

SUBSISTENCE

PRESS

RELEASES

Alaska State Legislature

APR 12 1985

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MEMBER
HOUSE RESOURCES COMMITTEE
MEMBER
HOUSE STATE AFFAIRS COMMITTEE

Representative Roger Jenkins

DISTRICT 11

PRESS RELEASE

For Immediate Release

April 12, 1985

For More Information Contact:

Rep. Roger Jenkins 465-4453

SUBSISTENCE

Rep. Roger Jenkins, today, has once again cautioned the House to handle subsistence in a careful and reasonable manner. In order to clarify subsistence, legislature must continue the public hearing process, for both rural and urban residents. The House should not be stampeded into making a hasty decision that will effect all Alaskans for sometime to come.

A decision on an issue as grave as subsistence begs for a complete debate. No one not even the Governor should short circuit the debate process. Rep. Roger Jenkins, sent the governor a letter today outlining his concerns. Subsistence has been an ongoing problem since before statehood. We are now in 1985 and we must look at the problem and issue of subsistence in that manner.

Rep. Roger Jenkins assessment of the House is that House Bill 288 will not be successful without destroying the present goodwill and the possibility of a compromise solution.

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Representative Roger Jenkins

DISTRICT 11

April 12, 1985

The Honorable Bill Sheffield
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield,

Attached please find for your review my March 27th House floor address on subsistence. As a member of the House Resources Committee, subsistence has received my close attention in attempting to make a sound long lasting decision on Alaskan subsistence. In my view, as it was introduced, House Bill 288 will not survive a vote on the House floor. The subsistence issue is possibly the one issue that could destroy an otherwise very amicable and productive legislative session.

Subsistence deserves a total examination and full public hearings throughout Alaska. Only after careful scrutiny and input by all Alaskans can we derive a solution that will bind us together for common utilization of our very precious fish and game resources. The events of the past three weeks and resultant dialogs within the House has strongly indicated to me that Representatives from all parties and areas of state are honestly and sincerely attempting to achieve that lasting solution. If this legislature is afforded the time to go beyond the rural-urban schism, we may be successful in that effort.

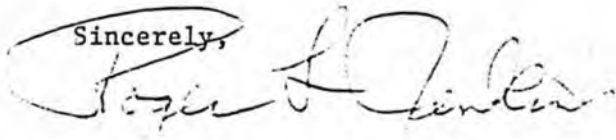
Many of the concerns of my March 27th Special Orders have been addressed in the subsequent hearings. Testimony from throughout our great land has been very enlightening. Rural and urban citizens are both for and against House Bill 288. Most of the rhetoric is reasoned, informative, and of real value. In particular the testimony of the prevailing and unsuccessful attorneys is worthy of your personal review.

Attempts to define geographical residency or domicile, rural, customary and traditional uses have been less than satisfactory. The questions of equal access to common resources in the pending McDowell case raised more questions than were answered. Perhaps fish and game resources will ultimately have to be legislated separately. However, I remain convinced that any bill that clearly differentiates on geographical residency will not legally prevail. Additionally, hand held hook and line fisheries might once again be considered customary and traditional subsistence use. Finally, we must explore the concept that those who directly utilize the resource have access to them on a needs basis.

At the present time the events that are unfolding in the House may preclude the possibility of successful resolution of the subsistence problem. Indeed the course as it is now charted would only produce an up or down vote on House Bill 288. As I assess the mood of the House, this bill would not be successful without destroying the present goodwill and potential of a compromise solution acceptable to a large majority of Alaskans.

In conclusion, I feel we have journeyed a long way toward gathering the necessary background and base line data on subsistence. Additionally, legislation without language that clearly involves all Alaskans probably would ultimately be a failure. Consequently, it may be opportune for your administration to revise your priorities and allow the subsistence issue the reflection time it needs to achieve satisfactory long term results.

Sincerely,

A handwritten signature in cursive script, appearing to read "Roger L. Jenkins". The signature is written in dark ink and is positioned below the word "Sincerely,".

Representative Roger L. Jenkins
District 11

Attachments

RLJ/dg

F O R I M M E D I A T E R E L E A S E

The state's largest commercial fishermen's group has issued an appeal to Alaska's users of fish and wildlife to work together for a peaceful resolution of the subsistence issue that benefits all Alaskans.

Bob Blake, president of the United Fishermen of Alaska, said that commercial fishermen are interested in pursuing common goals with the other users of Alaska's fisheries resources, rather than continuing the divisive debate over subsistence.

"The United Fishermen of Alaska believes that the political energy generated over the subsistence issue should be directed toward increasing the amount of fish available to each user group," Blake said. "Commercial, sport, personal use and subsistence fishermen should be working together on enhancement projects and putting an end to high seas interceptions of our salmon by foreign fishing fleets."

"Each user group can end up with far more salmon through these joint efforts," Blake said. "The political wars over subsistence result in no additional fish, but promise to leave this state even more divided than it has been in the past."

"UFA wants to resolve the subsistence issue this session and move onto productive cooperative arrangement with all users of Alaska's fisheries resources. The facts are that the subsistence salmon take before Madison was insignificant. Cook Inlet and Copper River subsistence harvests have accounted for less than one percent of the take in each management system."

"By working together, we can easily accommodate this continued use and increase the takes of sport, personal use and commercial fishermen," Blake said.

According to figures distributed by the Alaska Department of Fish and Game, Japanese and Taiwanese fishing fleets took 27.5 million Alaska-bound salmon on the high seas during 1983. Most of the salmon taken by the high seas fishing fleets are very immature and weigh a fraction of what they would if allowed to complete their growth cycles.

(more)

Blake pointed out that biologists estimate more than 100,000 king salmon destined to Southcentral Alaska were intercepted by the high seas fleets during 1983. This is more than the combined catch that year of all user groups in Cook Inlet.

"All user groups should be working together as a cohesive political force to stop these destructive fisheries," Blake said, "rather than fighting amongst ourselves."

The joint efforts of commercial fishermen in Prince William Sound and Fairbanks lawmakers to put more fish into the Copper River is a very good example of what can be accomplished by cooperation, Blake said. He explained that the cooperative efforts have resulted in a state-run hatchery at Gulkana which should produce a return in 1990 of 200,000 adult fish to the Copper River.

The returns are timed to allow significant catches by sport, personal use and commercial fishermen while not impacting natural stocks. The projected returns would result in an additional 60,000 to 90,000 sockeyes available for personal use fishermen in the upper tributaries of the Copper River. In 1984, personal use dipnetters in the Copper River were allocated 60,000 sockeyes.

Blake said commercial fishermen in Prince William Sound are deeply committed to large-scale enhancement projects that will produce significant benefits to all user groups. The commercial fishermen recently voted to support a two percent tax on their gross earnings to pay for a hatchery producing, among other stocks, one million king salmon eggs and one million coho eggs. The king and coho production is designed to benefit sport fishermen.

(end)

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

INTERIOR DEPARTMENT SETS JUNE 1 DEADLINE FOR SUBSISTENCE
COMPLIANCE
September 26, 1985
No. 85-168

FOR IMMEDIATE RELEASE

FAIRBANKS--The U.S. Department of Interior has set June 1, 1986, as the deadline for the State of Alaska to bring subsistence hunting and fishing laws into compliance with federal statutes, Governor Bill Sheffield announced today.

"This deadline for federal intervention confirms my concern that the Alaska Legislature address the subsistence issue. The possibility of federal intervention is real, but fortunately we have nine months to act. I'm confident that in working with the leadership of the House and Senate, we can pass a law that is constitutional, enforceable, and fair to all user groups."

The Alaska Supreme Court, in ruling on February 22, negated regulations that had been used since 1982 to guide management of subsistence hunting and fishing in the state. Governor Sheffield sponsored legislation to correct the problem, but after passing the Alaska House of Representative, the bill (HB 288) was stalled in the Senate State Affairs Committee.

"...The absence of legislative action this year to amend the State subsistence statute to conform to ANILCA has confirmed our preliminary determination that the State is no longer in compliance with the requirements" of federal law, wrote Bill Horn, assistant secretary of the Interior Department, in a letter to Sheffield this week.

In setting a June 1 deadline for the Alaska Legislature to act, Horn said if no remedy was found by that date, the

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Department of Interior "will be obligated to discharge its obligations" under requirement of the Alaska National Interest Lands Conservation Act of 1980. One section of that law requires the federal government to assume control over fish and wildlife management on federal land and associated waters, if state hunting and fishing laws are out of compliance with federal law.

"Most Alaskans would agree that the loss of state management authority on sixty percent of the state would be detrimental to our resources and our use of them," the Governor said. "I don't want to overstate the potential threat of federal intervention, but Alaskans must realize the possibility is real if we don't take action soon."

Horn said he had instructed the U.S. Fish and Wildlife Service to prepare a contingency plan for federal management of fish and game on federal land. He added, however, that he was "confident and hopeful that the State can make the necessary changes in its program" by June 1.

"We have chosen as a deadline June 1, 1986, because it is roughly one year from the time the State legislature failed to rectify the State subsistence statute," Horn said.

"This course of action is further justified due to the fact that it appears unlikely that any adverse impact on rural subsistence uses will occur during the grace period. The State subsistence program will continue to ensure that...rural subsistence users are able to hunt, trap, and fish for necessary resources.

"The problem is that the (Supreme Court) decision permits urban residents to be included in the subsistence class, contrary to the requirement of ANILCA that the preference be limited to rural residents. My decision that a grace period is warranted would, of course, have to change if significant adverse impacts on rural, customary, and traditional subsistence users and on subsistence resources subsequently become apparent," Horn said.

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The Governor's legislation, as amended by the House in April, would have restored to the Boards of Fish and Game the authority to identify subsistence uses narrowly. HB 288 also would have allowed the boards to authorize permit drawing hunts, limited registration hunts, and general hunts more widely available to other users, as they had been prior to the February court ruling.

"There was no reason other than legislative inaction for these hunts to go out the window in 1985. I hope we can solve the problem quickly in time for the next hunting season," Sheffield said.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

September 23, 1985

Honorable Bill Sheffield
Governor of Alaska
Juneau, Alaska 99811

Dear Governor Sheffield:

On May 14, 1982, former Secretary of the Interior James Watt certified that the State of Alaska's subsistence program complied with the requirements of sections 803, 804 and 805 of the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C. §§ 3113, 3114 and 3115. Accordingly, the State has for the last three years assumed primary responsibility for the management of the program providing the preference for subsistence uses on the public lands in Alaska. Unfortunately, the Department of the Interior finds it necessary to advise you formally that the State subsistence program is no longer in compliance with the requirements of ANILCA as specified in Title VIII.

As you are aware, the Alaska Supreme Court, in Madison v. Alaska Department of Fish and Game, 596 P.2d 168, Op. No. 2911 (Alaska Feb. 22, 1985), invalidated a State Board of Fisheries regulation designed to determine eligibility for subsistence fishing in the Cook Inlet Region because the regulation was inconsistent with the State subsistence statute. This ruling held that under the State statute the subsistence preference must be extended to both "rural" and "urban" subsistence users. Because section 803 of ANILCA limits the subsistence preference to "rural Alaska residents," the Madison decision raised questions as to the continuing eligibility of the State to manage subsistence on public lands in Alaska under section 805(d) of ANILCA. In an effort to determine the State's views on this issue prior to Departmental action, I requested on April 7, 1985, the legal opinion of the State Attorney General on the effect of the Madison decision. To date we have received no formal response from the State on the effect of Madison on the State's eligibility under section 805(d) of ANILCA. We did receive a letter outlining the administrative actions taken by the State in the wake of Madison but it offered no opinion regarding compliance with Title VIII. Nonetheless, the absence of legislative action this year to amend the State subsistence statute to conform to ANILCA has confirmed our preliminary determination that the State is no longer in compliance with the requirements of section 805(d).

You are hereby advised that the State has until June 1, 1986, to revise its subsistence program to bring it back into compliance with the requirements of sections 803, 804 and 805 of ANILCA. Compliance will require that the subsistence preference be limited to those rural Alaska residents who customarily and traditionally make use of subsistence resources. If the State has not conformed its subsistence program to the requirements of ANILCA by that date, the Department will be obligated to discharge its obligations pursuant to section 805. As we noted to the State Boards of Fisheries and Game in 1982, there are various ways to comply with the requirements of section 805; the regime in force when the Madison decision was handed down represented one possible approach. I am confident and hopeful that the State can make the necessary changes in its program within this period, and I offer the full cooperation and assistance of the Department in this effort. *

The Department has concluded that section 805(d) does not require an immediate Federal take over of the subsistence program, given the circumstances by which non-compliance with the ANILCA requirements has occurred. Section 805(d) provided the State with a one year period of grace following enactment of ANILCA in order to give the State an adequate amount of time to prepare and implement a program that met the requirements of ANILCA. After successfully establishing an adequate program, the State made a good faith effort to keep in compliance with the requirements of Title VIII of ANILCA. Indeed, the recent problems that have befallen the State's program have not been the result of legislative repeal of the program; instead, an unexpected State Supreme Court ruling in a case that was vigorously defended by the State has altered the State's subsistence program and created a non-compliance situation. Under these circumstances, we are persuaded that the spirit and intent of section 805(d) warrants a grace period in order to provide the State with a reasonable opportunity to make the necessary adjustments to its program. We have chosen as a deadline June 1, 1986, because it is roughly one year from the time the State legislature failed to rectify the State subsistence statute.

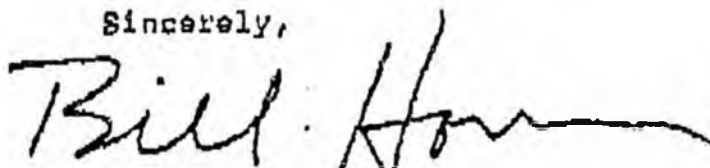
This course of action is further justified due to the fact that it appears unlikely that any adverse impact on rural subsistence users will occur during the grace period. The State subsistence program will continue to ensure that the Title VIII class of rural subsistence users are able to hunt, trap, and fish for necessary resources. The problem is that the Madison decision permits urban residents to be included in the subsistence class, contrary to the requirement of ANILCA that the preference be limited to rural residents. My decision that a grace period is warranted would, of course, have to change if significant adverse impacts on rural, customary and traditional subsistence users and on subsistence resources subsequently become apparent.

I fully expect that the State, in cooperation with the Department, will bring its subsistence program back into compliance with the requirements of Title VIII of ANILCA prior to June 1, 1986. I have, however, directed the U.S. Fish and Wildlife Service, in cooperation with the Office of the Solicitor, to begin preparation of a contingency plan for providing the subsistence preference on public lands that meets the requirements of ANILCA. My goal is to ensure that, in the event that the State is not able to bring its program into compliance by June 1, 1986, the Department is ready and able to discharge effectively its obligations under sections 803, 804 and 805 of ANILCA.

As a matter of information, the Madison ruling does not expand eligibility to pursue subsistence activities in those national parks and monuments where subsistence taking is authorized. Eligibility to engage in subsistence activities within those units of the National Parks System in Alaska is still determined pursuant to Federal regulations issued in 1981, since the State of Alaska never sought to acquire control of this aspect of the ANILCA subsistence program.

I regret the unexpected decision by the Alaska Supreme Court in the Madison case that has moved the State subsistence program out of compliance with the requirements of ANILCA. I am confident, though, that the State will be able to bring its program back into compliance by within one year.

Sincerely,



William P. Horn
Assistant Secretary
Fish and Wildlife and Parks

cc: AK Delegation
CHM-Sen Energy
CHM-House Interior
Ranking Minority of both Committees
Asst. Sec, Peter Myers, U.S. Dept. Agriculture

Alaska State Legislature

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FAIRBANKS, ALASKA 99707



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JUNEAU, ALASKA 99811

Senate Office of the President

FOR IMMEDIATE RELEASE

CONTACT: SENATOR DON BENNETT

MARCH 7, 1986

465-3755

BENNETT SAYS SUBSISTENCE BILL ON TRACK

Senate President Don Bennett said today that the Senate review of a House subsistence bill was on track and would be completed in the near future.

House Bill 288, introduced at the request of Governor Sheffield, passed the House in a storm of controversy last May. The bill was sent to the Senate on the 111th day of the session, eight days before the legislature adjourned, and too late for the Senate to take action.

"The Senate's State Affairs and Resources Committees have held extensive public hearings around the state in the last nine months," said Bennett, a Fairbanks Republican. "They have revised the House bill considerably as a result of the public comments received."

"The bill is significantly improved compared to the House's version," Bennett continued. "However, there is still some work which needs to be done to ensure that the subsistence controversy is settled in a just and equitable way."

Bennett noted that last session, the House barely approved the governor's subsistence solution on a vote of 21-18. "Obviously many House members felt that the governor's bill was not in the best interests of their constituents. Unlike the House, the Senate is making the effort to draft a bill which will have the support of more than a bare majority of the public. In a democracy, it is always best to take the time to establish a consensus on a controversial issue. The federal government has given us until June, which is ample time to do this."

Bennett went on to say that those persons who are criticizing the Senate for not yet passing a subsistence bill are the same persons who tried to ramrod the governor's bill through the Senate last year, before the public could be given a chance to comment.

A handwritten signature in cursive script, appearing to be "John Bennett", written in dark ink.

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Alaska State Legislature



Senator Mitch Abood
CHAIRMAN

INTERIM OFFICE
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4714

Senate Committee on State Affairs

REVISED

PRESS RELEASE FOR SUBSISTENCE HEARINGS
SENATE STATE AFFAIRS

The Senate State Affairs Committee, chaired by Senator Mitch Abood will be holding the first in a series of hearings on the issue of subsistence starting August 27th and 28th. The times will be from 1:00 to 4:30pm and 6:30pm to 9:00pm on Tuesday August 27th continuing on Wednesday August 28th at 9:00 to 11:30am and 1:30 to 5:00 pm. The hearings will be held at the National Guard Armory at the corner of International Airport Road and Spenard, next to the International Airport Inn. The hearing on the 28th will be serviced by a statewide teleconference. Public is welcome and urged to attend and give testimony on this very important issue. The next hearings are tentatively set for October 9th and 10th in Fairbanks. For more information regarding the hearings, please contact Senator Mitch Abood's office at either 274-5941 or 274-2843.