

HJR

48

HOUSE RESOURCES COMMITTEE
Roll Call and Members' Bill Votes

* (indicates first public hearing)

Room 124, Capitol Bldg.

(Sat.)
Mon., Wed., Fri.

Date: 5/10/95

Tape# 95-106 Joint _____

Time: 9:07 am/pm Time Adjourned: 9:50 (am/pm)

ROLL CALL:	PRES	ABS	TIME	AR	_____	_____	_____
Rep. Joe Green	✓	_____	_____	_____	_____	_____	_____
Rep. Bill Williams	✓	_____	_____	_____	_____	_____	_____
Rep. Scott Ogan	✓	_____	_____	_____	_____	_____	_____
Rep. Alan Austerman	✓	_____	_____	_____	_____	_____	_____
Rep. Ramona Barnes	_____	_____	_____	_____	_____	_____	_____
Rep. John Davies	✓	_____	_____	_____	_____	_____	_____
Rep. Pete Kott	_____	_____	<u>9:14</u>	_____	_____	_____	_____
Rep. Eileen MacLean	_____	_____	_____	_____	_____	_____	_____
Rep. Irene Nicholia	_____	_____	<u>9:20</u>	_____	_____	_____	_____

Other Legislators Present G. Davis

AGENDA:

Bill No.	Short Title	Action Taken
<u>HJR 48</u>	<u>General Legislative Subordinate Proposal</u>	<u>CSHJR48 (RES) (UT)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

House Resources
5-6-95 9:07am
Tape #95-66, Side A
HJR 48

HOUSE COMMITTEE REPORT

5/6/95
Rules

(5)
Date Referred: May 2, 1995

FURTHER REFERRALS:

Date of Committee Action: 5/6/95

The RESOURCES Committee considered:

HJR 48

HOUSE JOINT RESOLUTION NO. 48

KENAI PENINSULA SUBSISTENCE PROPOSAL

Requesting that the Federal Subsistence Board not adopt the proposed subsistence moose hunting regulations for the Kenai Peninsula, not adopt any other federal regulation changes for hunting or fishing on the Kenai Peninsula, and not adopt the changes in federal regulations that make a customary and traditional use determination for certain communities on the Kenai Peninsula.

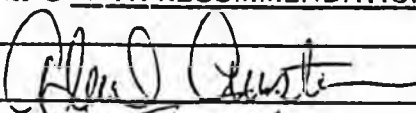

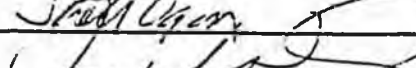
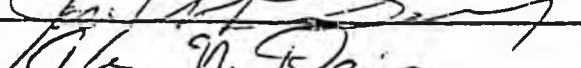
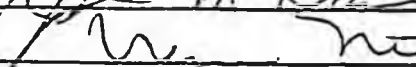
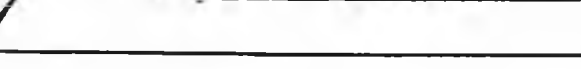
recommends it be replaced with the following committee substitute CS HJR 48 (Res) the same title a new title


additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) ADFG zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	Austerman			✓	
	Kati			✓	
	Ogan			✓	
	Green	✓			
	Davies	✓		✓	
	Nicholia			✓	
		(2)		(4)	

CHAIR'S SIGNATURE 

9-LS1140K
Cook
5/5/95

CS FOR HOUSE JOINT RESOLUTION NO. 48()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES NAVARRE, G.Davis

A RESOLUTION

1 Requesting that the Federal Subsistence Board not adopt the proposed subsistence
2 moose hunting regulations for the Kenai Peninsula, and refrain, until January 1,
3 1997, from adopting federal regulations that would grant subsistence preferences
4 for fish or game or changing any customary and traditional use determinations.

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

6 WHEREAS the Federal Subsistence Board has proposed granting new subsistence
7 preferences to several communities on the Kenai Peninsula for the purposes of subsistence
8 hunting; and

9 WHEREAS the adoption of any new federal regulation changes for subsistence
10 hunting may create additional conflicts with subsistence hunting and fishing and further divide
11 residents of the Kenai Peninsula and Alaska; and

Completed

12 WHEREAS this will be the first time that communities will have been given new
13 subsistence preferences since the federal government took over the management of subsistence
14 ~~of~~ hunting on federal lands; and

15 WHEREAS this federal proposal does not address the adverse effects on the 44,400
16 residents of the Kenai Peninsula, most of whom do not agree with this plan; and

1 **WHEREAS** a petition opposing the Federal Subsistence Board's proposal was signed
2 by 1,800 residents of the Kenai Peninsula within 10 days after the petition began to be
3 circulated; and

4 **WHEREAS** there was not sufficient opportunity for peninsula residents to testify
5 before the Federal Subsistence Board to address their concerns about these drastic changes in
6 hunting regulations on the Kenai Peninsula; and

7 **WHEREAS** the public is poorly informed about the process of the regional subsistence
8 advisory councils and the degree of deference given to those regional councils by the Federal
9 Subsistence Board; and

10 **WHEREAS** the residents of the communities of Hope, Cooper Landing, Whittier,
11 Seldovia, and Ninilchik should not receive special preference over other residents of Kenai
12 Peninsula communities; and

13 **WHEREAS** Alaskans are working for a comprehensive solution for regaining state
14 management of fish and game;

15 **BE IT RESOLVED** that the Alaska State Legislature respectfully and urgently
16 requests that the Federal Subsistence Board not approve the proposed subsistence moose
17 hunting regulations for the Kenai Peninsula; and be it

18 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests the
19 Federal Subsistence Board to refrain, until January 1, 1997, unless concurred in by the
20 commissioner of the Alaska Department of Fish and Game, from

21 (1) adopting any future federal regulations that would grant subsistence
22 preferences for fish or game; and

23 (2) changing any of the customary and traditional use determinations in order
24 to allow the new administration, the legislature, and Alaska's Congressional delegation the
25 opportunity to build consensus among all Alaskans to provide a solution to the subsistence
26 dilemma that will return management of Alaska's fish and game resources to the State of
27 Alaska.

28 **COPIES** of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President
29 of the United States and President of the U.S. Senate; the Honorable Strom Thurmond,
30 President Pro Tempore of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S.
31 House of Representatives; the Honorable Bruce Babbitt, Secretary of Interior; the Honorable

1 Dan Glickman, Secretary of Agriculture; and to the Honorable Ted Stevens and the Honorable
2 Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative,
3 members of the Alaska delegation in Congress; and to the Federal Subsistence Board.

May 6, 1995

#1

AMENDMENT TO CSHJR 48 (Res)

OFFERED IN HOUSE RESOURCES
COMMITTEE

BY REPRESENTATIVE OGAN

Page 1, Line 5:

Delete "certain"

Insert "all"

Page 1, Line ~~8~~: 7

Following "Peninsula"

Insert "and the State of Alaska"

Page 1, Line ~~12~~: 16

Delete "the Kenai Peninsula and"

Insert "the State of"

Page 2, Line 2:

Following "Peninsula,"

Insert "as well as residents of the rest of the State of Alaska,"

Page 2, Line ~~6~~: 4

Delete "peninsula"

Insert "Alaska"

Page 2, Line ~~8~~: 6

Following "Peninsula"

Insert "and the rest of the State of Alaska"

Page 2, Line 13: 11

Following "Ninilchik"

Insert "Glennallen, Kodiak, Sitka, Cantwell, Nenana, Skwenta, Bethel, Nome, Tok and numerous other communities"

Delete "Kenai"

Page 2, Line 14: 12

Delete "Peninsula communities"

Insert "the State of Alaska"

May 6, 1995

#2

AMENDMENT TO CSHJR 48 (Res)

OFFERED IN HOUSE RESOURCES
COMMITTEE

BY REPRESENTATIVE OGAN

Page 1, Lines 13 - 15:

Delete all material

Version K
P-1/L-12. ~~13~~ 14

AMENDMENT

May 6, 1995

IN THE HOUSE RESOURCES COMMITTEE

By Representative *Green*

To HJR 48 LS1140K

Page 1/ Line 10 BEFORE "...may..." DELETE "...hunting..."

Page 1/Line 10 DELETE "...the Kenai Peninsula and..."

9-LS1140F ✓
Cook
5/4/95

CS FOR HOUSE JOINT RESOLUTION NO. 48()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES NAVARRE, G.Davis

A RESOLUTION

1 Requesting that the Federal Subsistence Board not adopt the proposed subsistence
2 moose hunting regulations for the Kenai Peninsula, not adopt any other federal
3 regulation changes for hunting or fishing on the Kenai Peninsula, and not adopt
4 the changes in federal regulations that make a customary and traditional use
5 determination for certain communities in Alaska.

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

7 WHEREAS the Federal Subsistence Board has proposed granting new subsistence
8 preferences to several communities on the Kenai Peninsula for the purposes of subsistence
9 hunting; and

10 WHEREAS the adoption of any new federal regulation changes for subsistence
11 hunting may create additional conflicts with subsistence hunting and fishing and further divide
12 residents of the Kenai Peninsula and Alaska; and

13 WHEREAS this will be the first time that communities will have been given new
14 subsistence preferences since the federal government took over the management of subsistence
15 of hunting on federal lands; and

1 WHEREAS this federal proposal does not address the adverse effects on the 44,400
2 residents of the Kenai Peninsula, most of whom do not agree with this plan; and

3 WHEREAS a petition opposing the Federal Subsistence Board's proposal was signed
4 by 1,800 residents of the Kenai Peninsula within 10 days after the petition began to be
5 circulated; and

6 WHEREAS there was not sufficient opportunity for peninsula residents to testify
7 before the Federal Subsistence Board to address their concerns about these drastic changes in
8 hunting regulations on the Kenai Peninsula; and

9 WHEREAS the public is poorly informed about the process of the regional subsistence
10 advisory councils and the degree of deference given to those regional councils by the Federal
11 Subsistence Board; and

12 WHEREAS the residents of the communities of Hope, Cooper Landing, Whittier,
13 Seldovia, and Ninilchik should not receive special preference over other residents of Kenai
14 Peninsula communities; and

15 WHEREAS Alaskans are working for a comprehensive solution for regaining state
16 management of fish and game;

17 BE IT RESOLVED that the Alaska State Legislature respectfully and urgently
18 requests that the Federal Subsistence Board not approve the proposed subsistence moose
19 hunting regulations for the Kenai Peninsula; and be it

20 FURTHER RESOLVED that the Alaska State Legislature respectfully requests the
21 Federal Subsistence Board not to adopt any future federal regulations that would grant
22 subsistence preferences for fish or game until January 1, 1997, unless the regulations are
23 concurred in by the commissioner of the Alaska Department of Fish and Game; and be it

24 FURTHER RESOLVED that the Alaska State Legislature respectfully requests that
25 the Federal Subsistence Board refrain from changing any of the customary and traditional use
26 determinations for Kenai Peninsula communities in federal regulations until January 1, 1997,
27 to allow the new administration, the legislature, and Alaska's Congressional delegation the
28 opportunity to build consensus among all Alaskans to provide a solution to the subsistence
29 dilemma that will return management of Alaska's fish and game resources to the State of
30 Alaska.

31 COPIES of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President

1 of the United States and President of the U.S. Senate; the Honorable Strom Thurmond,
2 President Pro Tempore of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S.
3 House of Representatives; the Honorable Bruce Babbitt, Secretary of Interior; the Honorable
4 Dan Glickman, Secretary of Agriculture; and to the Honorable Ted Stevens and the Honorable
5 Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative,
6 members of the Alaska delegation in Congress; and to the Federal Subsistence Board.

Alaska State Legislature

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(907) 465-3779



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PO BOX 169
KENAI ALASKA 99811
(907) 262-9366

Representative Mike Navarre

SPONSOR STATEMENT: HJR 48

Subsistence on the Kenai Peninsula

House Joint Resolution 48 asks the Federal Subsistence Board to reject the recent subsistence hunting proposal for the Kenai Peninsula and delay any future action on subsistence rulings until January 1, 1997. Delaying action on this issue will give the Legislature, Gov. Knowles, Native organizations and sport and commercial fish & wildlife interests enough time to develop a consensus on how to regain state control of our land and resources without pitting neighbor against neighbor in a battle over hunting and fishing rights on the Kenai Peninsula.

On April 13 of this year, the Federal Subsistence Board tentatively accepted the Federal Subsistence Regional Advisory Council's recommendation to allow an August 1995 subsistence moose season on the Kenai Peninsula. The subsistence ruling was broad enough to include as "rural" the road-accessible settlements of Cooper Landing, Hope, Whittier and Ninilchik. The ruling could lead to the closure of all sport hunting on the Kenai National Wildlife Refuge and Chugach National Forest. Within a week of this ruling, a petition was signed by more than 1800 Peninsula residents opposing those rural preferences.

The Federal Subsistence Board ruling is even more critical because it's the first new subsistence preference given to any Alaska community since the federal takeover in 1990.

Additionally, the 9th U.S. Circuit Court of Appeals ruled on April 20th that federal subsistence laws apply to Alaska rivers that flow through federal lands. This ruling will escalate even further the raging battles over the use of the Kenai River and the ongoing debates over habitat protection of the river.

Alaska's Congressional delegation has repeatedly told us they will not take action on the Alaska National Interest Lands Conservation Act (ANILCA) until there is a state consensus about how to deal with subsistence. I believe we can work together to convince the Board to reject this new proposal until we can put all the pieces of subsistence together and return to state management of our land and resources.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HJR 48

Revision Date: 5/4/95 Dept. Affected: ADFG
 Title: Requesting the BRU: _____
 Federal Subsistence Board recind actions on the Kenai Peninsula Component: _____
 Sponsor: Navarre, Davis
 Requester: _____ COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ _____

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

There are no direct costs to the Department of Fish and Game that would result from passage of this resolution.

Prepared by: _____
 Division: _____
 Approved by Commissioner: Frank M.
 Agency: _____

Phone: _____
 Date: _____
 Date: 5.4.95

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May 3, 1995
By Telefax

Senator Judy Salo
Representative Mike Navarre
State Capitol
Juneau, AK 99801

Dear Senator Salo and Rep. Navarre,

I would like to thank you for your May 2, 1995 letter to the Federal Subsistence Board requesting that it "revisit the rural designation" for Kenai Peninsula communities.

Under federal law - ANILCA - once an area has been designated "rural" the consequences are inevitable and irreversible. The subsistence priority for "rural" residents is a legal privilege that requires the elimination of all other uses prior to any limitation being placed on subsistence uses.

I would like to stress that even for a "rural" resident granted a subsistence preference a heavy price must at times be paid. That is to say that even a subsistence "user's" right to access a resource for commercial or recreational purposes must be eliminated to supply all subsistence uses. Further, if the fish or game resource involved is not numerous enough to supply all subsistence users then even the "subsistence" right may be eliminated for many as Tier II criteria are applied.

It is clearly not in anyone's best interest to have a legal subsistence priority apply in areas of either high population densities or ready access to fish and game resources such as the Kenai Peninsula.

Board approves ^{Ther} ^{April 13} ^{Clarion} subsistence hunt for Kenai moose

Hunters from seven Peninsula towns would get a head start on neighbors

By TOM KIZZIA
Daily News reporter

Federal land managers voted Thursday to create a new subsistence moose hunt this August for residents of a handful of communities on the Kenai Peninsula.

The tentative decision was broad enough to include road-accessible settlements such as Cooper Landing and Ninilchik despite a half-day of testimony from Kenai Peninsula residents who said such a hunt would pit neighbor against neighbor.

But in a bow to conservation concerns, the Federal Subsistence Board voted to keep in force the state's antler restrictions, which biologists said are necessary to ensure the long-term health of the moose population.

Some subsistence backers said the new hunt could force the federal government to close the Kenai National Wildlife Refuge to nonsubsistence hunters. The board's decision Thursday left that question unresolved.

At issue is whether the

antler rules, which restrict hunters to shooting only yearling bulls or older bulls with 50-inch racks, might be the kind of subsistence restriction that cannot be imposed under federal law until competing users such as sport hunters are eliminated.

Several officials, including board chairman Mitch Demientieff of Nenana, said it might not be necessary to close the refuge, where nearly half the Kenai Peninsula moose harvest occurs each year. The board would have to vote to close it.

The board will assess the potential impact of the subsistence hunt during a 45-day comment period, Demientieff said. The board will meet in June to make a final decision so a subsistence hunt can be held in August, he said.

The subsistence hunt adopted Thursday would not threaten the overall population of Kenai moose, said Ted Spraker, area biologist with the state Department of Fish and

Please see Back Page, MOOSE

Hunting future unclear

Agencies scramble over subsistence

By TONY LEWIS
Peninsula Clarion

Sport hunting for most game would likely have to be curtailed and possibly eliminated on federal land on the Kenai Peninsula if proposed subsistence rights are upheld.

Moose, caribou, sheep, goat, brown bear and black bear could be off limits to everyone but subsistence users on the peninsula's Kenai National Wildlife Refuge and U.S. Forest Service lands under provisions for subsistence use tentatively approved by the Federal Subsistence Board last week.

Under the board's proposal, 589 households in the "rural" communities of Cooper Landing, Hope, Whittier, Ninilchik, Seldovia, Port Graham, and Nanwalek were determined to have a "customary and traditional use" for the peninsula's big game animals. That determination would give them a priority to harvest game on nearly 3 million acres of public land on the peninsula.

Federal land managers have not yet had time to assess the potential effects of the proposal, but are certain sport hunters will be faced with cutbacks.

"What I can foresee in the near future, unless this is overturned, is a substantial change in sports hunting on the refuge for all the species determined to have a customary use," said Dan Doshier, manager of the 1.97 million acre Kenai

...Hunt

Continued from page 1

National Wildlife Refuge.

A subsistence moose hunt tentatively scheduled for this fall may be a harbinger of what is to come. Sport hunters may be prohibited from harvesting moose on the refuge, depending on the outcome of a legal review.

At issue is whether or not there is enough game on federal lands to accommodate the needs of both subsistence users and sport hunters. By law, subsistence users have first priority. Before subsistence hunting can be restricted, sport hunting must be eliminated.

On Thursday, the Federal Subsistence Board voted to restrict subsistence moose hunting, effectively shutting out sport hunters.

But the fight over moose could just be the beginning. Sport hunting for caribou, sheep, goat, black bear and brown bear is already severely

restricted. If subsistence hunters are given the right to harvest those species, there may not be enough left over to allocate to sport hunters while still ensuring healthy game populations.

Subsistence hunts for big game other than moose could be made as early as next year.

"This is way beyond my wildest imagination of where this was going to lead us," Doshier said. "It paints a pretty bleak picture."

Doshier isn't the only federal land manager taken off guard. Although no subsistence hunts are being discussed on the 1 million acres of Forest Service land on the peninsula this year, that would likely change in 1996 under the current proposal.

"It's hitting us cold," said Duane Harp, manager of the Forest Service's Seward Ranger District. "We don't know the consequences yet."

The subsistence board's decision is far from final. After undergoing a standard review, the pro-

posal will be open for public comment for at least 30 days. The board will then meet again to make its final decision. That meeting will likely take place around the middle of July, said the U.S. Fish and Wildlife Service's Taylor Brelsford.

Sport hunters' hopes bank on the board changing its view on what qualifies a community for subsistence rights. On Thursday, the board determined that all seven of the peninsula's "rural" communities had a "customary and traditional use" of game.

According to Brelsford, the Alaska National Interest Lands Conservation Act, or ANILCA, does not clearly define what constitutes "customary and traditional" use, leaving wide room for interpretation.

So far, the subsistence board and its peninsula advisers have broadly interpreted the term.

Gary Oskolkoff, a member of an advisory council for subsistence issues on the peninsula, said coun-

Peninsula Clarion, April 17, 1995 5

cil members determined that "customary and traditional use" is applicable to all communities whose residents have hunted game for at least three generations.

The community of Hope has been in existence since the turn of the century. Cooper Landing was founded in the 1920s and Whittier in the 1940s.

The area around Kenai, Soldotna, Seward and Homer do not qualify for subsistence because they are not considered "rural" under the law.

The subsistence board voted 5-1 to accept the advisory council's definition of "customary and traditional use." If sport hunting is going to be allowed on the refuge in the near future, Doshier believes that decision will have to be reversed.

"Once they voted to accept the customary and traditional determinations, it was pretty much locked," Doshier said. "I think the only possibility for relief is to change the customary and traditional determination."

Ruling may squash musk ox sport hunt

ANCHORAGE (AP) — A federal ruling that only rural subsistence hunters be allowed to hunt musk oxen on the Seward Peninsula may force the state to drop plans for a sport hunt there, officials say.

The Federal Subsistence Board decided last week that state plans for hunting in the Nome region did not satisfy local needs. The state may ask for a reconsideration, based on grounds that the federal plan could endanger the health of the herd on federal lands.

The turf battle over who gets to hunt is taking a strange twist in the case of the musk oxen, which did not exist on the Seward Peninsula

when white explorers and whalers arrived in the mid-19th century.

Musk oxen have flourished since being transplanted by the state to the Nome region in 1970. Biologists said last year the herd had reached 925 animals, enough to support hunting.

The state Board of Game voted in January to open a sport season on the musk oxen. The state wrote rules giving local villagers an advantage for part of the hunt, which was split into fall and spring seasons. The board refused to grant villagers a subsistence preference, however, contending that musk oxen had not been hunted there since prehistoric times.

But the federal board ruled that even an aboriginal tradition was enough to qualify modern-day rural residents for subsistence rights.

The dispute comes from a small grammatical difference between state and federal regulations, said Dick Marshall, acting deputy director of subsistence for the U.S. Fish and Wildlife Service.

State law requires a subsistence preference for species that "are" traditionally used. The federal regulation provides subsistence for species that "have been" traditionally used.

Prehistoric musk ox bones found in the region convinced

See HUNT, back page

Perin Clarion Thursday, April 20, 1995

...Hunt

Continued from page 1

anthropologists that musk oxen once were hunted by Eskimos on the Seward Peninsula.

By the late 19th century, however, musk oxen had been exterminated in Alaska. They were transplanted back from Greenland in 1935 — first to Nunivak Island in the Bering Sea, and later to the North Slope and the Seward Peninsula.

The federal board decided subsistence hunters could take 24 musk oxen from federal lands in the

region. That's the total proposed by a cooperative management plan for the herd and it leaves no animals for a sport hunt.

"We were happy because they pretty much promised the villages they'd be able to hunt for musk oxen when it finally opens," said Jake Olanna, a subsistence specialist with Kawerak Inc., the regional Native nonprofit corporation in Nome. "They're the ones who have been watching and nurturing these animals on corporation land."

The federal decision zeroes out the cooperative plan put together by federal and state biologists and local organizations, said John

Coady, regional wildlife supervisor for the Alaska Department of Fish and Game.

That plan defined where the harvest should take place, ensuring that different segments of the herd would be impacted, Coady said. The game board used that plan in establishing a sport hunt.

Musk oxen don't migrate like caribou, so concentrating the hunt on federal lands could lead to overharvest in some places, Coady said.

"We are concerned about essentially extirpating every musk ox in certain areas on federal lands," he said.

Concentrating the hunt on feder-

al lands has other consequences. Federal land on the Seward Peninsula tends to be far from villages around Kotzebue and nearer villages around Nome.

That has prompted a disagreement between the two regional advisory councils set up under federal law to make subsistence recommendations. Kotzebue area villages want state management.

Coady said the state would be unlikely to continue with its planned hunt if it resulted in an over-harvest.

The Game Board probably would be asked to go along with any Fish and Game decision to cancel the sport season, he said.

Fisheries balance altered

April 24

Ruling opens door for subsistence

By TONY LEWIS
Peninsula Clarion

A recent court ruling may pave the way for subsistence fishing on the Kenai River and other popular peninsula fishing streams.

The 9th U.S. Circuit Court of Appeals ruled Thursday that federal subsistence laws apply to Alaska rivers that flow through federal lands.

The court did not list the affected rivers, but said those adjoining national parks, forests and wildlife refuges would fall under federal control.

Roughly half of the Kenai River flows through the Kenai National Wildlife Refuge and the Chugach National Forest.

Other rivers that flow through the wildlife refuge include the Kaslof River, Crooked Creek, Swanson River, Moose River, Killey River, Funny River, Russian River, Fox River, Sheep Creek and Chicknloon River.

The court did not propose specific sub-

See RULING, page 3

...Ruling

Continued from page 1

istence fishing seasons on any of the rivers. Those decisions will be left to the Federal Subsistence Board.

Recent actions by the board suggest subsistence fishing could be allowed on the peninsula in the future.

"We are very concerned that the decision leaves the door open to federal subsistence management of all commercial and sport fisheries, including such popular rivers as the

Kenai River — maybe even this summer — and that would be unacceptable," said Alaska Senate President Drue Pearce and House Speaker Gail Phillips in a prepared statement.

One week before the court decision, the board tentatively approved broad subsistence rights for residents of the peninsula's "rural" communities, including Cooper Landing, Ninilchik and Hope. Those board based on their "customary and traditional" use of the peninsula's resources. For now, those rights extend only to big game animals, such as moose and caribou, but fish could be added to the

list.

Under federal law, subsistence users have a priority over all others for Alaska's fish and game. A proposed subsistence moose hunt on the peninsula could close the Kenai refuge to sport hunting.

Commercial and sport fishers fear their seasons could be significantly scaled back if subsistence fishing is allowed on the peninsula.

"I don't know what this will mean to us," said Refuge Manager Dan Doshier. "One would have to suspect this could have a major impact on fishing in the area given the recent customary and traditional findings by the subsistence

board."

The U.S. Fish and Wildlife Service's subsistence division met Friday to decipher the meaning of Thursday's court decision. Assistant Regional Director Dick Pospahala said a group has been formed by the court to make guidelines for determining the Alaska rivers that will fall under federal control.

Dave Nelson, who heads the Alaska Department of Fish and Game's sportfish division in Soldotna, did not know Friday how the court decision might affect management of the Kenai River's prized salmon and rainbow trout fisheries.

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May 4, 1995

Representative N. Rokeberg
State Capitol
Juneau, AK 99811

Attn: House Oil and Gas Committee
Re: Committee Substitute HB 334

Dear Representative Rokeberg:

I look forward to the joint Resources and Oil and Gas hearing tomorrow morning at 8:00am. I believe that it is extremely important to pass this bill for the following reasons.

Alaska's bonding requirements are extremely onerous for all but major companies. This is one reason that independents do not operate in Alaska, and small developments serving local Alaskan markets are not feasible.

Alaska has multiple layers of protection in current statutes and regulations:

\$1,000,000 bond for exploration wells with the DEC,
\$10,000 to \$500,000 lease bond with the DNR, and
\$100,000 single well or \$200,000 statewide bond with the AOGCC.

This is potentially \$1.7 million in bonds for even the smallest exploration well. If the well encounters oil, and production ensues, even larger bonds are required by DEC.

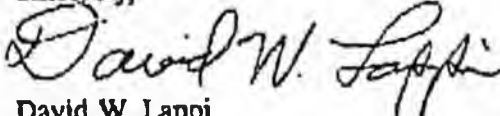
Alaska also has the 470 Fund, a \$50 million emergency kitty for use during oil or other hazardous spill emergencies. This kitty was funded and is maintained by a two cent per barrel tax on oil production.

In light of continuing State budget shortfalls, the State can no longer afford to be an obstacle to private development.

LAPP Resources is currently pursuing small natural gas projects which could supply some areas of rural Alaska with locally-produced gas as a lower cost, more environmentally-friendly fuel than the currently imported diesel fuel. The wells could be drilled for under \$100,000 in some areas. If bonding costs are not reduced, these projects will not be economic, as the bonds will cost more than the drilling. With reduced bonding, independent private gas exploration companies, Native Regional Corporations, or in some cases Village Corporations or rural utilities may be able to participate in the development of their own local energy resources.

Although incentives for the industry are nice, dismantling the disincentives to business will be more effective in the long run and will maintain the State's royalty stream for a longer period.

Sincerely,



David W. Lappi
President

cc Representative Joe Green - Resources Committee Co-Chair
Representative Bill Williams - Resources Committee Co-Chair