exception of the "judicial enforcement" provision, the rest of the subsistence title was essentially the title which I and the other members of the Interior Committee had drafted, I included a subsistence title in the Udall-Anderson bill similar to that of the Senate Energy Committee. The bill passed by the Senate and now under consideration by this body, continues the broad consensus on the subsistence issue by again adopting the work of the Senate Energy Committee, which, as I have explained above, in turn was based upon the work of the House Interior Committee.

Consequently, as chairman of the committee which developed the concepts which are the foundation of the subsistence title and other subsistence provisions of the Senate bill, I would like to highlight for the other members of the House, and for the persons in the Department of the Interior and Department of Agriculture who will be charged with responsibility for implementing the subsistence management system established by this legislation, the history of several of the most important ideas developed by the House Interior Committee and retained by the Senate.

Although the Federal and State subsistence management system established in the bill is racially neutral, it is important to recognize that the primary beneficiaries of the subsistence title and the other provisions in the bill relating to subsistence management are the Alaska Native people. Although there are many non-Natives living a subsistence way of life in rural Alaska which may be an important national value, the subsistence title would not be included in the bill if non-Native subsistence activities were the primary focus of concern. Rather, the subsistence title and the other subsistence provisions are included in recognition of the ongoing responsibility of the Congress to protect the opportunity for continued subsistence uses in Alaska by the Alaska Native people, a responsibility consistent with our well recognized constitutional authority to manage Indian affairs.

Early drafts of the subsistence title by the House Interior Committee allocated access to subsistence resources on an ethnic basis, an approach similar in concept to that suggested by the Settlement Act Conference Committee. However, that approach was abandoned in the House after Governor Hammond correctly pointed out that under the Alaska Constitution the State cannot participate in a subsistence management system which would require it to allocate access to subsistence resources on the basis of "Nativity." The written testimony submitted to the Energy Committee in 1978 by

John Shively, representing the NANA Corporation and the Alaska Federation of Natives, is an excellent summation of the evolution of the "Nativeness" issue in the House to which I would direct any member interested in more information on this subject.

Because of the Governor's objections, we adopted (and the bill retains) a racially-neutral approach to the subsistence allocation issue. Subsistence uses are defined as the customary and traditional uses of wild, renewable resources for personal and family consumption by all residents of rural Alaska, Native and non-Native alike. Subsistence uses by rural residents shall have a priority over the taking of renewable resources by non-rural residents of Alaska, non-residents of Alaska, and aliens.

If in a particular instance a particular fish or wildlife population cannot even safely sustain a harvest only by rural residents engaged in subsistence uses, then priorities among such rural residents will be established on the basis of the racially-neutral criteria of local residency, availability of alternative subsistence and other food resources other than the resource being allocated, and the degree of dependency of individual rural residents on the allocated resource as the mainstay of livelihood. These neutral criteria will be applied evenhandedly to all rural residents, Native and non-Native alike, who harvest the allocated resource for subsistence uses.

Although I will address the operation of the subsistence priority later in my remarks, I raise the history of the subsistence priority here to point out that while the statutory allocation scheme is racially neutral, its application may result in instances in which significantly more Natives than non-Natives may be afforded access to a particular subsistence resource. Such a result will be consistent with a statutory approach based, as the subsistence title is, upon the constitutional authority of the Congress to manage Native affairs.

However, Mr. Speaker, I would hasten to emphasize that it is also true that a racially-imbalanced allocation system may result from time to time not because the subsistence priority favors Natives over non-Natives, but merely (as is a well-recognized fact of life) the vast majority of the residents of rural Alaska happen to be Alaska Natives.

For example, if there are only six communities in a particular State game management unit, all of which are Alaska Native villages in which Alaska Natives predominate in the population, and the biologists determine that the local moose herd cannot safely sustain a harvest greater in size than the number normally harvested by residents of the local area for subsistence uses, then the subsistence priority requires the State to adopt regulations which restrict moose hunting within that game management unit to only the residents of that unit. The responsibility of the Federal Government to protect Alaska Native subsistence activities will be met, but all non-Native residents of the area will be treated in a manner identical to that of their Native neighbors. In other words, the criteria used to allocate access to the moose in my example is based upon "residency," with all similarly situated residents treated in an identical manner. It also should be noted that the residency component in the subsistence priority, both rural residency and local residency, is not intended to impose a durational residency requirement.

Mr. Speaker, there is another significant reason to emphasize that the subsistence title and the subsistence provisions in other titles are enacted based upon our constitutional authority to manage Indian affairs. The so-called "(d)(2)" issue in general, and the subsistence title and other subsistence provisions of this bill in particular, are

derivative of the Alaska Native Claims Settlement Act. The Federal courts have consistently recognized the Settlement Act to be Indian legislation, entitled to all of the legal presumptions and statutory interpretations associated with that generic class of statutes. While the Alaska National Interest Lands Conservation Act obviously is not Indian legislation in its entirety, the subsistence title and the other subsistence related provisions are. And under well-recognized canons of statutory construction, any ambiguities in the title and other provisions must be resolved in favor of the Alaska Native people.

This result is also consistent with the Congressional policy established by section 802(1) that the management of the public lands shall cause the least adverse impact possible on rural residents who depend upon subsistence uses. This policy requires that administrative structures and regulations for conservation system units, including national parks and monuments, shall be established and implemented in a manner consistent with the protection and continuation of Alaska Native culture and Native subsistence activities.

Consequently, in general, no permit or quota system for the subsistence use of wildlife within national parks and monuments and other conservation system units should be imposed on rural residents unless necessary to protect the continued viability of a particular wildlife population, and then only with respect to that particular population. However, trapping and other customary trading activities may be an exception to this general rule.

The policy also requires that regulatory systems which employ income requirements not be imposed upon rural residents. Income requirements are by their very nature capricious classifications in rural Alaska, and consequently can be invidiously destructive to Alaska Native culture. To key eligibility to harvest wildlife within a national park, for example, upon a determination of whether a resident of a Native village was able to secure temporary employment away from his village, has a wife who is a health or teacher's aide with a steady source of income, or has a job in the village as a corporation officer or power plant operator, is to key eligibility on criteria which embody the seeds of destruction of Native culture sewn in the guise of regulation. Such regulatory structures may be bureaucratically convenient but represent a disrespect for the Alaska Native culture, and the community cohesion which is one of its greatest attributes, which we have gone to great lengths throughout the Alaska lands bill to protect. It is the intent of the bill in general, and the subsistence title in particular, so far as possible to allow the Alaska Native people to choose for themselves the direction and pace, if any, of the evolution of their own culture.

Mr. Speaker, I also would like to briefly review the requirements imposed on the subsistence management system by the subsistence priority established in section 804. Section 804 is based upon section 704(b)(5)(B) and (C) of the version of H.R. 39 passed by the House during the 95th Congress. The only major difference between any of the subsistence preference sections has been the inconsistent use of the words "preference" and "priority". Mr. Speaker, in terms of the legal effect of the section I do not believe that there has ever been any intent to alter the legal requirements of the section by the use of one, as opposed to the other, of these two terms. Rather, this difference reflects the idiosyncratic styles of the various committee draftsmen. Consequently, I do not believe that the State of Alaska need modify its State subsistence statute, which uses the term "priority", in order to be in compliance with the "preference" requirement of section 804. However, the State statute may need to be modified to comply with other

requirements of both section 804 and other provisions of the title.

The subsistence preference applies to individual wildlife populations and fish, and State regulation of the taking of each population and stock must be consistent with section 804.

The State must first identify the customary and traditional subsistence uses of each population and stock by rural residents. It should be emphasized that this evaluation must be based upon subsistence use, not upon any form of economic or other need. It also should be emphasized that the level of subsistence uses by rural residents of particular wildlife populations and fish may have been repressed by State regulatory activities and, consequently, recent historical levels of harvest of a particular population or stock may not accurately reflect the normal level of the customary and traditional subsistence use of such population.

The king salmon fishery on the west side of Cook Inlet and the caribou harvest in the Copper River area are two recent examples of this situation. From 1964 until this past June, when the subsistence king salmon fishery was finally opened to the residents of the village of Tyonek by a State court order implementing the State subsistence statute, the residents of that village have been prohibited from harvesting a subsistence resource which prior to 1964 had been harvested for generations. Obviously, an analysis of the customary and traditional subsistence use of king salmon by residents of the village of Tyonek over even the past ten years would result in a determination that king salmon are not a customary and traditional subsistence resource of that village, a determination which would be erroneous.

Because of the decline of the caribou population in the Copper River area, the State reduced the total harvest of the population and established a lottery in which the residents of villages in the Copper River area have had to compete against sport hunters from around the State for a caribou hunting permit. Any analysis of the level of customary and traditional subsistence use of caribou by rural residents in the Copper River area will produce a figure far below the normal customary and traditional subsistence use of the resource which would have resulted if the State had not imposed a regulatory system on the rural residents of the area which subordinated subsistence uses to the needs of urban sport hunters.

Mr. Speaker, similar examples are too numerous to mention. The point I am making is that the subsistence priority requires the State of Alaska to determine the customary and traditional subsistence use of a particular wildlife population or fish which would have reasonably been made by rural residents if their subsistence uses had consistently been respected and adequately protected by State regulation.

It also should be noted that customary and traditional subsistence uses must be evaluated on a community or area basis, rather than an individual basis. If not, our commitment in this legislation to the protection of the Alaska Native subsistence way of life would be terminated in one generation as rural residents with established subsistence uses pass away and their descendants with no established customary and traditional uses take their place in the subsistence cycle.

As I have mentioned earlier, and as the subsistence title itself specifically states, it is the intent of this legislation to protect the Alaska Native subsistence way of life, and the Alaska Native culture of which it is a primary and essential element, for generation upon generation, for as long as the Alaska Native people themselves choose to participate in that way of life, and to leave for the Alaska Native people themselves, rather than to Federal and State resource

managers, the choice as to the direction and pace, if any, of the evolution of the subsistence way of life and of Alaska Native culture.

Once the customary and traditional subsistence uses of a particular wildlife population or fish stock have been determined, the State must next determine whether its viability is such that the harvest demands of all user groups can be satisfied without endangering the health of the resource. If the population is sufficiently viable then all user groups may participate in the harvest, but regulations concerning such subjects as seasons and means of taking must be adopted which have the least adverse impact upon rural residents engaged in subsistence uses of the population.

If the population cannot safely sustain a harvest by all user groups, then the State must adopt regulations establishing subsistence uses as the priority uses of such population. All genuine subsistence uses must be met before the State may permit taking of the population for any type of non-subsistence uses.

For example, if residents of the villages in a particular area normally harvest five hundred moose for subsistence uses, and fly-in hunters from outside the local area normally harvest five hundred moose from the same herd, but the biologists determine that the herd can safely sustain a total harvest of only six hundred moose, the subsistence priority in section 804 requires that only one hundred moose be made available for harvest by persons other than residents of the local area engaged in subsistence uses. This result could be achieved by opening the moose season to the residents of the game management units in which the moose herd is located for hunting without a permit to obtain moose for subsistence uses, and then allocating access to the remaining one hundred moose to non-residents of the area by lottery.

If in the previous example the moose herd is only capable of sustaining a total harvest of four hundred moose, then not only must no hunting of the herd be permitted by persons not resident of the local area, but the State must also establish priorities for access to the herd by the rural residents of the local area as well, based upon the three criteria set forth in the subsistence preference: local residency, availability of alternative resources, and dependence upon the resource. Only at this stage of the regulatory process, when dependence upon the resource as the mainstay of livelihood for the first time becomes a permissible allocation criteria, does the income of individual rural residents become a permissible factor in the allocation process. The availability of alternative resources criteria is intended to focus on alternative subsistence or other food resources, not money. For example, if caribou are reduced, are some villages better able to withstand the hardship than others because they have more access to seals or moose?

As long ago as August of 1977 Governor Hammond testified to the importance to resource protection that one management system, and one manager, be in control of fish and wildlife resources throughout their range. This is particularly important with fishery resources. Consequently, it has always been our intent to apply the subsistence preference to all fish stocks in the waters of Alaska. This result enables the State of Alaska to continue its lead in fisheries management without unnecessary disruption. It also should be stressed that if for any reason the State should ever repeal its subsistence statute, this preemptive section would continue the subsistence preference for fish throughout the waters of Alaska. For the purposes of section 804, the reference to "fish populations" is intended to mean any species, sub-species, race, geographical grouping, population, run, or other category of fish characterized by similar morphological, meristic, or life history traits, or which is

geographically, ecologically, or genetically interrelated, or affected as a group by fishing practices, or capable of being managed as a unit on a rational and timely basis.

Mr. Speaker, the subsistence provisions of the bill now before us differs from those in the House bill primarily by the Senate's adoption of a "judicial enforcement" approach to proceedings by the Secretary of the Interior or Secretary of Agriculture, depending upon which lands are involved, to assure the State's implementation of the subsistence preference. In that regard I would point out that it is not my understanding that this section in any way compromises the administrative authorities of the Secretaries, or their legal responsibilities, to protect subsistence uses on the public lands and in the waters of Alaska; otherwise, the section may be unconstitutional.

The judicial enforcement approach was developed by the Senate Energy and Natural Resources Committee during the 95th Congress. Senators Abourezk, Ford, and Durkin were three of the members of that committee who were particularly involved in the development of the Senate subsistence title. Their supplemental views detailing the responsibility and authority of the Secretary to exercise his administrative authority over the public lands and the waters of Alaska to protect subsistence uses in appropriate instances are the basis of my interpretation of the effect of section 808 of the Senate bill. Since section 808 is intended to be the remedy of only the local committees and regional councils, obviously rural residents engaged in subsistence uses and other persons who are directly affected by State implementation of the subsistence preference are entitled to have the Secretary take appropriate action if the State fails to do so, and, consequently, will be entitled to mandamus such action from the appropriate Secretary if he should fail to fulfill his duty to manage the public lands and the waters of Alaska in a manner consistent with the management standards established by the Congress in this legislation.

Lastly, Mr. Speaker, I would like to briefly discuss the manner in which subsistence hunting by local residents is to be managed within new national parks and national park monuments and within the additions to those national parks and national park system monuments which were established prior to December 1, 1978. As you know, hunting of any kind generally is not permitted within national parks in the United States. However, during the development of the Department of the Interior's legislative proposal to the Congress, it became obvious to the Secretary of the Interior and to the National Park Service that much of the acreage within the large parks and monuments desired by the National Park Service included acreage which customarily and traditionally has been used, and is now being used, by Alaska Natives and other rural residents for subsistence hunting. Application of the traditional no hunting policy to these proposed areas would result either in significant disruption of subsistence hunting activities and resultant community hardship, or would require the cutting back of the boundaries of the proposed park units to accommodate subsistence activities.

In recognition of this uniquely Alaskan situation, the Department of the Interior represented to the residents of the affected villages and to Native village and regional corporations representing the same residents, that subsistence hunting within all of the new parks and within the additions to existing parks would be statutorily guaranteed. And it was as a result of this agreement, Mr. Speaker, that most local communities and village and regional corporations have supported, or at least not opposed, the creation of new parks and monuments within their regions.

Mr. Speaker, consistent with their promise

to the Native community, since 1977 Secretary Andrus and the National Park Service have consistently recommended to both Houses of the Congress that subsistence hunting by local residents be continued within all parks and monuments established or expanded by this legislation, other than the Kenai Fjords National Park. Consistent with this recommendation, the Antiquities Act proclamations signed by President Carter on December 1, 1973 not only guaranteed the continuation of subsistence hunting by local residents, but specifically recognize subsistence hunting as an important value of each monument, other than the Kenai Fjords.

Consistent with the Secretary's recommendation and the language of the monument proclamations, both the version of H.R. 39 passed by the House in 1979 and the Udall-Anderson bill passed last year establish subsistence uses by local residents, including subsistence hunting, as a purpose of each new park and park monument, other than the Kenai Fjords, and of the additions to parks and monuments established prior to December 1, 1978.

The Alaska Lands bill passed by the Senate (and which we today concur in) statutorily guarantees that subsistence hunting by local residents will be permitted within all of the same areas as are open to such uses in the Udall-Anderson bill, but regrettably does not designate subsistence uses as a purpose of each new area and addition. However, Mr. Speaker, I would note that sections 201 and 202 indicate that the purposes of each new park and addition set forth in the legislation are not intended to be all inclusive. I would strongly suggest that in establishing regulations for the management of each of these areas, the Secretary of the Interior designate subsistence uses by local residents as a specific purpose of each park and park preserve. To do any less would be inconsistent with the longstanding representations which the Secretary, the National Park Service, and the House Interior Committee, have made to the Alaska Native residents of areas within or adjacent to these new areas.

It also should be noted Mr. Speaker, that with respect to several of the new parks, the Senate bill intends to permit subsistence hunting only within certain subsistence zones within the park. I have reservations about this concept because I am uncertain if data presently exists which is definitive enough to enable the National Park Service to say with any degree of confidence that subsistence hunting has or has not traditionally taken place within a certain area. Consequently, if the subsistence zone concept is to be applied to any park areas, fundamental fairness seems to require that the designation and boundaries of these zones be made by the subsistence resource commissions established by section 808, rather than by park planners and researchers, and that if there is any doubt as to whether subsistence hunting should be permitted within a particular area, that the decision be made on the basis that subsistence hunting should be permitted rather than restricted. Finally with respect to this issue Mr. Speaker I would like to assure the Alaska Native people that the House Interior Committee intends to closely follow the implementation of the subsistence hunting program in the parks over the years ahead to make sure that our representations to the Alaska Native people on this critical issue do not take their place in the litany of other forgotten or broken promises made by the Federal government to Indian people when consent to accomplish the goals of those with a different agenda.

Mr. Speaker, this discussion has touched upon only a few of the many important concepts embodied in the subsistence management system established by the Senate bill.

ALASKA NATIONAL INTEREST LANDS
CONSERVATION ACT

REPORT

OF THE

COMMITTEE ON MERCHANT MARINE
AND FISHERIES
HOUSE OF REPRESENTATIVES

together with

SUPPLEMENTAL AND DISSENTING VIEWS

(Including the cost estimate of the
Congressional Budget Office)

TO ACCOMPANY

H.R. 39



APRIL 23, 1979.—Committed to the Committee of the Whole House
on the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

44-261 O

WASHINGTON : 1979

the area's existing pulp and saw mills. Some 10 mmbf. of State lands timber annually may also have impact.

Set forth below in tabular form is a summary of the Committee's action last year relative to timber availability and wilderness designation in the Tongass. While some of the base data has changed slightly since the completion of the TLUMP, the assumptions and approach employed by the Committee in designating wilderness in Southeast Alaska are still valid.

Estimated Timber Yield Available for Harvest Each Year: ¹	<i>Million board feet</i>
Total potential sustained yield from all classifications (excludes State or Native timber).....	1,180
Unregulated (reserved, small parcels, 75-plus percent slopes, soil hazards).....	-290
Other reserved and not available (various timber retention factors applied for resource protection).....	-172
<hr/>	
Total potential sustained yield less unregulated and other reserved... Marginal (available but subject to economic or technical restraints).....	718 -153
<hr/>	
Net total sustained annual yield of standard and special categories or "available average annual harvest".....	560
<hr/>	
Estimated Effect of Committee Wilderness Package:	
Total annual potential yield less what is reserved, non-harvestable, or marginal "A-base".....	560
10,000,000 per year investment for increased timber yield and \$5,000,000 loan fund.....	60
Impact of Native timber.....	36
<hr/>	
Estimated allowable cut before deductions.....	656
Additional Reduction for Proposed Wilderness Designation.....	-60
Additional reduction for possible relocation of Native timber off Admiralty Island.....	-7
<hr/>	
Annual allowable cut less wilderness and Native timber relocation.....	569

¹ Assumes the "A-base" Alternative from the Tongass Land Use Management Plan including a \$1,800,000 investment for pregrading into selected areas.

Thus, it appears that the Committee recommendations will indeed protect the existing timber industry in Southeast while providing wilderness designation for several key areas.

The Committee realizes that there is some disagreement regarding the figures presented above relative to timber availability, potential yield investment opportunities, etc. During its deliberations, the Committee was unable to obtain a consistent set of data from the Forest Service regarding these factors. However, the Committee feels that the numbers employed in the calculations above are fair estimates of the effect the Committee actions will have on timber supply levels from the Tongass.

TITLE VIII—SUSTAINANCE MANAGEMENT AND USE

OVERVIEW

Alaska's more than 200 rural villages are unique in that they are the last communities in the United States in which a substantial number of residents are still dependent upon the harvest of renewable re-

COMMITTEE AMENDMENT

The subsistence management provisions of S. 9 as introduced reflect a delicate balance between the traditional responsibility of the State of Alaska for the regulation of fish and wildlife populations within the State and the responsibility of the Federal Government for the attainment of national interest goals, including the protection of the traditional lifestyle and culture of Alaska Natives.

The Committee amendment differs from Title VII of H.R. 39, as passed by the House of Representatives in two respects. The first relates to subsistence hunting by local residents within national parks and monuments. Under the Committee amendment, parks and monuments are closed to all forms of hunting unless subsistence uses are permitted by this Act. Subsistence resources commissions are to be established to recommend a program for subsistence hunting in such parks and monuments.

The second major difference is the means for enforcement of the subsistence preference. The House bill requires the Secretary to take certain administrative actions if he determines that the State has failed to establish a subsistence program or to implement such a program in a manner which adequately satisfies the preference for subsistence uses. While the committee has retained broad Federal guidelines to ensure the adequate implementation of the subsistence preference on the public lands and the Secretary's ongoing responsibility to monitor the State's implementation of such preference, the Committee believes that the responsibility of the Secretary to ensure the protection of subsistence uses and the satisfaction of subsistence needs of Alaska Natives and other rural residents can best be met by providing legal representation for such residents before the United States District Court in appropriate instances in which the Secretary has determined, after consultation with the State, that the State has not timely or adequately provided for the preference for subsistence uses. Although it is the intent of the committee to neither enlarge nor diminish any existing authority of the Secretary to take appropriate administrative action to protect subsistence uses and satisfy subsistence needs of rural residents of Alaska, the committee believes that the responsibilities and authorities of the Secretary and the United States District Court set forth in section 804-807 ensure the protection of subsistence activities and the discharge of Federal responsibilities.

During consideration of Alaska National Interest Lands legislation, the Committee adopted several changes to the subsistence management and use title in S. 9 which clarify the Committee's intent and improve the workability of the subsistence management system.

Major changes adopted by the Committee include:

The Conservation of Healthy Populations of Fish and Wildlife

Long-term protection of fish and wildlife populations is necessary to ensure the continuation of the opportunity for a subsistence way of life. Consequently, subsistence uses on the public lands must be conducted in a manner consistent with "the conservation of healthy populations of fish and wildlife", an approach emphasized by the Committee in a series of amendments to incorporate that concept into the language of Sections 802(1), 805(b), and 815 (1) and (3). It also

Group petitions for change in

subsistence definitions

Daily News-Miner, Fairbanks, Alaska, Thursday, August 8, 1985—7

By DAN JOLING
Staff Writer

The Alaska Federation of Natives has petitioned the state and federal governments to have federal law guide the Boards of Fisheries and Game in making subsistence regulations, which would again mean subsistence users would be defined as "rural" Alaskans.

Until February, that's how the state Board of Fisheries and state Board of Game had defined a subsistence user, in some cases limiting the definition to residents of communities outside the state's highway system.

However, the Alaska Supreme Court in February tossed out that interpretation, ruling that the 1978

Legislature did not intend urban residents be excluded from subsistence use. An attempt in the Legislature this session to amend the 1978 law and narrow the definition of subsistence user to rural residents was blocked in the state Senate.

The AFN petition states that in the absence of state law which conforms to the federal Alaska National Interest Lands Conservation Act of 1980, provisions of ANILCA should supercede state law.

"That's our reading of what the federal law requires," said AFN attorney Don Mitchell this morning.

"The more responsible thing to have done is pass that very simple legislation that's sitting in the state

Senate," he said.

Mitchell said there's been much confusion caused by recent court rulings and subsequent administrative action.

"It's time to end the confusion," he said.

February's Supreme Court decision was followed by a state Court of Appeals decision that said persons arrested for poaching could not be prosecuted because the state Board of Game had never drawn up specific subsistence regulations.

In previous hunting seasons, when the board applied a narrow definition of subsistence user, remaining permits were passed out through drawings and other methods. Since all Alaska qual-

ified as subsistence hunters after the court rulings, the board could no longer use lotteries.

The board instead set up a questionnaire and point system to determine which Alaskans were most qualified for subsistence hunting as measured by three criteria in the 1978 subsistence law: customary and traditional use, local residency and the availability of alternative resources.

The net effect is that many urban residents, and all non-residents, who in the past have been able to put their names in a hat to be drawn for popular hunts are now virtually eliminated from consideration because they have little chance of qualifying for the "preferred" list

of subsistence hunters.

Mitchell said the three criteria were never intended to be applied to the whole population.

"Originally, that was to be done only among that small group of rural hunters who qualify as subsistence hunters in the first place," he said.

He said AFN filed the petition because the failure of the Senate to pass a revised subsistence bill "created a real management problem."

Larry Edfelt, assistant director for the Fish & Game Department's Division of Boards, said the petition will be considered by the Fish and Game boards at a joint meeting in early November. Edfelt said the

department has not formulated an official response.

Mitchell said federal law requires the federal government to act "in a reasonable time" but does not specify a time limit to act.

Mitchell said the short-term effect of the petition will be to increase hunting opportunities for urban hunters.

The federal ANILCA defines subsistence users as "rural" residents. It also includes provisions for the federal government to manage fish and game on federal lands if state law does not conform to the federal law or if the state does not enforce similar regulations.

AFN's petitions said the purpose of Title VIII of ANILCA "is to en-

sure that the taking of fish stocks and wildlife populations in Alaska are regulated by the State of Alaska in a manner which ensures the continuation and protection of the taking of such stocks and populations by residents of rural communities and areas for personal and family consumption."

The petitions cite a long history of federal recognition of rural residents' rights to take fish and game, including the first game law passed by Congress in 1902, a hesitation in transferring regulatory to the new state after the Alaska Statehood Act passed in 1958, and during discussions prior to passage of the Alaska Native Claims Settlement Act in 1971.

New regs⁶⁻¹⁷⁻⁸³ affect few hunts in local area

Empire

By DEAN FOSDICK
The Associated Press

Only three of about 35 permit hunts in Southeast Alaska would be affected by two recent court rulings on subsistence under emergency regulations adopted Friday by the state Board of Game.

That means virtually no changes in the way deer, goats, brown and black bear are hunted in Alaska's Panhandle, said Don McKnight, the state Fish and Game Department's Southeast regional game supervisor.

But several moose hunts may have to be put on hold until officials can determine if they'll be able to handle the paperwork in time, he said.

"The board is taking a look at all the hunting populations for all species and deciding where subsistence hunting is being impeded," McKnight said. "In Game Unit One (Southeast Alaska), they've found that court rulings should not change the way things were being handled for all species and all hunts except three moose hunts."

Those include the Berners Bay moose hunt near Juneau (15 animals), the Haines Unit 1-D herd (15 bulls) and the Yakutat forelands fall hunt (50 bulls), McKnight said.

"We'll have to determine who gets the permits," he said. "We'll probably do things by questionnaire, rating information on a number of things — local unit residence, hunting history and availability of other resources.

"A computer will score it and the people with the highest scores will do the hunting," McKnight said. "It will still be a lottery, but it won't be open to the general public, only to people who have met subsistence requirements."

"But I don't know yet if those hunts will be conducted at all," he said. "It may be logistically impossible."

Alaska's complex hunting and trapping regulations depend upon a system of 26 game management units, 14 of which are divided into subunits.

Those units are the bedrock for all area regulations. Hunting and trapping seasons, bag limits, possession limits, methods and means of taking game are set out in terms of those geographic units.

All that, however, was thrown up for grabs by two recent court cases pertaining to subsistence. The rulings mean that virtually all Alaskans now qualify for subsistence rights.

Gov. Bill Sheffield introduced a bill about mid-session that would have returned first subsistence rights to rural users. Legislative leaders refused to rush the bill into law, however, contending the issue was too complicated and politically charged to be solved in two months.

They shelved a long-term solution for the subsistence issue until next year, forcing the Game Board to come up with a temporary set of rules.

6/25/85 FBK

32 permit hunts revised; board seeks comments

JUNEAU (AP)—The state Board of Game is looking for public comment on emergency rules affecting the way at least 32 permit hunts will be handled in Alaska this year, an official said today.

Larry Edfelt, a spokesman for the Department of Fish and Game, said the panel made the changes after completing the "Herculean task" of determining whether hundreds of permit and quota hunts fit new subsistence guidelines laid down by the courts.

The courts earlier this year threw out the way Alaska's subsistence law had been handled because the rules restricted subsistence hunting and fishing to rural residents.

That, in effect, opened subsist-

ence hunting and fishing to everyone in the state. And it prompted the game board's emergency meeting in Juneau.

The decisions coming out of the 12-day meeting were designed to protect Alaska's wildlife resources by reallocating who got to hunt what in the way of big game this year, Edfelt said.

"They looked at hundreds of hunts and finally applied tier two criteria to 32 of them," Edfelt said. "Most of the hunts affected are in Southcentral and the Interior.

"The emergency rules are effective for 120 days," he said. "They'll be looking for public comment before they can be made permanent."

The so-called "tier two" criteria
(See *SUBSISTENCE*, page 3)

SUBSISTENCE . . .

(Continued from page 1)

are a way of measuring the needs of one subsistence hunter over those of another.

Scoring under the tier two point system will vary according to where people live in the state, how dependent they are upon the resource and whether they have access to other wildlife resources.

The point system will apply only to Alaska's big game — moose, caribou, brown and black bear, sheep, goats, elk, musk ox and bison.

If a hunt is labeled tier two, that means it's off-limits to non-residents — a move that could cost the state and big-game guides a bundle of money, officials have said.

Lew Pamplin, state director of game, said recently that no matter how the rules are applied, the state probably will "be sued six ways from sundown."

at sep
into
A giv
nity
as ag
pop
anim
its
d fee
is we
y vi
hun
vial
ral
"T
int
-g-
ilifi
alir
osir
y r
ist
ar
er

State likely to limit Delta bison

The Associated Press

FAIRBANKS — Emergency subsistence hunting regulations probably will exclude all but Delta-area hunters from taking Delta bison this year, a state game official said Wednesday.

Dick Bishop, regional supervisor for the Division of Game of the Department of Fish and Game, said it is highly likely, although not certain, that only Delta residents will be allowed to hunt Delta bison.

Bishop explained that under the current interpretation of the subsistence law that

resulted from recent Alaska Supreme Court and Alaska Court of Appeals decisions, all state residents can be classified as subsistence users.

But if a hunt is conducted in any way that results in a significant impairment of hunting opportunity for subsistence users, the game board is required to remedy the situation, he said.

The Department of Law told the game board that anything that can be eaten is a subsistence resource, even an introduced species, such as the Delta bison.

"If people have taken the

resource to eat it, it has to be considered a subsistence species," Bishop said. "Because bison are eaten, they are a subsistence species."

Because all state residents are subsistence users, Bishop explained, the board had to eliminate non-residents because not all state residents had an opportunity to participate in the hunt based on subsistence use of the resource. The bison hunt was a random permit drawing hunt, which did not give a priority to subsistence users.

The elimination of non-residents resulted in a Tier 1

Anchorage Daily News

Friday, June 28, 1985

C5

hunt to local residents

hunt, in which all residents would be allowed to participate.

The game board then had to consider whether the species could be hunted under Tier 1 "without threatening the sustained yield of the population," Bishop said. "If they find that participation in the hunt is not feasible without that, they must further restrict participation by subsistence users."

The game board did just that. The Delta bison hunt, along with many others in the state, was made a Tier 2 hunt. In a Tier 2 hunt, any resident

can apply and fill out a questionnaire that will be rated and points will be assigned under three criteria:

- How close the resident lives to the hunt area.
- The availability of other resources to the applicant, including the level of the applicant's income and the population level of other fish and game resources in the applicant's area.
- Customary and direct dependence on the resource.

Since bison are an introduced species and hunting was only open on a random permit basis, no tradition of

use was established by any individual, so the third criterion will not be applied to bison hunts, he said.

"What it comes down to is that people in Delta are in the Zone 1 area of the immediate vicinity of the hunt," Bishop said.

With a limited number of permits available, the likelihood is that someone who lives closer to the bison herd will rate more points than someone who lives further away, he said. "Participation in hunting has shifted from one of general opportunity to subsistence priority," Bishop said.

J.S. government stresses poaching issue

by DEAN FOSDICK
The Associated Press

JUNEAU — The U.S. government has repeated its threat to take over management of subsistence hunting and fishing on federal lands if the state can't enforce its laws against poaching.

In a letter earlier this month to Attorney General Norm Gorsuch, Craig Potter, an Interior Department assistant secretary, said the agency was concerned that recent court decisions might affect the taking of game and fish on federal parks, reserves and refuges throughout Alaska.

The state enforces poaching laws for the federal government in those areas.

The courts earlier this year threw out the way Alaska's subsistence law had been handled because the regulations restricted subsistence hunting and fishing to rural residents.

That, in effect, opened subsistence hunting and fishing to everyone in Alaska. And it prompted fish and wildlife managers to express some immediate fears that the state's resources might be overharvested.

Fish and wildlife protection officers, meanwhile, were told to stop seizing evidence, executing search warrants and issuing citations in poaching cases until the courts could clarify a ruling allowing subsistence as a legal defense.

Don Tetzlaff, deputy director of the division of wildlife protection, said Friday there were "no changes in that policy."

But it will be business as usual — arrests for any poaching — as soon as the new emergency rules issued by the Game Board last week are signed by the lieutenant governor, Tetzlaff said.

Potter made it plain in his letter the

Interior Department was considering setting its own emergency subsistence rules for the 240 million acres of federal lands in Alaska.

"We are particularly concerned, in view of recent press reports, that ... Alaska fish and wildlife enforcement personnel have been directed not to make arrests or seize physical evidence unless specifically directed to do so by a state district attorney," Potter wrote.

"If the state has now decided that it cannot enforce applicable wildlife regulations because of the Eluska decision, then we are concerned that this situation will result in unregulated taking of fish and wildlife on federal conservation system unit lands," he said.

"... We cannot, however, stand by and permit wildlife resources to be harmed as a result of state enforcement difficulties."

Subsistence closure opposed

EMPIRE 7/3/85

A copy of the following letter to Fish and Game Commissioner Don Collinsworth was submitted for publication.

Dear Commissioner,

The City of Angoon wishes to state formal objection to your department's July 24th closure of subsistence fishing in Basket Bay, Kanalku Bay, Sitkoh Bay and Lake Eva areas.

While we in Angoon have no problem with your objective (which is the same as ours, i.e., preservation of the resource), we must question your methods in making such a determination. Due to your staff shortage, no one from Fish and Game has been to Kanalku for field survey of the escapement situation there. Given the shortage, it seems reasonable to expect that your department would have consulted with Angoon regarding escapement. We have plenty of people here who do such things as a matter of course, and would be happy to share such information. We have done this for thousands of years as a matter of survival. When you address the activities of a subsistence people, Angoon suggests more investigation along with the abundance of regulations. It should be obvious our goals are the same, and that it is not in our own best interest to over-use.

Interestingly, I have recently received many inquiries from the community regarding the presence of pilings near Kootznahoo Inlet which may interfere with subsistence activities. What sense does it make to object to these things when a state department tries to regulate the food from our mouths?

As of yet, Angoon has seen no Notice of Closure of sport or commercial fishing in these areas. My understanding of the law is that subsistence shall be the last use to be discontinued in the interest of preservation of a resource. I must question your department's priorities as well as the legality of the department's action.

Sincerely,
Edward J. Gamble, Sr.
Mayor
City of Angoon
P.O. Box 189
Angoon, 99820

Peninsula man threatens suit to expand subsistence fishery

By RONNIE CHAPPELL
Daily News reporter

KENAI — Andy Johnson, one of the plaintiffs in a recent lawsuit that resulted in subsistence hunting and fishing rights extended to all Alaskans, has threatened to go to court again if the state fails to expand the subsistence fishery on the Kenai Peninsula.

This time, Johnson says, he's going to shut down sport and commercial fishing in Cook Inlet if a reasonable subsistence fishery is not provided.

Johnson believes that he and other Alaskans should be able to fish for kings, reds and other species of salmon during the peak of the run.

Now, he says, they must wait until the commercial season is over or use a remote, boulder-strewn beach that is so rocky it is impossible to fish without doing severe damage to nets and other gear.

"We want them to come up with some regulations that will allow us to fish," Johnson said Wednesday. "We're entitled to this. If I have priority rights, why should a commercial fisherman be able to fish in my backyard. I should be able to go out and get my fish. You should be able to also."

Under state law, Johnson said, "subsistence fishermen are guaranteed first crack at the fish."

The statute directs fisheries managers to close sport and commercial fisheries before restricting subsistence fishermen. Many, including the attorney that represented Johnson in what is known as the Madison case before the Alaska Supreme Court, have argued that the priority takes effect only when there are not enough salmon to meet spawning needs and satisfy all user groups.

Soldotna attorney Chuck Robinson, one of the lawyers

who argued Madison, contends that the Board of Fisheries has the authority to set subsistence seasons and bag limits.

In Cook Inlet, subsistence fishermen are allowed to take 25 salmon for themselves and 10 additional fish for every member of their household.

According to Johnson, the bag limit is so small that subsistence fishermen "can't exercise their statutory right to barter fish" for food, clothing, shelter and other needs.

As long as the salmon are not wasted, there should be no limit on the amount of fish subsistence users are allowed to take, Johnson said.

After the Supreme Court ruled that all Alaskans qualified as subsistence users, Gov. Bill Sheffield predicted the decision would create havoc in the state's fisheries.

"I probably will make his prophecy come true," Johnson said. "We don't want to. We'd rather arbitrate and get some fish."

ANCHORAGE
NEWS
7/16/85

City's hunters rank last

By CRAIG MEDRED
Daily News reporter

Anchorage hunters will stand last in line for most drawing permits to hunt dall sheep, caribou and bison this fall, according to officials of the Alaska Department of Fish and Game.

Chances for Anchorage residents to get permits for the more popular hunts will likely depend on how many rural residents apply for those hunts, said Paddy McGuire, a spokesman for the state agency.

Emergency permit procedures approved by the state Board of Game this spring changed permit drawing procedures to favor rural and low-income residents of the state.

The board changed the permit system after the state Supreme Court ordered the state to begin implementing a law giving subsistence hunters and fishermen a priority on the state's wildlife resources.

Subsistence is the harvest of fish and game for food. The Supreme Court said all Alaskans are entitled to the subsistence priority, but it stipulated local residents can be given special privileges when resources are in short supply.

State attorneys interpreted that to mean that local residents should be given a priority in almost all permit hunts, said Joel Bennett, a member of the state board of game.

Non-residents were immediately banned from applying for most of the permit hunts, and state fish and game officials began developing a point

See Back Page, ANCHORAGE

Anchorage hunters last in line for autumn permit hunts

Continued from Page A-1

system to decide which state residents would get permits for almost 50 different hunts.

General hunts were not affected by the board's action, but many permit hunts were — from hunts for cow moose in the Matanuska Valley to special, backpack hunts for sheep in the mountains near Tok.

Until this year, all hunters applied to participate in a random drawing for these permits, but the board's action this spring has changed all of that.

"I don't think people ... comprehend," said McGuire.

Some state wildlife officials say they are expecting someone to challenge the new permit standards in court. Members of the Alaska Wildlife Federation and Sportsmen's Council — the state's largest conservation group — said they have discussed a suit.

"Of course we're unhappy," said Warren Olson, an Anchorage member of the council. "I don't think I can even qualify to hunt in the (Chugach State) park next to town, and I've been here since 1958."

A drawing permit hunt for sheep has been conducted annually in the remote parts of the park. It has become an extremely popular hunt at-

tracting many applications for a few permits.

The new, 90-point scoring system will give low-income and subsistence hunters a priority on those permits; recent state studies have concluded less than 2 percent of the sheep hunting in Alaska is done by subsistence hunters; and nearly all of it is done by people who make more than \$20,000 per year.

Permit drawing hunts were originally begun in Alaska when sport hunters began complaining about the quality of hunts in areas where seasons kept getting shorter and shorter. State game biologists said the only way to avoid overharvesting popular wildlife species without short seasons was to establish a permit system.

Up to 10,000 hunters per year have paid a \$5 fee for a chance at one of about 2,000 permits to hunt caribou in the Nelchina Basin north of Anchorage.

Other hunts for bison and dall sheep have been nearly as popular, attracting up to five times more applicants than permits.

All permit drawing hunts for bison and dall sheep will fall under the subsistence permit system this fall, as will a special Kenai Peninsula hunt for moose with antlers wider than 50 inches. That hunt was

originally set up as a program to harvest trophy bulls.

Now, it will become a subsistence hunt with an advantage in applying for permits given to low-income Kenai residents.

The answers to five questions will determine who gets the permits. Points will be awarded for each question. Here's how it works, according to an application for the hunts:

- Residency in the hunt area is good for 30 points. Residency in the same game management unit, but not in the hunt area, nets 20. Residency in the game management area next to the hunt area means 10 points. And residency in any other area means zero points.

Anchorage hunters would get 30 points for hunts in the Anchorage Bowl, 20 points for hunts in Chugach State Park, 10 points for some hunts in the Matanuska Valley and on the north end of the Kenai Peninsula, and no points for hunts elsewhere in Alaska.

- One point will be given for each year in which the hunter legally killed an animal, up to a maximum of 10 points.

- Dependency on the "the game population as a principal means of support for yourself and/or your family" means 20 points if the appli-

cant claims to be greatly dependent, 15 points for moderately dependent, 10 points for slightly dependent and no points for not dependent. The terms are not defined.

- Availability of "other kinds of big game and/or fish which are reasonable substitutes for the animal" means 15 points if unavailable, 10 points if slightly available, 5 points if moderately available and zero points if greatly available.

- A household income "large enough to purchase food and other items as a reasonable alternative to taking wild fish and game" means zero points. A household income that will not allow that means 15 points.

The points that will be awarded for each answer are not shown on the permit application form. There was no room to put the points on the form so people could score themselves, McGuire said.

"It's no big secret," he added.

The permit applications should be available for hunters to begin filling out this week, McGuire said. Fees submitted with an earlier permit drawing — the now-canceled random drawing usually scheduled for each fall — should start coming back to hunters in the mail in the near future, he said.

Game rules may muzzle some hunters

FBK8 7/20/85

By KATHI BERRY
Staff writer

Big game hunters in Fairbanks may have fewer chances to hunt in some of their old stomping grounds because of emergency hunting regulations set last month by the Alaska Board of Game.

Hunters who seek caribou near Ferry, a village about 100 miles south of Fairbanks, and some sheep hunters will feel the most noticeable pinch, while moose and bear hunters will be less affected by the new restrictions.

A pair of court decisions prompted the Game Board emergency meeting to draw up new subsistence regulations. The state Supreme Court said no Alaskans could be restricted from subsistence hunting unless other uses—such as guided hunts by out-of-state residents—had been eliminated.

The state Court of Appeals also decided that in the absence of specific subsistence regulations for every hunt, subsistence hunters who killed and used game in violation of sport hunting regulations could not be prosecuted for poaching.

The Game Board decided which hunts should be open to everyone (general hunts), which should be open to Alaskans only (Tier I hunts) and which should be restricted to preferred hunters (Tier II hunts).

To determine who will receive permits for Tier II hunts, the Game Board developed a scoring system based on the 1978 subsistence law. Scoring will be based on answers to a questionnaire enclosed with permit applications.

Hunters applying for a Tier II hunting permit can earn up to 90 points in the new scoring system: 30 points each for their customary and direct dependence on the animal, the proximity of their home to the hunting area, and the availability of alternative resources.

The Game Board classified 32 Tier II hunts in the Interior. Most are in areas where there is great hunting demand but limited game resources, said state Fish and Game Department biologist Cathie Harms.

Many of the new Tier II hunts were previously classified as draw-

(See HUNTING, page 3)

HUNTING . . .

(Continued from page 1)

ing permit hunts, in which permits were awarded by lottery.

"Everyone who wanted to hunt in these areas had an equal chance of getting a permit before. Whether you got the permit or not was the luck of the draw," Harms said.

"This year Fairbanks hunters will probably have less of a chance to hunt in Tier II areas because they won't score as high as residents living close to the game."

The caribou hunt in unit 20A near Ferry, classified as Tier II, was regulated by registration permit last year.

"People were apparently standing elbow-to-elbow in Ferry," Harms said. "The harvest was so good that we had to close the area in five days."

Harms said the new point system will probably allow considerably fewer area residents to caribou hunt near Ferry and two other major areas. The Macomb herd in unit 20D south of the Alaska Highway and the Nelchina herd in units 13 and 14B were also designated Tier II hunts.

Sheep hunters who frequented units 12 and 20 in the Tok Management and the Delta controlled-use areas will also be squeezed by the new regulations. Permits for both of these areas were previously awarded by lottery. Now both are Tier II hunts.

The only major moose hunting area in the Interior classified as Tier II this year is the Minto Flat Management portion of unit 20B. The Tanana Flats area in 20A and the areas in 20B along the banks of the Salcha and Chena Rivers are classified as general hunts open to residents and non-residents.

Lawsuit: Bag subsistence measures

Times Staff

7/31/86:
State subsistence laws relating to game hunts are unconstitutional and should be scrapped, according to a lawsuit filed Monday in Anchorage Superior Court.

Even if the law is upheld as constitutional, emergency regulations adopted by the Board of Game in June should be thrown out and an open lottery for hunting permits restored, the lawsuit states.

Anchorage attorney Stephen Sims filed the lawsuit on his own behalf and asks that all legal costs be borne by the state.

In the lawsuit, Sims contends that subsistence preference for taking game, including bison, moose, mountain goat and caribou, is unconstitutional because it denies to some state residents any chance of getting a hunting permit.

Sims said his application filled out late last week to obtain a subsistence permit to hunt bison will not be evaluated because of where he lives and his economic status.

Man files suit over subsistence regulations

By CRAIG MEDRED
Daily News reporter

7/31/85

An Anchorage big-game hunter and attorney on Monday filed suit in Superior Court charging the state's new subsistence hunting regulations are unconstitutional.

Rules designed to allocate hunting permits to rural and low-income residents of the state violate equal protection and anti-discrimination sections of both the state and U.S. constitutions, said attorney Stephen Sims, who asks that the old random permit process be reinstated.

The state Board of Game this year eliminated a permit lottery in favor of a point system favoring low-income and rural residents. The board said the system was intended to meet the mandates

of a state Supreme Court decision requiring a preference for subsistence hunters and fishermen.

Subsistence, as the court defined it, is the harvesting of fish or wildlife for food, and any resident hunter could qualify. The court ruled subsistence should be given preference over all other forms of harvest, and said rural subsistence hunters could be given a harvest preference over urban hunters when resources were in short supply.

Prior to the Supreme Court decision, the Alaska Department of Fish and Game had been conducting a random drawing for permits for about 50 hunts — permit hunts originally created to provide opportunities for trophy or wilderness hunting.

For instance, state biologists said only about 1,000 caribou per year could be harvested in the Nelchina Basin north of Anchorage if the Nelchina caribou herd was to continue to thrive. But about 10,000 people wanted to hunt there.

Faced with the choice of a one- or two-day hunting season with a fairly unpredictable harvest, or a monthlong season with a fairly predictable harvest, state biologists opted for a permit system.

Sims said that since 1977 he has three times qualified for permits for that hunt. But this year, he charged, he will not be able to qualify for a permit because the point-system is stacked against middle-income Anchorage residents. Sims wants the state to return to the random drawing it used in the past.

City hunters rallying against regulations

By CRAIG MEDRED
Daily News reporter

Angry about inequities they see in Alaska's new subsistence hunting regulations, Anchorage big game hunters have organized to pressure state officials for changes.

Hunting-permit regulations that give rural and low-income hunters preference over urban and middle-income Alaskans are a fiasco, said Dave Chatfield, spokesman for the newly formed Southcentral

Outdoor Coalition.

The group plans a rally at 7 p.m. Aug. 14 in the East High School Auditorium to express outrage at the new hunting rules.

"We expect to have an overflow crowd," said Chatfield. "There are a lot of people out there angry about this.

"I'm a caribou hunter for the Nelchina herd, and I got angry about it."

Nelchina Basin caribou northeast of Anchorage are one of several species of big game to be allocated among hunters

on the basis of income and residency this year. In the past, about 10,000 hunters per year have participated in a random drawing for approximately 2,000 permits to hunt the animals.

This year, hunters are being required to fill out forms which will decide who gets permits based on residency in or adjacent to the Nelchina area, past success in killing Nelchina caribou, availa-

See Page B-3, CITY HUNTERS

8-4-85 "ADN"

City hunters rallying against new subsistence regulations

Continued from Page B-1

availability of other meat and family income.

Chatfield said the scoring system makes it almost impossible for him to qualify for a permit. Anchorage big game hunter and attorney Stephen Sims leveled similar charges in a lawsuit filed against the regulations earlier this week.

The Alaska Board of Game said the regulations are necessary to carry out the mandate of a state law guaranteeing a priority for subsistence hunting and fishing — the harvest of fish or wildlife for food.

The Alaska Supreme Court early this year ruled the law requires the state to set up subsistence seasons. The court said all Alaskans who eat what they kill can qualify for subsistence, but it added that

if resources are in short supply, rural residents can be given a priority to harvest fish and game.

The state Department of Law subsequently advised the Board of Game that most of the state's approximately 50 permit hunts must be structured so that rural residents could take advantage of the priority outlined by the high court.

"Suddenly, because you live in Anchorage, because you work for a living, or because you've never been lucky enough to draw a permit before, you're out of luck," said Chatfield.

A variety of general seasons still allow Anchorage residents to hunt for most species of game in various areas of the state, but the permit hunts long have been among the most popular trips for outdoorsmen.

Many of the hunts were established to ensure high-quality, wilderness hunting conditions. The Board of Game, for instance, established hunts for trophy moose with antlers of 50 inches or larger on the Kenai Peninsula, and hike-in hunts for dall sheep with horns of a full curl or greater in the Tok area of the Alaska Range. These are now subsistence hunts.

"This is a fiasco," said Chatfield.

It is unfathomable, he added, that the state would on the one hand sell people remote homesites — primarily for hunting camps and recreation cabins — and then say those people can't hunt there because they live in Anchorage.

"Now they have the land and they can't hunt on it," he said. "I think this issue is about to blow up."