

HJR

21

March 18, 1997

To: Representative Foster, Ogan, and Masek
From: Dick Kugzruk, Brevig Mission, Alaska
Subj: HJR 21 Testimony

My name is Dick Kugzruk, born to Phillip Kugzruk Sr. and Ida Kugzruk. I come from a family of 8 (5 sisters, 2 brothers). I'm the youngest, so I was the only one born in a hospital, my brothers and sisters were born the way to a hospital or at camp. My parents were primarily subsistence people until I was born. They settled in Nome, AK. where both me parents started full-time work, that did not stop them from what they loved to do and taught us to live off the land.

My parents grew up living a subsistence lifestyle, spoke my Inupiaq language, respected elders, shared their catch with those who were unfortunate, traded what they could for cash, coffee, tea, flour, crackers, lard, etc. to the staples, to local merchants. My father was fortunate to graduate 8th grade, where he was taught English, speaking Inupiaq was frowned upon by his teachers, violators were harshly punished. My mother was uneducated because she was needed at home to help raise her parents family, then she had a family of her own to take care of. During this time of change, subsisting off the land remained unchanged. It was the only way to survive in our harsh environment.

In our present time, substance is still unchanged; we hunt to live. we fish to live, and we gathered to live. A few people trade for staples now, but mostly now its cash they receive to buy the staples. The Inupiaq have lost the language, we have lost of sense of being the people that we once were in my father's time. The cost of living in Rural Alaska is ridiculous, some people go hungry some months because there is no money. Educating the Eskimo is or was both good and bad, now at this time, the 80's-90's, its mostly good to be educated, the young Natives are coming home to help the people overcome change. Instead of speaking Inupiaq, we speak mostly English all of the time, we write testimonies like I am doing now to fight for our sovereign inherent rights and we continue to live off the land that I believe is there for everyone and anyone who is hungry. Please keep in mind while we were being educated, we lost the time to learn to live off our land because we were forced to change.

In our present time the young people hardly take notice of the elders, there are few who share the catch, and I'd like to congratulate the person in my generation who can carry on a conversation in Inupiaq with an Elder.

I have heard the promises of Government for change; jobs, water and sewer, and how many more times do we need to testify for our subsistence right. Please, people we are not racist or prejudiced because we think this is a native issue. Representative Ogan, I invite you to come hunt with me I want to bring up another point the state allocates some

money to fight its own people and then has the guts (no pun intended) to talk about jobs and money for the people of our great state. What is wrong with this picture?

In closing of my testimony, I oppose HJR 21 because I believe our state government is taking care of their own interests and not the interests of all Alaskans. Listen to the Elders wisdom, train the people to take over your job, for the good of all, not train the people to fight for your job because nothing good comes out of it.

**TESTIMONY OF LUKE SAMPSON REPRESENTING
NORTHWEST ARCTIC BOROUGH, CHUCK GREENE, MAYOR**

I am here to oppose the House Joint Resolution No. 21 in the Legislature of the State of Alaska, Twentieth Legislature—First Session.

In any form whatsoever, it does not represent the sentiment of our constituents in the Northwest Arctic Borough, and the eleven communities we serve.

As a local government in the State, our rights as citizens should not be weakened or unduly disrupted by the manner of legislative intent dealing against the rural constituency' needs that our people live and enjoy on a day-to-day basis.

To adopt House Joint Resolution #21 in any manner whatsoever, imposes upon our people to live a style that is not compatible with the wishes of legislators who cannot empathize with the need for maintaining cooperative subsistence protective measures contained in Title VIII of the Alaska National Interest Lands and Conservation Act (ANILCA).

The House Joint Resolution appears to merely change by use of descriptive words the majority, non-rural members intent of well-meaning things such as rural preference and constitutional amendments. The reality is that it takes away a significant Alaskan way of life necessary to both indigenous and rural people of Alaska, but also the same citizens of the State who are being deprived of local control under a deceptive use of a legislative mechanism called a joint resolution. There seems to be no concern that this is destructive in carrying out the demise

LUKE SAMPSON

March 13, 1997

Page Two

of a large number of people who have no advantage other than to live the kind of life that the State legislature now seeks to plunder under the guise of good legislation. It only creates more conflict for all citizens of the State of Alaska, and is insensitive by ill-informed legislators or to deliberately ignore the needs of constituents most directly impacted by the wrong type of legislation.

Our past record on the issue of protecting subsistence still stands, and we urge the legislators to listen to the pleas of our representatives in Juneau to do right and defeat House Joint Resolution 21 as unnecessary and not the will of the people under State law.

Thank you. On behalf of the citizens of Northwest Arctic Borough I hope you will acknowledge that we express our views as the local will of the people that you as legislators purport to represent.

Con - stit - u - wits
IN - dig - in - Notes

Testimony on the House Joint Resolution 21

Mr. Wally Otton
Board Member, Board of Directors
Koyuk Native Corporation
March 20, 1997

House Resources Committee
c/o Richard Foster

Mr. Chairman, Members of the House Resources Committee. My name is Wally Otton. I am a member of the Board of directors of the Koyuk Native Corporation. I respectfully voice my opposition of HJR 21.

Marx mentions a dictatorship of the proletariat. HJR 21 is part of a construction of a stairway that will put one step closer to the end result a beginning of the genocide of Alaska's aboriginal cultures. Actions and dictates of your state capitol democracy can and have suffered the daily lives of our Alaskan tribes.

Thank you.

Sincerely,
Wallace H. Otton



Bristol Bay Driftnetters' Association, Inc.

P.O. Box 21951

Juneau, AK 99802

Phone: (907) 463-4970 • FAX: (907) 586-1001 4970

3-7-97

TO: Rep. Beverly Masek

FROM: Dean Peddock

SUBJECT: HJR 21

Bravo for the introduction of
this resolution. Without the
sought-for action by Congress
our society will be forever
divided and our viability as a
state destroyed!



Alaska State Legislature

Please enter into the record my testimony to the House Resources
committee name

committee on HJR 21, dated March 13, 1997.
bill/subject

Strongly support HJR 21.

However, whenever possible we need to find ways to eliminate "preferences" and begin to emphasize how people live and not where they live. When the "how" is the center of focus then the terms subsistence preference, or customary and traditional use preference no longer have application.

Let me be up front, the intent of the "native" population is as clear today as in the 1970's (during development of ANCSA). That intent was to leave one leg staunchly rooted in "tradition" but the other leg in the modern corporate economy & there in reap the fruits of multiple economies & cultures.

Signed: Ernest Portachellier, Jr.
Testifier

Representing (Optional)
P.O. BOX 2544 Palmer, Alaska, U.S.A. 99675
Address

Phone No.

①

Alaska State Legislature

Please enter into the record my testimony to the House Resources
committees on HJR 21 (committee name) dated 3-14-97
bill/subject

I would like to commend Representative Masek for offering the most logical / common sense approach to solving the subsistence issue that is breaking the state of Alaska apart. ~~XXXXX~~ I believe this is a good approach and support HJR 21.

1st I support subsistence to put game and fish on a persons table as food. I believe that was the intent and that the Feds & others are using subsistence to achieve their own personal agendas.
2nd The state of Alaska was accepted into the Union of the United States of America with a state constitution prepared and accepted by Alaskans and also accepted by the US Congress, The state constitution was not in conflict with the US Constitution. I do not believe the US Congress or the President has the authority

Signed: Dick Cooso Phone: _____
Testifier
Representing (Optional)
Address

2

Alaska State Legislature

Please enter into the record my testimony to the _____
committees on HJR 21 (committee name) dated 3-14-97
bill/subject

to make a state change it's constitution without
a ^{similar} change in the US Constitution. I do not
want the state constitution changed.

3rd I have only lived in Alaska for 17 years
but I do not believe anyone who needed to eat
or put game & fish on their families table for
food has ever been required to go hungry because
of State management of Game and Fish.

~~The~~ habitat and game and fish in Alaska has
been (until the extreme environmentalist groups and
the Feds started their agenda of closing down
the state of Alaska) the best managed in the
world. The state of Alaska must be given back
their rightful authority to manage all the game
& fish in Alaska (that given with acceptance to

Signed: Dick Coors Phone: _____
Testifier

Representing (Optional)

Address

Fax are omitted from Ketchikan Legislative Information Office
Phone: 225-9675 Fax: 225-8546

3

Alaska State Legislature

Please enter into the record my testimony to the _____
committee on HJR 21 (committee name) dated 3-14-97
bill/subject

Staleness.)
I sincerely hope all Alaskans rural, native,
urban join together as one (we are all Alaskans
and should not divide ourselves) and speak
with one voice to get our right to manage
Alaska's Game & Fish. Each one of us must be
constantly on guard against groups/govts
(@ extreme environmentalists and the feds) for
they will try to divide and conquer us.
They will restrict all users of natural
resources until - Alaska becomes
a World Heritage PARK - no people
JUST plants & animals

Please Pass HJR 21

Signed: Dick Coose Phone: 247-9533
Testify: Self
Representing (Opponal):
PO Box 9533
Address Ketchikan AK 99901

Fax transmitted from Ketchikan Legislative Information Office
Phone: 225-9675 Fax: 225-3546

cc:Mail for: REPRESENTATIVE SCOTT OGAN

Subject: anilca

From: galloway@mosquitonet.com (Bob galloway) at CC2MHS1 3/13/97 3:50 PM

To: Representative Scott Ogan at LAA_TRANS

Dear Mr. Ogan, thanks for helping push in a bill about resolving the anilca issue, I would like to say you have my full support as well as all of my friends and if I can write any one or email please let me know, lets put Alaska Wildlife managment back where it belongs in alaska. thanks again Bob Galloway

cc:Mail for: REPRESENTATIVE SCOTT OGAN

Subject: HJR 21

From: 102262.2135@CompuServe.COM (Mary/Dick Bishop) at CC2MHS1 3/14/97 12:34 AM

To: representative scott ogan at LAA_TRANS

Dear Representative Ogan:

I wish to strongly support this proposed legislation. Because of Title VIII in ANILCA "all other uses must be eliminated before "customary and traditional" subsistence use by rural residents can be restricted." That is a quote from a 1995 Interior Dept. memo to the Federal Subsistence Board. Customary and traditional uses have been defined in court to mean virtually year-round hunting -- and we all know that customary and traditional techniques include such methods as netting waterfowl.

Harvest practices that once were necessary to avoid starvation are no longer necessary. If allowed, they will preclude all other users and uses. We know, and AFN's "no net loss" policy passed in 1996 agrees that the federal priority exists all the time -- not just when there is a shortage. We also know, and again the AFN policy agrees, that customary and traditional subsistence harvests can be sold for substantial amounts of cash in commercial markets.

ANILCA must be amended. We must learn to share--share the resource, the technology used in modern resource harvest, and the conservation ethic that safely allows sustainable harvests.

Thank you for pursuing this legislation. This is my second e-mail ever to an elected official. I would appreciate a response if you can find the time.
Sincerely, Mary Bishop

cc:Mail for: REPRESENTATIVE SCOTT OGAN

Subject: HJR 21

From: mcgehee@mosquitonet.com at CC2MHS1 3/13/97 12:58 PM

To: Representative Scott Ogan at LAA_TRANS

Representatives Masek and Ogan:

I am writing to express my support for the resolution you have sponsored to urge Congress to amend ANILCA and restore Alaskans' right to manage their own fish and game.

The United States government does not, in my opinion, have the authority to direct the people of Alaska to amend their state's constitution to suit appointed bureaucrats who write regulations based on statutes, the constitutional authority of which are themselves questionable. The U.S. Constitution requires state constitutions to abide by the U.S. Constitution and federal statutes "pursuant" to it, but as I understand "pursuant," this applies only to statutes particularly necessary to give force to the powers expressly granted in the U.S. Constitution.

There being no explicit federal power to manage fish and game, even on federal lands, ANILCA clearly does not meet this standard. The Interior Department's efforts, then, to extort Alaskans into altering their state constitution is in violation of the U.S. Constitution.

By rights, it should not be necessary to amend ANILCA to relieve this problem -- but "by rights" means very little in these blighted times.

Thank you for introducing HJR 21, and I want very much to see it adopted by the Legislature. Maybe then our friends, Senators Stevens and Murkowski, and Rep. Young, will recognize that a decision has been made, and will use their vaunted clout to get the job done.

Kevin McGehee
North Pole, Alaska
mcgehee@mosquitonet.com
<http://www.mosquitonet.com/~mcgehee/>

cc:Mail for: REPRESENTATIVE SCOTT OGAN

Subject: HJR 21

From: PENRITH@aol.com at CC2MHS1 3/13/97 5:02 PM

To: Representative Scott Ogan at LAA_TRANS

cc: Representative Beverly Masek at LAA_TRANS

I commend your efforts at passage of HJR 21, and the attendant changes in ANILCA. Please number me, my wife, and four other adult members of our Alaska family as strong supporters of HJR 21. There are no more noble provisions of our State constitution than those which insure equal enjoyment of our natural resources for all citizens. The solution to our subsistence problems lies with the amendment of ANILCA, not with changes in our constitution which would divide our people and regress to segregation.

MAR 14 1997

Patrick & Arleta O'Connor
PO Box 3687
Palmer, Alaska 99645
March 14, 1997

TO: ALL MEMBERS OF THE HOUSE RESOURCE COMMITTEE

We would like to show our support for HJR21 by Representative Bev Masek.

The people of Alaska accepted the constitution for the state when we became a state. The federal government accepted our constitution as written when we became a state. Years later, why should the federal government decide that we should change our constitution to meet their way of thinking?

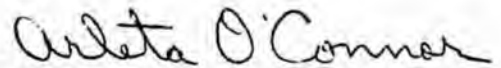
We used to hunt on lands that were added to Denali Park long before the lands were added to the park. In 1985 the Park Service said that we no longer had customary and traditional use of the land. We have been bounced around like a ping pong ball by the different federal agencies for 12 years. It is a no-win situation for us unless we had a lot of money for high power attorneys.

Our question is; what is the definition of customary and traditional use of the land?

We trust that you all can agree to the HJR21 bill.



Patrick O'Connor



Arleta O'Connor

CHEVAK TRADITIONAL COUNCIL
P.O. BOX 140
CHEVAK, ALASKA 99563
(907) 858-7428
(907) 858-7812 FAX

Chevak Traditional Council's Opposition to House Joint Resolution No. 21

The Kashunamiut are a federally recognized tribe who is represented by their tribal government, the Chevak Traditional Council whose primary goal is to protect the health, safety and welfare and the inherent traditional and cultural rights of the Kashunamiut and for their best interests. Let this affidavit acknowledge that we are in Opposition to the House Joint Resolution No. 21 as it infringes upon our inherent rights and will exploit our ancestral lands which are located on the Yukon Kuskokwim Delta National Wildlife Refuge and has been protected by ANILCA--Title VIII, Subsistence Use and Management (ANILCA, Title VIII) as it is written.

ANILCA Title VIII, should not be amended because the Resolution HJR21 contradicts the whole purpose of the Policy and Purpose of the Title VIII. These amendments are also directly contradicting the Rural Cap Subsistence Roundtable, held in Anchorage February 1997. The State of Alaska is out of compliance of ANILCA TITLE VIII, concerning Subsistence. The State of Alaska tends to lean towards "sports, commercial and other special interest groups" that are not aware of the importance of subsistence issues and use for the rural communities.

The following are section responses to "FURTHER RESOLVED" of the proposed resolution:

- (1) "Public Land" is already defined in the Federal Register. Volume 57 No. 20.
- (2) Congress is already authorized to take over management if State is not in compliance.
- (4) "Section 807" provides for protection of subsistence users and repeal would undermine authority of the Federal Judicial System.
- (5) The Customary and Traditional use, Subsistence use, and rural are defined in the Federal Register, Vol. 57, No. 20, Jan. 30, 1992, Proposed rules of the Department of Interior, under Sec. 4 Definition of Subpart A-General Provision. They are listed as such in the Final, Subsistence Management for Federal Public Lands in Alaska which attests to the Webster's definition of: The definition of the aforementioned terms are already defined and with this resolution proposes to do is authorize the State of Alaska to rewrite the Webster's Dictionary to soothe Masek's and Ogan's HJR 21.
- (6) Under Title VIII, Sec. 804, the subsistence preference for reasonable opportunity contradicts the purpose and policy of ANILCA Title VIII.
- (7) Tribal Sovereignty and Indian Country issues have been decided in favor of the Tribes across Alaska but is presently in the Appeal process, no amendments should even be considered because Court cases on these issues are and may be pending.
- (8) The State of Alaska should not have option- If subsistence management is handed to the State of Alaska, than it would be their obligation to establish regional advisory councils, meaning they should be mandated to establish such councils rather than "choose" to.
- (9) The Sections (8) and (9) proposed amendments are addressed in Sec. 805 (a) (2) and (3) (D) (iv).

DRA

DRAFT

DRAFT

(10) The sale of Fish and Wildlife taken for subsistence uses, supplements incomes for expenses incurred for hunting necessities, i.e. ammunition, gasoline and oil, and other gears to do more subsistence hunting and fishing.

This whole resolution contradicts the ANILCA Title VIII and there is provisions in the ACT , Section 16 USC 3119 that the State can enter into an Cooperative Agreement rather than rewriting the whole Purpose and Policy of the Act.

**THE KASHUNAMIUT, THE CHEVAK TRADITIONAL COUNCIL, CHEVAK TRIBAL COURTS
AND THEIR DEPARTMENTS URGES DO NOT PASS THIS RESOLUTION!!!**

DRAFT

Asa'carsarmiut Tribal Council
P.O. Box 32249
Mtn.Village, Alaska 99632
(907)591-2814 Telephone
(907)591-2811 Facsimile

Resolution No. 97-16

A Resolution in Opposition to House Joint Resolution 21, relating to amendment of the Title VIII of ANILCA.

WHEREAS: Asa'carsarmiut Tribal Council is federally recognized tribe representing the Asa'carsarmiut Tribe whose primary duty is to advocate and protect the rights and interests of the native people within the region, in maintaining their customary and traditional subsistence lifestyles; and

WHEREAS: the federal government has recognized this important fundamental principal in its relationships with the native indigenous peoples of the region when it provided projections under ANILCA as well as in PL 96-487, which states that the Yukon Delta National Wildlife refuge is establishing wildlife resources in order to provide continued opportunities for subsistence by the native people of the region; and

WHEREAS: the State of Alaska, up to now, has done within its power to abdicate the rights of subsistence way of life of the native indigenous people of Alaska, and has demonstrated a lack of ability to properly manage the resource in a manner to provide protection for the native people of Alaska and the subsistence way of life; and

WHEREAS: the Alaska State Legislature has introduced a House Joint Resolution No. 21 (HJR 21) relating to amendment of Title VII of the Alaska National Interest Lands Conservation Act (ANILCA), requesting the U.S. Congress to amend Title VIII of ANILCA in the management of Alaska fish and wildlife resources; and

NOW THERE BE IT RESOLVED, that Asa'carsarmiut Tribal Council and the Asa'carsarmiut Member Tribes oppose HJR 21 in its entirety, because we feel that if the ten provisions of the resolution are enacted by Congress, it will diminish or abolish the subsistence lifestyle recognition and protection the Title VIII of ANILCA provides to Alaska Natives.

BE IT FURTHER RESOLVED, that Asa'carsarmiut Tribal Council and the Member Tribes join the rest of Alaska Native Tribes who oppose HJR21.

| | | | |
|-------------------|---------------|---------|--------------|
| Post-It® Fax Note | 7671 | Date | # of pages ▶ |
| To | Rep. Nicholas | From | Mtn. Village |
| Co./Dept. | | Co. | |
| Phone # | | Phone # | 9075912814 |
| Fax # | 465-2197 | Fax # | 9075912811 |

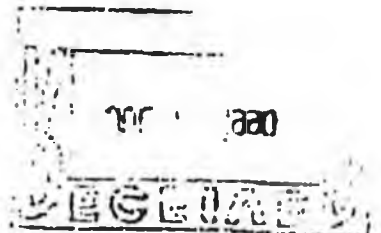
CERTIFICATION

Passed and approved by a quorum of the Asa'carsarmiut Tribal Council this 18th day of March, 1997 with a vote of 4 in favor, 0 opposed and 5 absent.

James C. Landlord
James C. Landlord, First Chief

ATTEST:

James Luke
James Luke, Secretary/Treasurer



| | | | |
|-------------------|--------------|---------|------------|
| Post-it* Fax Note | 7671 | Date | # of pages |
| To | <i>Names</i> | F. Sen | |
| Co./Dept | | Co. | |
| Phone # | <i>2267</i> | Phone # | |
| Fax # | | Fax # | |

SE OF KWETHLUK
 RA COUNCIL
 DX 84
 .SKA 99621-0084

PHONE NO. (907) 767-6714
 FAX NO. (907) 767-6329

**KWETHLUK JOINT GROUP
 KWETHLUK INDIAN REORGANIZATION ACT COUNCIL
 KWETHLUK CITY COUNCIL
 KWETHLUK, INCORPORATED
 Resolution No. 87-03-01**

A Resolution opposing Alaska Legislature House Joint Resolution 21 (HJR 21) Requesting Amendments to Title VIII of Alaska National Interest Lands Conservation Act (ANILCA).

Whereas, the Kwethluk Indian Reorganization Act Council (IRA) is the lead entity in various areas of concerns covering land, water, fish and wildlife, sanctuaries and habitats in the Permanent Subsistence Kwethluk River and Tributaries upon which its tribal members heavily depend on for their keeping of Cultural Integrity of traditional and customary subsistence way of living, and ;

Whereas, in 1959 when Alaska became a State, many- Alaska Natives residents living in rural villages were, and still are, intelligent in the way of their respective cultures and their Native Language during the period when the English Language could be barely spoken or understood, and this brings to question- who voted for Statehood?; and which included the management of Fish and Wildlife Natural renewable resources; and ,

Whereas, HJR 21 insults the Alaska Native Community way of life by seeking that the State of Alaska define the terms "rural", "subsistence uses" of the natural renewable resources when the State of Alaska has done dismally poor with respect to these concerns; and

Whereas, since 1959 the Alaska Native Community has experienced poor "reasonable opportunity" to practice customary and traditional subsistence way of life; and,

Whereas, Kwethluk has a history of Elder Tribal members having had their subsistence fishing nets wrapped around holding poles, dragged unto beach with fish catches, creating wanton waste, which truly is suppression of "reasonable opportunity" to practice customary and traditional subsistence way of life; and ,

Whereas, Public Law 96-487, ANILCA, enacted 1980, Title VIII of which is providing positive protection to Alaska Natives subsistence way of life, legally encourages Alaska Native entities for Co-Management Agreements with the Federal and Alaska State agencies involved, enhances Fish and Wildlife conservation with sustain yield principles; and,

Now, Therefore, Be it Resolved: that the Kwethluk Joint Group composed of the Kwethluk Indian Reorganization Act Council in behalf of its tribal members, the

Kwethluk City Council in behalf of its residents, and the Board of Directors of Kwethluk Incorporated in behalf of its shareholders oppose passage of House Joint Resolution 21 in the Alaska State Legislature; and,

Be it Further Resolved: the copies of this resolution 97-03-01 is sent to: Honorable Tony Knowles, Governor of Alaska- Juneau Honorable Senator Lyman Hoffman, Representative Ivan M. Ivan, Representative Irene K. Nicolai, Representative Beverly Masek, and Honorable Representative Gail Phillips, Speaker of the House of Representatives- Alaska, Honorable U.S. Senator Ted Stevens, Honorable U.S. Senator Frank Murkowski, Honorable U.S. Congressman Don Young, Honorable Representative Georgiana Lincoln.

PASSED AND ADOPTED THIS 13th DAY OF MARCH 1997.

Mavis Nicolai, President
Kwethluk IRA Council
for Bain & Gendron vice mayor
John J. Owens, Mayor
Kwethluk City Council
Phillip Kauf, vice chairman for
NICK J. AYAPAN, Chairman
Kwethluk Incorporated

Attest: Marjorie Angerson
Secretary

Attest: Deann P. Larson
Clerk/Administrator Secretary

Attest: Gail Phillips
Secretary/Treasurer

Testimony on House Joint Resolution 21

**Mr. Robert Keith
Chairman
Board of Directors, Kawerak, Inc.
March 13, 1997**

Mr. Chairman, members of the Resources Committee. My name is Robert Keith. I am the chairman of Kawerak Board of Directors. Kawerak represents 19 villages representing approximately 6,500 Alaska natives in the Bering Straits region. I am also the President of Elin IRA Council and Elin Native Corporation. I respectfully voice my opposition to HJR 21.

In September of 1996, the Board of Directors of Kawerak passed Resolution 96-10 opposing any amendments to ANILCA which would weaken or undermine the subsistence protection provided to rural Alaskans.

In my opinion, HJR 21 is off the mark and is equivalent to totally gutting Title VIII of ANILCA. The State of Alaska, at the present time, does not provide for the protection of subsistence during times of resource shortage. The present State management of Fish and Game generally favors the commercial and sports hunting and fishing and creates the divisions that exist in Alaska. House Joint Resolution 21 will only perpetuate this division. It is extreme and its final result will only cause greater disunity.

Subsistence harvest of all wild resources is only a small portion of the total harvest in Alaska - 4% and yet this small harvest is extremely important to those people whose harvest is dependent on these resources for their livelihood, and nutritional and cultural well-being.

I strongly encourage the Alaska State Legislature not to pass this resolution and hope that you will seek a wiser course of action in the resolution of the subsistence dilemma.

Thank you.





KAWERAK, INC.

P.O. BOX 846 • NOME, ALASKA 99762

TELEPHONE: (907) 443-5231 • FAX: (907) 443-3708

SERVING THE
VILLAGES OF

- SIKOTIAV VILLAGES
- COUNCIL
- CHONIDE
- ELIA
- SHRETTILL
- GOLOVIN
- KING ISLAND
- KOTLIK
- MARY'S ISLAND
- NOME
- SIYODONIA
- SHAKTOOLIK
- SHASHNEK
- WOLSON
- STREBOW
- ST MICHAEL
- YELLER
- UNALASKA
- WALLES
- WHITE MOUNTAIN

March 14, 1997

To: IRA / Tribal Leaders
 From: April Ferguson, TSG
 RE: Update

Yesterday, the House Resources committee held hearings on Representative Masik's House Joint Resolution 21 which asks Congress to amend Title VIII of ANILCA so that State management can be returned. The resolution proposes to destroy the existing federal subsistence protections that Title VIII provides. The purpose of the resolution in Ms. Masik's words is to "shift the emphasis from amending the state constitution, to allowing the state to define the terms in ANILCA." I find it very unlikely that Congress will allow a state to redefine terms in federal law.

During the course of testimony, which the committee dominated with their own comments, several things became apparent:

1. The Outdoor Council was forewarned, actively testifying and solidly behind this resolution.
2. The greater Bush community was again unable to participate in the public testimony because there were not enough lines available. For those who wanted to testify but were unable to get through both to listen and to comment please complain to Representative Richard Foster at 1-800-478-3789, and contact Representative Ogan's office with commentary also. He is the co-chair of the committee.

Comments that you wish to go into the public record should be faxed either to Representative Richard Foster (fax) 465-3242 or Representative Ogan (fax) 465-3265 and addressed to the Natural Resources Committee with a heading that clearly states that your written testimony is intended to go into the permanent record. It will then be distributed to all the committee members.

During the course of testimony, the NARF attorney, Heather Kendall asked that the hearings be extended so that the greater Bush community would be able to participate and that the committee was only hearing from the urban centers. Representative Barnes and Representative Ogan responded as if they had been personally attacked, stating that they were offended that anyone would imply that they were intentionally keeping the rural areas from participating. That was not what Ms. Kendall was

implying and her point is valid. Representative Nickolai responded by saying that she had seventy-five villages that wanted to comment but that only one was able to get on line.

The committee was not responsive and the hearings for this committee will not be extended, there will, however, be other committee hearings in this process. We will try to keep you updated from this office but please insist that Representative Foster keep you updated on the status of this resolution and that he make arrangements for you to participate, also let his office know that you wish to be notified when these hearings are broadcast so that you can listen in to commentary from around the state. Again contact the Nome legislative office at (907) 443-5555 and ask that they keep you current on any legislation that impacts subsistence and notify you of all upcoming hearings.

I would appreciate a copy of your commentary and notice of whether you tried to get through and were unable to participate. I believe that being able to listen to the comments of the committee and of the other voices around the state is a fundamental right of an Alaska citizen. How can you effectively respond to the committee's questions and arguments if you are not able to listen in on or comment on what they are discussing? There was testimony from Juneau, Ketchikan, Fairbanks, Kotzebue, Nome, Glenallen, Kenai all of which have legislative information offices, the only two villages able to get through and testify were Kipnuk and Quinhagak.

3. The committee appears to be uniform in their opinion, opposing a state constitutional amendment, deadset on amending ANILCA, equal rights for all, equal access for all, and adamantly opposed to any "commercial use and sale of fish and wildlife taken for subsistence uses." They persist in viewing a subsistence as a racial preference.
4. Representative Ogen also stated during the course of testimony that no one has ever tried to contact him about subsistence. Lets change that. I know it is tiring to have to reeducate the legislature and congress every session but they do have a crucial role to play. John Borbridge, former President of SeaAlaska testified, and he was wonderful, reasoned and informed. I believe that the committee co-chair Ogen was responsive to his testimony. Julie Kitka also was able to testify and she was also eloquent and reassuring. She invited the committee to come out to the rural areas to see the subsistence lifestyle for themselves. Representative Barnes stated that she has plenty of friends in the Bush and she knows what the lifestyle is like, Representative Masik stated that she grew up in Anvik in a subsistence lifestyle and that she's only trying to introduce something that is fair to all Alaskans, Representative Ogen said he would come but would be allowed to hunt. Although the committee's mind seems to be

pretty well made up and it is difficult to talk to people who know it all already, your written testimony is needed because it does become documentary evidence in the public record in the event that there is ever a lawsuit. There needs to be a written record for the future that the Native people actively opposed in every instance any attempts to abrogate their subsistence rights.

GOOD AFTERNOON. MY NAME IS GEORGE YASKA AND I'M AN EXECUTIVE OFFICER WITH TANANA CHIEFS CONFERENCE, INC. MY COMMENTS TODAY REFLECT THE POSITION OF TANANA CHIEFS ON HJR 21 AS SUBMITTED BY REP. MASEK.

BY WAY OF OBSERVATION, WE WOULD LIKE TO TAKE NOTICE THAT RECENT ACTIONS WITHIN THE NATIVE SUBSISTENCE MOVEMENT AND THIS PROPOSED RESOLUTION MAY REPRESENT SOME PROGRESS TOWARD A MEETING OF MINDS ON THE SUBSISTENCE ISSUE. IN FEBRUARY, RURALCAP SPONSORED A SUBSISTENCE ROUNDTABLE IN ANCHORAGE WHICH PRODUCED A PROCLAMATION ON SUBSISTENCE WHICH REPRESENTED A SHIFT IN POSITIONS ON SUBSISTENCE. PRIOR TO THIS PROCLAMATION, THE CONSENSUS WITHIN THE NATIVE COMMUNITY FAVORED RETURN TO STATE UNITARY MANAGEMENT AND SUPPORT OF A CONSTITUTIONAL AMENDMENT WHICH WOULD COMPLY WITH ANILCA. AFTER SEVERAL YEARS OF EFFORT IN THIS DIRECTION, THE ROUNDTABLE PRODUCED A NEW RECOGNITION THAT WE IN ALASKA HAVE REACHED AN IMPASSE AND THAT DUAL MANAGEMENT WILL BE A PERMANENT FEATURE OF FISH AND GAME MANAGEMENT IN ALASKA IN THE FORESEEABLE FUTURE. IN RESPONSE, THE ROUNDTABLE PROCLAMATION CALLS UPON THE NATIVE COMMUNITY TO REFOCUS OUR EFFORTS TO MAKE THE DUAL MANAGEMENT SYSTEM WORK THROUGH DEVELOPMENT OF GREATER COOPERATION BETWEEN

LAND MANAGERS AND THE DEVELOPMENT OF SYSTEMS OF CO-MANAGEMENT WHICH WILL MEET THE NEEDS OF SUBSISTENCE USERS.

INTERESTINGLY, THIS RESOLUTION IS PREMISED UPON A SIMILAR REALIZATION THAT DUAL MANAGEMENT IS LIKELY TO CONTINUE IN THE NEAR FUTURE. IT MAY SIGNIFY SOME PROGRESS THAT BOTH SIDES ACKNOWLEDGE THIS FACT. THE RESOLUTION SUGGESTS A DIFFERENT ALTERNATIVE TO ADDRESS FISH AND GAME MANAGEMENT. RATHER THAN FOCUSING ON CO-MANAGEMENT, THE RESOLUTION CALLS FOR AMENDMENTS TO ANILCA WHICH WOULD ERECT AN IMPENETRABLE WALL BETWEEN STATE AND FEDERAL GAME MANAGEMENT. WHILE THERE ARE ASPECTS OF THE PROPOSAL WHICH MAY SHOW PROMISE, WE WOULD URGE THE COMMITTEE TO CONSIDER POSSIBLE CO-MANAGEMENT OPTIONS.

HOW WOULD CONSERVATION FOR MIGRATORY SPECIES BE ADDRESSED?

CONSERVATION REPRESENTS THE GREATEST CONCERN. UNDER DUAL MANAGEMENT, SOMEONE NEEDS TO KEEP AN EYE ON THE BOTTOM LINE TO ASSURE THAT WE MEET CONSERVATIONS GOALS. GENERALLY, THE FEDERAL SUBSISTENCE BOARD IS RESTRICTED TO MAKING ALLOCATION DECISIONS ONLY ON FEDERAL LANDS. HOWEVER, IT IS

WIDELY RECOGNIZED THROUGHOUT THE COUNTRY THAT THE FEDERAL REGULATORS MAY GO OUTSIDE FEDERAL LANDS TO REGULATE MIGRATORY SPECIES FOR CONSERVATION PURPOSES. RECENT ACTIONS BY THE FEDERAL SUBSISTENCE BOARD HAVE EXTENDED FEDERAL RESTRICTIONS ONTO STATE AND PRIVATE LANDS TO PREVENT OVERHARVEST ON STATE LANDS, WHICH MIGHT ADVERSELY AFFECT GAME POPULATIONS FOUND ON FEDERAL LANDS.

THE RESOLUTION WOULD PROPOSE TO PROHIBIT ALL FEDERAL REGULATION ON STATE LAND. THE PROPOSAL BEGS THE QUESTION: HOW WILL CONSERVATION GOALS BE COORDINATED AND ATTAINED ON FEDERAL AND STATE LAND?

UNDER ANILCA AS CURRENTLY WRITTEN, THE FEDERAL GOVERNMENT MUST COOPERATE WITH OTHER AFFECTED LAND MANAGERS, AND THE FEDERAL GOVERNMENT HAS GENERALLY ATTEMPTED TO DO THIS. THERE IS NO CURRENT SIMILAR OBLIGATION UNDER STATE LAW, ALTHOUGH AUTHORITY EXISTS IN STATE LAW TO ALLOW COOPERATION BETWEEN STATE AND FEDERAL AGENCIES, WITHOUT THE STATE AND FEDERAL COOPERATION, CONSERVATION CONCERNS RESPECTING MIGRATORY SPECIES CANNOT BE ADEQUATELY ADDRESSED. THE ACTIONS PROPOSED IN THE RESOLUTION DO NOT ADDRESS HOW CONSERVATION GOALS RESPECTING SPECIES MIGRATING BETWEEN

FEDERAL AND STATE LANDS SHOULD BE ESTABLISHED. AND IN THE ABSCENCE OF A WILLINGNESS BY THE STATE TO COOPERATE IN CO-MANAGEMENT EFFORTS WITH FEDERAL AGENCIES, THE FEDERAL AGENCIES MUST MAKE UNILATERAL DECISIONS TO PROTECT THE CONSERVATION OF FISH AND WILDLIFE POPULATIONS. SIMPLY PUT, THE RESOLUTION PROPOSES TO SCRAP THE CURRENT SYSTEM FOR ADDRESSING CONSERVATION CONCERNS FOR MIGRATING FISH AND WILDLIFE POPULATIONS, BUT DOES NOT OFFER A PROPOSAL TO REPLACE THE CURRENT SYSTEM.

WE CAN ACCEPT THE NOTION THAT DUAL MANAGEMENT IS HERE TO STAY. WE SHOULD NOT RESPOND TO THAT CHALLENGE BY BUILDING THIS "BERLIN WALL" BETWEEN THE TWO MANAGERS. RATHER, WE SHOULD BE BUILDING A BRIDGE OF COOPERATION AND UNDERSTANDING, WHICH MIGHT ULTIMATELY LEAD TO RESOLUTION OF THIS CONTINUING CONTROVERSY.

TRUSTING THE STATE?

THE PROPOSAL SUGGESTS THAT THE STATE BE ALLOWED TO DEFINE THE TERMS 'RURAL' AND "CUSTOMARY AND TRADITIONAL". ADDITIONALLY, THE PROPOSAL WOULD REMOVE FEDERAL COURT OVERSIGHT OF STATE COMPLIANCE WITH THE SUBSISTENCE PRIORITY.

IT IS UNCLEAR HOW THIS WOULD CHANGE CURRENT LAW, SINCE THE STATE HAS THESE OPTIONS AT THE CURRENT TIME ON STATE LAND. THE ARGUMENT GOES THAT "THE STATE SHOULD BE TRUSTED TO PROVIDE FOR SUBSISTENCE USES". THE ARGUMENT WOULD BE PERSUASIVE IF WE DID NOT HAVE ALMOST THREE DECADES OF EXPERIENCE WITH THE ISSUE. ANSCA TERMINATED NATIVE HUNTING AND FISHING RIGHTS. THE LEGISLATIVE HISTORY OF ANSCA EXPRESSED THE COMMON ASSUMPTION BY NATIVE, STATE AND FEDERAL OFFICIALS THAT THE STATE MANAGEMENT SYSTEM COULD ACCOMODATE NATIVE SUBSISTENCE USES.

THERE IS GENERAL AGREEMENT THAT IF THE STATE WANTED TO FULFILL THIS NEED, IT COULD DO SO USING STANDARD METHOD AND MEANS REGULATIONS. BUT WE MUST REMEMBER THAT THE FIRST TIME THE STATE BOARD OF GAME TRIED TO DO SO WHEN ADDRESSING THE CRASHING WESTERN ARCTIC CARIBOU HERD IN THE 1970S', THE COURTS BLOCKED STATE OFFICIALS EFFORTS. THAT EXPERIENCE DEMONSTRATED A NEED TO PROVIDE SPECIAL RULES TO ADDRESS SUBSISTENCE IN TIME OF DECLINING RESOURCES. THE STATE COURTS HAVE CONTINUED TO BLOCK THE EFFORTS BY STATE AGENCIES TO MEET THE NEEDS OF NATIVE SUBSISTENCE USERS. AFTER 25 YEARS OF BROKEN PROMISES, IT IS HARD TO TRUST THE STATE EXPRESSIONS OF GOOD INTENT.

CURRENTLY, THE STATE HAS CONTROL OVER STATE LAND, WHICH IS AN OPPORTUNITY TO DEMONSTRATE WHAT IT CAN DO. WE SHOULD NOT WAIT FOR THE STATE TO REGAIN FULL UNITARY MANAGEMENT AUTHORITY AS A PRECONDITION FOR THE STATE TO ADDRESS SUBSISTENCE NEEDS. IF THE STATE CAN ACCOMODATE NATIVE SUBSISTENCE USE ON STATE LAND, IT SHOULD PROCEED TO DO SO, AND TO DEMONSTRATE NOT ONLY ITS GOOD INTENT, BUT ITS CAPACITY TO PROTECT SUBSISTENCE. IF THE STATE CAN DEMONSTRATE THAT IT CAN SUCCESSFULLY ACCOMODATE SUBSISTENCE NEEDS IN THE CONTEXT OF DECLING RESOURCE POPULATIONS, IT WILL GO A LONG WAY IN MAKING THE ARGUMENT THAT THE STATE CAN BE TRUSTED. ALTERNATIVELY, IF THE STATE IS UNABLE TO IMPLEMENT SUCH A SYSTEM ON STATE LANDS, IT ALSO DEMONSTRATES THE CONTINUED NEED FOR FEDERAL INVOLVEMENT. IT IS NOT POSSIBLE FOR US TO SUPPORT THE BILL AS PRESENTED TO THE COMMITTEE TODAY. THIS IS THE EXTENT OF OUR COMMENT AT THIS TIME. THANK YOU.



Alaska State Legislature

Please enter into the record my testimony to the House Resources
committee name
 committee on HR 21, dated 3/13/97
bill/subject

I oppose HR 21 simply because it effectively removes protections for rural native villages regarding subsistence issues. It does so by attempting to eliminate title VIII of ANILCA.

for the record, the state does not technically have a Constitutional problem. Article 12, section 12 provides a way for Alaskans to comply, but obviously, only if the legislature chose to do so.

Signed: Pete Schouffer
Testifier
SELF (NATIVE)
Representing (Optional)
BOX 6
Address
Kotzebue, AK 99752
Phone No.



KOTZEBUE IRA



P.O. Box 296
Kotzebue, Alaska 99752
(907) 442-3467

March 13, 1997

Honorable Scott Ogen
Co-Chair, House Resources Committee
Alaska Legislature

Dear Mr. Ogen:

The Kotzebue IRA Council opposes HJR 21.

In formulating ANILCA, Congress clearly felt itself to have a responsibility to protect the livelihoods of people living in rural Alaska. The authorities spelled out in Title VIII of ANILCA were the deliberate means to meet that responsibility.

If Congress had not been concerned to begin with about how the state might approach a rural subsistence preference, federal supervision of the state's subsistence management program would not have been incorporated into Title VIII. For the same reasons, the federal government rightly saw fit to retain authority over defining the various ANILCA terms critical to meaningful protection of rural subsistence--terms such as "rural" and "customary and traditional." Considering what Congress views as its obligations, it makes sense for the federal government to continue supervising subsistence management.

About 60% of the land in Northwest Alaska is federal land, and all communities in this region rely heavily on wild resources. To areas like ours, the federal program, though not perfect, has definite advantages over the State's. First, the federal government has a stable history of recognizing the existence of tribal governments, and though ANILCA fails to mention them, it is more reasonable for tribes and villages to look forward to developing long-term, mature arrangements with federal agencies than with those of the State. Secondly, the federal advisory system allows us, as rural subsistence users, a more substantive role in management decisions than does the state system.

Rather than proposing language that assures rural users at the outset that the State will respect and protect the livelihoods of those in rural Alaska, HJR 21 attempts to destroy all assurances afforded rural people under federal law. This is an odd way to try convincing Congress that the State can behave responsibly on this issue. And it certainly is not a constructive approach to fostering a consensus in Alaska. It is instead a surreptitious attempt at regaining state control without resolving any of the core differences between federal law--which aims to protect people in rural Alaska--and State law, which is biased in favor of recreational hunting and fishing opportunities. Proposals such as HJR 21 confirm yet again the sentiments of many in rural Alaska that the Legislature is not really concerned with working out a solution that addresses the needs of all Alaskans.

Thank you for your time and consideration.

Sincerely,

Charlie R. Gregg, Chairman

| | | |
|--|------------------------|-----------------|
| Post-It™ brand fax transmittal memo 7671 | | # of pages ▶ 01 |
| To Rep. Ogen | From John Erik L. | |
| Co. AK Legislature | Co. Kotzebue IRA | |
| Dept. Resources Committee | Phone # (907) 442-3467 | |
| Fax # (907) 445-3265 | Fax # (907) 442-2162 | |

NATIVE VILLAGE OF EYAK

P.O. BOX 1388, CORDOVA, ALASKA 99574

TEL 907-424-7738/FAX 907-424-7739

March 19, 1997

Senator Georgianna Lincoln
Senate
State Capitol
Juneau, Alaska 99801-1182

Senator Lincoln

The Native Village of Eyak opposes House Joint Resolution #21.

Sincerely yours
Bob Henrichs
President, Traditional Council

cc: Representative Gene Kubina
Representative Bill Hudson
Representative Scott Ogan
Representative Jeanette James

(c) "Native village" means any tribe, band, clan, village, community, or association in Alaska listed in sections 2 and 16 of this Act, in which meets the requirements of this Act, as which the Secretary determines was, on the 1970 census enumeration date (or shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance), composed of twenty-five or more Natives;

(d) "Native group" means any tribe, band, clan, village, community, or village association of Natives in Alaska composed of less than twenty-five Natives, who comprise a majority of the residents of the locality;

(e) "Public lands" means all Federal lands and interests therein located in Alaska except: (1) the smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installations, and (2) land selections of the State of Alaska which have been patented or tentatively approved under section 6(g) of the Alaska Statehood Act, as amended (72 Stat. 341, 77 Stat. 229), or identified for selection by the State prior to January 17, 1969;

(f) "State" means the State of Alaska;

(g) "Regional Corporation" means an Alaska Native Regional Corporation established under the laws of the State of Alaska in accordance with the provisions of this Act;

(h) "Person" means any individual, firm, corporation, association, or partnership;

(i) "Municipal Corporation" means any general unit of municipal government under the laws of the State of Alaska;

(j) "Village Corporation" means an Alaska Native Village Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of a Native village in accordance with the terms of this Act.

(k) "Fund" means the Alaska Native Fund in the Treasury of the United States established by section 6; and

(l) "Planning Commission" means the Joint Federal-State Land Use Planning Commission established by section 17.

DECLARATION OF SETTLEMENT

Sec. 4. (a) All prior conveyances of public land and water areas in Alaska, or any interest therein, pursuant to Federal law, and all tentative approvals pursuant to section 6(g) of the Alaska Statehood Act, shall be regarded as an extinguishment of the aboriginal title thereto, if any.

(b) All aboriginal titles, if any, and claims of aboriginal title in Alaska based on use and occupancy, including submerged land underneath all water areas, both inland and offshore, and including any aboriginal hunting or fishing rights that may exist, are hereby extinguished.

(c) All claims against the United States, the State, and all other persons that are based on claims of aboriginal right, title, use, or occupancy of land or water areas in Alaska, or that are based on any

Sec. 4 (b)
EXTINGUISH
Aboriginal
including
hunting &
rights

(e) *Validity of contracts*
Fees to attorneys and consultants are limited to \$2 million. All contracts based on a percentage fee related to the value of the lands and revenues granted by this Act are declared unenforceable.

(f) *Valid existing rights*
All valid existing rights, including inchoate rights of entrymen and mineral locators, are protected.

(g) *National petroleum reserve No. 4 and wildlife refuges*
No subsurface estate is granted in Naval Petroleum Reserve Numbered 4 or in the National Wildlife Refuges, but an in lieu selection to subsurface estate in an equal amount of acreage outside these areas is provided for the Regional Corporations.

(h) *National forests*
Appropriate limitations are placed on the amount of lands which may be granted from National Forests to Native villages located in the National Forests.

C. OTHER ISSUES

1. In sections 7 and 8 of the conference report authorizing the creation of Regional and Village Corporations, the conference committee has adopted a policy of self-determination on the part of the Alaska Native people. The conference committee anticipates that there will be responsible action by the board members and officers of the corporations and that there will not be any abuses of the intent of this Act. The conference committee does not contemplate that the Regional and Village Corporations will allow unreasonable salaries, officer, board member, consultant, attorney, or other salaries, expenses and fees. The conference committee also contemplates that the Regional and Village Corporations will not expend funds for purposes other than those reasonably necessary in the course of ordinary business operations.

2. The Senate amendment to the House bill provided for the protection of the Native peoples' interest in and use of subsistence resources on the public lands. The conference committee, after careful consideration, believes that all Native interests in subsistence resource lands can and will be protected by the Secretary through the exercise of his existing withdrawal authority. The Secretary could, for example, withdraw appropriate lands and classify them in a manner which would protect Native subsistence needs and requirements by closing appropriate lands to entry by non-residents when the subsistence resources of these lands are in short supply or otherwise threatened. The Conference Committee expects both the Secretary and the State to take any action necessary to protect the subsistence needs of the Natives.

Protect
of
Native
Subsist
C.O.
L

3. Villages located on the Pribilof Islands present a special problem because the fur seals which frequent the islands are the subject of an International Treaty. It is the conference committee's recommendation that the Secretary, after consultation with the Secretary of Commerce, the State and the Planning Commission, reserve the appropriate rights and interests in land to insure the fulfillment of the United States' obligations under the Treaty.

1 sovereignty and Indian country in Alaska;

2 (8) allow the State of Alaska to choose whether it will establish a regional
3 subsistence advisory council system in Alaska;

4 (9) provide that regional subsistence advisory councils are only advisory to
5 regulatory boards; and

6 (10) eliminate commercial use and sale of fish and wildlife taken for
7 subsistence uses.

8 **COPIES** of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President
9 of the United States and President of the U.S. Senate; the Honorable Newt Gingrich, Speaker
10 of the U.S. House of Representatives; the Honorable Trent Lott, Majority Leader of the U.S.
11 Senate; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators,
12 and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in
13 Congress.

94 STAT. 2422

PUBLIC LAW 96-487—DEC. 2, 1980

PUBLIC L.

managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and (4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Alaska for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

TITLE VIII—SUBSISTENCE MANAGEMENT AND USE

FINDINGS

16 USC 3111.

Sec. 801. The Congress finds and declares that—

(1) the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on Native lands is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence;

(2) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses;

(3) continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management;

43 USC 1601 note.

(4) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and its constitutional authority under the property clause and the commerce clause to protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents; and

(5) the national interest in the proper regulation, protection, and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by residents of rural Alaska require that an administrative structure be established for the purpose of enabling rural residents who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.

POLICY

16 USC 3112.

Sec. 802. It is hereby declared to be the policy of Congress that—

(1) consistent with sound management principles, and the conservation of healthy populations of fish and wildlife, the utilization of the public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized

scientific principles as designated, or expanded, under this Act, the purpose of this Act is to protect the subsistence uses of such population, the subsistence uses shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population.

(2) nonwasteful subsistence uses of such resources on the public lands shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population.

(3) except as otherwise provided by law, Federal land management activities on the public lands shall be consistent with the subsistence uses of such population, the subsistence uses shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population.

Sec. 803. As used in this title, the terms "customary and traditional subsistence uses" mean the customary and traditional subsistence uses for food, shelter, fuel, clothing, and selling of handicraft and wildlife resources for barter, or sharing for customary trade. For the purposes of this title, the terms—

(1) "family" means a family as defined in section 101 of the Alaska Native Claims Settlement Act, or any person or persons; and

(2) "barter" means the exchange of goods or services for goods or services, taken for subsistence uses;

(A) for other purposes;

(B) for other purposes, if the exchange is for subsistence uses.

PREFACE

Sec. 804. Except as otherwise provided by law, the taking of fish and wildlife on such lands shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population.

(1) customary and traditional subsistence uses;

(2) local residents;

(3) the availability of such resources.

| | | | |
|-------------------|-------------------|---------|------------|
| Post-It™ Fax Note | 7371 | Date | # of pages |
| To | Nancy | From | Pete |
| Co./Dept | | Co. | |
| Phone # | Title 8 of ANILCA | Phone # | (4) |
| Fax # | | Fax # | |

JB

92nd Congress } HOUSE OF REPRESENTATIVES { REPORT
1st Session } No. 92-746

ALASKA NATIVE CLAIMS SETTLEMENT ACT

DECEMBER 13, 1971.—Ordered to be printed

Mr. ARMSTRONG, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 10367]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10367) "to provide for the settlement of certain land claims of Alaska Natives, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill, and agree to the same with an amendment as follows:

In lieu of the matter inserted by the Senate amendment, insert the following:

That this Act may be cited as the "Alaska Native Claims Settlement Act".

DECLARATION OF POLICY

Sec. 2. Congress finds and declares that—

(a) there is an immediate need for a fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims;

(b) the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives in decisions affecting their rights and property, without establishing any permanent racially defined institutions, rights, privileges, or obligations, without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax

45-008 0-71-1

| | | | |
|-----------------------|------|---------------|--------------|
| Post-It Fax Note | 7871 | Date | # of pages 5 |
| To Nancy | | From Pete | |
| Co./Dept. Conference | | Co. | |
| Phone # Excerpts from | | Phone # ANCSA | |
| Fax # 2267 | | Fax # | |

HOUSE JOINT RESOLUTION NO. 21
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES MASEK, Ogan

Introduced: 2/12/97

Referred: Resources, State Affairs

A RESOLUTION

1 Relating to amendment of Title VIII of the Alaska National Interest Lands
2 Conservation Act.

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

4 WHEREAS provisions of Title VIII of the Alaska National Interest Lands
5 Conservation Act (ANILCA) (P.L. 96-487) unnecessarily encroach upon the ability of the
6 State of Alaska to effectively manage state resources; and

7 WHEREAS the provisions of Title VIII of ANILCA appear to contradict the intent
8 of the Tenth Amendment to the Constitution of the United States regarding powers reserved
9 to the various states and the people; and

10 WHEREAS the Secretary of the Interior and the Secretary of Agriculture have relied
11 on provisions of Title VIII of ANILCA to preempt state authority over a portion of fish and
12 wildlife management on public land and water in Alaska; and

13 WHEREAS the Secretary of the Interior and the Secretary of Agriculture require that
14 the state amend its constitution to conform to the provisions of Title VIII of ANILCA as a
15 precondition to the partial relinquishment of federal management of certain uses of fish and
16 wildlife on public land and water in Alaska back to the State of Alaska; and

(2) **The Legislative Affairs Agency**
Information Services
Capital Improvement Project

Other Desktop Hardware

| | Qty | Price | Total | Notes |
|--|-----|-------|-------|---|
| <i>Standard Gateway PC System Prices</i> | | | | |
| Gateway P5-133 | 1 | 1,684 | | <i>NOTE: The prices are preliminary and do not include potential discount for quantity purchase. Additionally, the Agency will pursue a Lease/Purchase option. This will not save money, but will spread out the cost over monthly payments. Lease/Purchase may also include a maintenance agreement.</i> |
| Gateway P5-166 | 1 | 1,859 | | |
| Gateway P5-200 | 1 | 2,239 | | |
| Gateway P5-120 Notebook | 1 | 2,429 | | |

Option #1 - Gateway Windows PC

| | | | | |
|--------------------------------------|----|-------|--------|---|
| H&S Records Gateway P5-133 | 5 | 1,684 | 8,420 | <i>NOTE: These upgrades are recommended because these offices are currently running older DOS systems. These PCs are used to transfer minutes to the mainframe are we need to convert them to Windows in order to eliminate</i> |
| H&S Finance Comm Sec. Gateway P5-133 | 7 | 1,684 | 11,788 | |
| HP 5M Laserjet Printers | 1 | 1,628 | 1,628 | |
| WordPerfect I/Win Upgrade | 12 | 105 | 1,260 | |
| | | | 21,836 | <i>a mainframe file transfer software.</i> |

Option #2 - Gateway Windows PC (Higher-end)

| | | | |
|--------------------------------------|----|-------|--------|
| H&S Records Gateway P5-166 | 5 | 1,859 | 9,295 |
| H&S Finance Comm Sec. Gateway P5-166 | 7 | 1,859 | 13,013 |
| HP 5M Laserjet Printers | 1 | 1,628 | 1,628 |
| WordPerfect I/Win Upgrade | 12 | 105 | 1,260 |
| | | | 23,936 |

1 WHEREAS the people of Alaska waged a long, hard fought battle to achieve
2 statehood and state management of fish and wildlife resources of Alaska; and

3 WHEREAS the Alaska State Legislature has steadfastly resisted pressure from federal
4 agencies to amend the Constitution of the State of Alaska to extend provisions contained in
5 federal subsistence laws and regulations to state and private land and water in Alaska; and

6 WHEREAS the members of the Alaska State Legislature represent Alaska's citizens
7 and, therefore, a plurality consensus view supporting the Constitution of the State of Alaska
8 over the onerous intrusion of unwanted federal management of fish and wildlife;

9 BE IT RESOLVED that the Alaska State Legislature respectfully and ardently
10 requests the Congress to revise Title VIII of the Alaska National Interest Lands Conservation
11 Act (ANILCA) to once again allow the State of Alaska to resolve its own resource
12 management conflicts and to manage the fish and wildlife resources of Alaska for the
13 beneficial use of Alaskans; and be it

14 FURTHER RESOLVED that the Alaska State Legislature respectfully requests the
15 Congress to make the following amendments to Title VIII of ANILCA to protect the interest
16 of the State of Alaska in the management of its fish and wildlife resources:

17 (1) amend the definition of "public lands" to exclude state and private land and
18 water;

19 (2) prohibit federal preemption of state fish and wildlife management on state
20 and private land and water unless expressly authorized by the Congress;

21 (3) expressly state that neither the navigational servitude nor the reserved water
22 doctrine authorizes federal management of fish or wildlife on state or private land and water
23 unless otherwise provided by the Congress;

24 (4) repeal 16 U.S.C. 3117 (sec. 807 of ANILCA) relating to federal court-
25 oversight of state subsistence management programs;

26 (5) authorize the State of Alaska to define the terms "rural" and "customary,
27 and traditional" for purposes of the definition of "subsistence uses" under 16 U.S.C. 3113;

28 (6) amend the subsistence preference established in ANILCA under 16 U.S.C.
29 3114 to provide a preference for a reasonable opportunity to take fish and wildlife for
30 subsistence uses;

31 (7) clarify that ANILCA neither affirms nor denies the existence of tribal

*(from Rosita (M))
via Dick
Gishup)*
*Net Loss
policy*

AFN Policy On Resolving the Subsistence Issues *

As of its March 4, 1996 meeting, the AFN Board of Directors adopted the following Policy Principles according to which the Native community will conduct any discussions with the State of Alaska on resolving the subsistence impasse.

1. The overall management principle contemplated by ANILCA is that regulation of subsistence uses by state or federal authorities must be carried out in a manner that causes the "least adverse impact" on customary and traditional taking and use patterns of Alaskan communities. Restrictions, such as individual bag limits and seasons, may not be imposed if they are inconsistent with customary and traditional use patterns. This includes both the quantity of game, the traditional seasons and places for hunting or fishing, and restrictions on methods and means of harvest. It is a significantly higher standard than the "reasonable opportunity" language in existing state law.
2. The Native community will insist that the following conditions be part of any resolution of the current federal-state impasse:
 - a) There must be no net loss from the current level of federal subsistence protections, including, but not limited to, the following points:
 - 1) The availability of one species of fish or game cannot be used as a basis for restricting opportunities to take another species in a customary and traditional manner.
 - 2) Regulations must provide opportunities to harvest each particular "stock" of fish and "population" of game that has been customarily and traditionally used.
 - 3) The Boards of Fish and Game cannot have unfettered discretion to place restrictions on harvests without a reasoned explanation of what "sustained yield" means and a reasoned determination of the number of fish or animals necessary to produce sustained yield.
 - 4) ANILCA's definition of "customary trade" includes sales for cash and does not require that fish or game used for customary trade be harvested only for personal or family consumption.

* revised 11/5/96 -- from 1992 meeting. F.A.'s from the US Regional Solicitor's office, Dept. of

AFN Subsistence Policy, continued

- 5) The word "rural" has a plain meaning, which includes at least part of the Kenai Peninsula and any attempt to limit the subsistence laws application through the use of a restrictive definition of "rural" is inconsistent with the plain meaning of the Act,
 - 6) ANILCA recognizes that subsistence is a group activity and a group way of life, as opposed to being an individual lifestyle; and
 - 7) The subsistence priority applies to all times, not just when there is a resource shortage. The Boards are required to provide fully for customary and traditional uses before any non-subsistence uses may be allowed.
- b) There must be basic reforms of state regulatory and management systems:
- 1) Changes in board structure and processes, to ensure fair treatment of subsistence uses
 - 2) Use of regional advisory councils, composed of subsistence users, whose proposals generate subsistence regulations, as in Federal Subsistence Board deliberations, and
 - 3) Use of co-management contracting to delegate functions and powers to Native communities and organizations;
- c) There must be no non-subsistence use areas in state law.
3. Resolution of the impasse should also include a strengthening of the federal preference (e.g. by changing to a Native or "Native-Plus" preference, or by defining "rural" so as to guarantee that Native communities that are historically surrounded by non-Native majorities will not be dropped from the preference).
4. A subsistence amendment to the Alaska Constitution must be worded and placed so as to ensure that a state statute that complies with Title VIII cannot, on any grounds, be struck down by the Alaska Supreme Court. In addition, such an amendment should:
- a) State that the subsistence preference may not violate the constitutional mandate for sustained yield,
 - b) Require, rather than permit, the Legislature to enact a statute complying with federal law (e.g., "...the Legislature shall...", rather than "...the Legislature may...");
 - c) State that subsistence is the priority use of fish and game in Alaska,
 - d) Include "culture" as a basis for differentiating among residents for application of the subsistence preference,
 - e) Be worded broadly enough to permit state law to comply with an improved federal preference in the future.

Because of the federal subsistence law:

- **all other uses must be eliminated before "customary and traditional" subsistence use by rural residents can be restricted;**

Quoted from: April 11, 1995 memo from three Federal Associate Solicitors to Anchorage Regional Solicitor, and Dec. 2, 1981 letter from Alaska AG Wilson L. Condon to Governor Jay Hammond;

- **"customary and traditional" subsistence use means opportunistic year-round hunting and may also allow traditional techniques;**

unless populations are proven to be threatened [see Bobby v. Alaska, 718 F.Supp 764 (D. Alaska 1989)]
Also see Tolmoff v. Alaska arguing that shining of deer is "customary and traditional".

- **the priority exists all the time -- it is not triggered by a shortage;**

The federal priority occurs whenever there are harvest regulations [see Bobby v. Alaska, 718 F.Supp 764 (D. Alaska 1989)];

- **subsistence priority resources have been sold in commercial markets;**

for tens of thousands of dollars [see Peratrovich v. U.S., No. A92-734Civ and a number of other cases in both state and federal courts].

- **tribal government authority over Alaska lands is promoted.**

[see January 1992, 9th Circuit decision in Puck v. Tyonek, 953F.2d 1179.]

Alaska State Legislature



Committees:
Military & Veteran Affairs,
Chair
House Resources,
Vice-Chair
House Transportation,
Vice-Chair
Legislative Council

Representative Beverly Masek

During Session: Jan - May
State Capitol
Juneau, Ak. 99801-1182
(907) 465-2679
Fax: (907) 465-4822
(800) 505-2678

During Interim: June - Dec.
600 E. Railroad Ave.
Wasilla, Ak. 99654
(907) 376-2679
Fax: (907) 376-6180

SPONSOR STATEMENT HJR 21

HJR 21, "Relating to amendment of Title VIII of ANILCA," provides for two important items within the confines of the subsistence debate. First it will allow Alaskans an opportunity to discuss how the resolution of this important issue should take place, among Alaskans, or as imposed on us by federal law. As the legislature debates the merits of HJR 21, the people of Alaska will have a chance to participate in deciding whether this issue is better resolved by placing Alaskans at the table and working out a reasonable solution, or if we should relinquish some of our State's authority by following federal directives.

Secondly, if Alaskans agree, the basic tenets put forth by HJR 21 should be presented to Congress as a possible answer to this long running debate. It is important to note that if Congress acts favorably on HJR 21, that the major issue of a rural preference will remain in federal statute as a prerequisite for state management. However, Alaskans will have the option of trying to come to a reasonable agreement on what the terms "rural" and "customary and traditional" mean. I strongly believe the people of this state can do that.

HJR 21 also makes a request of Congress to clarify or change some of the other provisions of ANILCA. Among the changes requested are: a definition of public lands that would exclude state and private land and water, prohibit the preemption of state fish and wildlife management on state and private land and water, repeal of federal court oversight provision of state subsistence management programs, and the elimination of commercial sale of subsistence taken resources.

So far neither side in the subsistence debate seems willing to budge on the issues of amending ANILCA or the state constitution as the first step in returning full management authority to the state. The approach in HJR 21 is somewhat different in that it asks that the major stumbling block, "the rural priority," be kept in ANILCA, but at the same time to allow the state to define it. I realize this isn't by any means a perfect answer that will satisfy the parties involved on either side of this divisive issue; however, I am hopeful Alaskans, given the chance, can sit down and come up with a workable definition. I would encourage everyone to take a close look at this approach and give it some consideration as I feel it might start us towards resolving this important issue.

Alaska State Legislature

MAR 10 1997

Chairman,
Judiciary Committee

Member,
Resources Committee
Rules Committee
Committee on Committees



State Capitol
Juneau, Alaska 99801-1182
(907) 465-3873
Fax: (907) 465-3922

352 Front Street
Ketchikan, Alaska 99901
(907) 225-8088
Fax: (907) 225-0713

Senator Robin L. Taylor

MEMORANDUM

TO: Representative Gail Phillips
Speaker of the House

Representative Beverly Masek

FROM: Senator Robin Taylor

DATE: 3/7/97
RE: HJR 21

Please do everything possible to expedite passage of HJR 21, requesting Congress to amend ANILCA.

I spoke with Senator Murkowski about this resolution last weekend and it fits well with the request for guidance he made of the Legislature when he spoke to the joint session.

I did not introduce my own measure in order to allow Rep. Masek's version to be the vehicle by which we express our direction to the congressional delegation.

Early passage by the House will assure prompt attention in the Senate.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell