

SJR

201



Hugh J. Doogan
359 Slater St.
Fairbanks, AK 99701-2933

July 21, 1998

Alaska State Senate
Resource Committee
Alaska State Legislature
Juneau, Alaska 99801
Reference: Subsistence Question

"Enough is enough on subsistence." We do not need for our State Constitution to be amended to give one class of people rights over other classes of people on fish and game issues. This is discriminatory

Under our state constitution, every Alaskan has equal rights to the fish and game resources of our state. This has been affirmed many times by our state Supreme Court- "All people of the state of Alaska are one class- ALASKANS."

The Native people of Alaska's beef is not with the Alaska State Legislature or the white people, but with the Alaska Fish and Game Board. Here is what I propose:

- 1) Get rid of all Fish and Game advisory boards.
- 2) Get rid of commercial fishing on the rivers using fish wheels. The state Constitutional Convention said "The fish wheel is to be used for subsistence only."
- 3) The Native people of Alaska do not need as many fish as before, as they now use 4 wheelers and snow machines, instead of dogs, to work their trap lines.
- 4) The Native people of Alaska should also know that, like the snow machines and 4 wheelers, the "fish wheel" is a white man's invention.
- 5) There should be no selling of any parts of fish caught for subsistence use.

Ted Stevens and Don Young made the deal for "rural preference" in the *Alaska National Land Claim Bill*. They made this deal with the Natives and environmentalists of Alaska. They have had 18 years to amend Title 8 of this bill to do away with rural priority, which is discriminatory to all the rest of the people of Alaska. It is now time for Senator Ted Stevens and Representative Don Young to get off their "dead butts" and get this discriminatory Title 8 rural priority out of the *Alaska National Land Claim Bill*.

Hugh J. Doogan
359 Slater St.
Fairbanks, AK 99701-2933

A PUBLIC MESSAGE TO ALASKA'S LEGISLATURE

As professional natural resource managers, we are deeply concerned about the social turmoil and renewable resource use conflicts developing over the management of our fish and game in Alaska. The major issues involve the legal conflicts between the rural subsistence priority in Title VIII of the Alaska National Interest Lands Conservation Act and the equal protection and common use provisions of the Alaska State Constitution.

Alaska's fish and game management record has been outstanding. For the good of the resources of the state and its residents, it is imperative that the state maintain its general jurisdiction over fish and game resources while recognizing the legitimate role of the federal government in Migratory Birds and Endangered Species.

Numerous options and potential solutions are being presented to the public, including proposed State Constitutional Amendments and major modifications of the federal subsistence law. However, much of the advertising supporting a constitutional amendment has been inaccurate and inflammatory.

In our professional opinion, any proposed solution to this growing social and resource management crisis must contain the following:

- 1. Provisions in state and federal law to prevent federal agencies from assuming management of traditionally state managed fish and game resources in Alaska. The major emphasis must be to maintain state management of our fish and game resources.**
- 2. Provisions which assure that the state courts, rather than the federal courts, have fish and game jurisdiction on state and private lands and waters in Alaska. Federal court oversight over fish and game management on state and private lands and waters precludes effective state management and must be rejected.**
- 3. Provisions which provide for sound scientific management of our fish and game resources regardless of land ownership.**
- 4. State management of its fish and game resources must not be relinquished in any form until the state's legal challenges against federal management preemption allegedly authorized in ANILCA have been concluded in federal court.**

authorized in ANILCA have been concluded in federal court.

- | | | | |
|-------------------------|--|--------------------------|---|
| Brooks, James | - Retired Fish And Game Commissioner | Bishop, Richard | - Retired State Wildlife Conservation Regional Supervisor |
| Skoog, Ron | - Retired Fish and Game Commissioner | Harris, Don | - Retired Game Board Member |
| Rosier, Carl | - Retired Fish and Game Commissioner | Croxton, Loren | - Retired State Deputy Commissioner of Fish and Game |
| Sandor, John | - Retired Regional Forester | Davis, James | - Retired State Wildlife Biologist |
| Barton, Mike | - Retired Regional Forester | Bowman, Howard | - Retired U.S. Fish and Wildlife Service |
| Snyder, George | - Retired Auke Bay Laboratory Director,
National Marine Fisheries Service | Hinman, Robert | - Retired State Game Division Deputy Director |
| Burley, Dick | - Former Chairman of State Game Board | Jeglum, Carl | - Retired BLM Resource Management Division Chief |
| Andrew, Kay | - Former State Fisheries Board Member | Morrison, John | - Retired State Wildlife Biologist |
| Eide, Sterling | - Retired State Wildlife Conservation Regional
Supervisor | Nicolls, Wayne | - Retired U.S. Forest Service Forester |
| Burris, Bud | - Retired State Wildlife Biologist | Meacham, Chuck | - Retired State Deputy Commissioner of Fish and Game |
| Coose, Richard | - Retired U.S. Forest Service | Rausch, Robert | - Retired State Director of Game Division |
| Williams, Fred | - Retired State Sport Fish Division Area Biologist | Lochman, Robert | - Retired State Troopers and Board of Fisheries Member |
| DeSpain, Glenn | - Former State Game Board Member | Logan, Sid | - Retired Sport Fish Division Area Biologist |
| Arvey, William | - Retired State Fisheries Biologist | Szabo, Nick | - Former State Fish Board Member |
| Didrickson, Jack | - Retired Sales Game Division Area Biologist | Melchior, Herb | - Retired State Wildlife Conservation Division Biologist |
| Farmen, Darrell | - Former State Game Board Member | Galea, John | - Retired U.S. Forest Service District Ranger |
| Wienhold, Robert | - Retired State & U.S. Fish and Wildlife Fisheries
Biologist | Roys, Robert | - Retired State Director of Fisheries Rehabilitation of
Enhancement Division |
| Francisco, Kim | - Retired State Commercial Fisheries Area Biologist | Morgan, Sid | - Retired U.S. Fish and Wildlife Service Enforcement Chief |
| Barber, Willard | - Retired Fisheries Professor UAF | Redick, Russ | - Retired State Sport Fish Division Regional Supervisor |
| Grasser, Ed | - Former State Game Board Member | Grauvogel, Carl | - Retired State Wildlife Biologist |
| Bethers, Mike | - Retired State Fisheries Biologist | Jensen, Gordon | - Former State Fish and Game Board Member |
| Franzmann, Al | - Retired State Wildlife Biologist | Somerville, Ron | - Retired State Deputy Commissioner of Fish and Game |
| Griffin, Ken | - Retired State Commercial Fisheries Management
Biologist | Johnson, David | - Retired State Wildlife Conservation Division Regional
Supervisor |
| Harbo, Sam | - Retired Chairman State Game Board | Rearden, Jim | - Retired State Commercial Fisheries Management Biologist
& Alaska Board of Fish and Game Member |
| Andrews, Rupe | - Retired State Sports Fish Division Director | Kellyhouse, David | - Retired Director of State Wildlife Conservation Division |
| Hensel, Richard | - Retired U.S. Fish and Wildlife Service Biologist | Sheridan, Walt | - Retired U.S. Forest Service National ANILCA Coordinator |

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Alaska Outdoor Council Subsistence Position July, 1998

Each new piece of information about the subsistence dilemma makes more clear that the drive to amend Alaska's constitution is about various political aspirations – not about ensuring sound fish and game management or fairly providing for Alaskan lifestyles. The Alaska Outdoor Council opposes a constitutional amendment for the sake of political aspirations.

The Alaska Outdoor Council continues to support Alaskans' personal and family consumptive uses of fish and game to support or supplement their livelihoods and lifestyles.

The Council supports sound scientific management to maintain and increase the abundance of fish and game for the benefit of Alaska is who rely on these resources for personal and family consumptive uses, and for other lawful purposes.

The Council maintains that those people who rely on personal and family consumptive uses of fish and game can be properly and adequately accommodated without amending Alaska's Constitution to provide for a statutory harvest priority that benefits a particular class, or category, of Alaskans.

The Council maintains that if a constitutional amendment providing for harvest preference is considered, it should be consistent with the existing common use and equal access provisions of the Alaska Constitution, with the following characteristics:

- The preference should go to individuals, not groups;
- To qualify for the preference the individual should substantially rely on fish and game for food to sustain a subsistence lifestyle. ZIP code, culture, ethnicity or other closed class criteria should not be standards;
- The preference should only be implemented when fish stocks or game populations are too low to accommodate long-term historic harvests or reasonable opportunity to harvest without impacting sustained yield – rather than whenever fishing, hunting or trapping are regulated as ANILCA demands;
- The amendment should allow, not require, the Legislature to establish a harvest priority.

The Council finds no compelling reasons for a constitutional amendment that conforms to Title VIII of ANILCA. In fact, the opposite is true—there are numerous Title VIII requirements that are inconsistent with sound management, fair allocation, and/or the authority of the State to manage fish and game.

The root cause of controversy over fish and game management and harvest preferences lies in ANILCA, not in Alaska's Constitution. **Lacking ANILCA amendments, fish and game management and allocation will continue to be unsatisfactory because Title VIII can be:**

- Implemented and enforced by federal agencies and federal courts; or
- Implemented and enforced by state agencies and federal courts.

It's the same overbearing federal law no matter which way we go. Either way, we are shot or hung lacking substantial ANILCA amendments.

If the Legislature anticipates a constitutional amendment that would comply with federal law, the amendment should not become effective unless and until :

1. ANILCA, Title VIII, is judged constitutional by the highest federal court decision obtainable; and

2. The ANILCA amendments listed below are enacted:

- Clearly exclude state and private lands and waters, including all navigable waters, and validly selected and tentatively approved state and private lands, from the definition of federal public lands;
- Clearly exclude state and private lands and waters, and validly selected and tentatively approved state and private lands, and including all navigable waters, from federal regulatory or court jurisdiction regarding subsistence uses of fish and wildlife;
- Clearly state that definitions of subsistence use, rural, customary and traditional, customary trade, reasonable opportunity, shortage of fish and game resources, and other terms critical to the administration of a subsistence priority will be determined by the state;
- Clearly state the Congressional determination that Title VIII of ANILCA is not "Indian law";
- Certify that the state is in compliance with the federal subsistence law.

Alaska

Subsistence is Our Right

Whether we live in urban or rural areas

But federal law demands a harvest priority for rural Alaskans,
rich or poor, all the time —
not "just in times of shortage".

(see notes below)

That means everyone in Nenana, Dutch Harbor, Glennallen, Sitka, Kodiak,
Barrow and Petersburg gets it — all the time.
Many "rural" communities have a higher median income than Fairbanks.

This is unjust discrimination.

This federal law, [Title VIII of ANILCA], can be —

- enforced next year by federal agencies and federal courts... & we're SHOT
- Or — If we amend Alaska's Constitution —
- enforced next year by state agencies and federal courts... & we're HUNG

Either way—with or without a rural amendment—
we're SHOT or HUNG.

It's always the same overbearing federal! law—
enforced by federal courts.

We CAN'T keep the Feds out if we Invite them In!!!

*If we amend our Constitution we invite the federal courts in —
forever surrendering our legal argument to get rid of them.*

*If we surrender the federal court will control all Alaska,
rather than just federal lands.*

If we stand firm for the equality of our Constitution, we can continue to fight the Federal takeover

- Defend, don't amend, the Constitution.
 - Amend the federal law, ANILCA, and
- Continue the legal challenge against this federal law.
(The legal challenge that Governor Knowles dropped)

Word games: It's not "just in times of shortage" — The subsistence priority according to:

Senator Ted Stevens

"Now, that is the one thing that I can assure the Alaska native people, and the rural Alaska, will mean, in any case where there's a limitation they will receive preference. And mind you, every regulation dealing with fish and game is a limitation."
(emphasis added)

*Public Hearing, 4/5/78, US Senate Committee
on Energy and Natural Resources*

Alaska Federation of Natives "No Net Loss"
policy:

"There must be no net loss from the current level of federal subsistence protections, including, but not limited to, the following points: ...#7. The subsistence priority applies to all times, not just when there is a resource shortage. The Boards [of Fisheries and Game] are required to provide fully for customary and traditional uses before any non-subsistence uses may be allowed."

*AFN Board of Directors, 3/4/96
and re-affirmed at October 1997 AFN Convention*

Department of Interior:

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

*4/11/95 memo from three federal Solicitors
to Anchorage Regional Solicitor
also 12/2/81 letter from AG Condon
to Governor Hammond*

Federal Judge Russell Holland

(When the state was in compliance with federal law, Alaska Legal Services successfully challenged 6-month moose and 8-month caribou season)

"...the Board of Game must in the future proceed with scrupulous care and caution in imposing seasons and bag limits on subsistence hunting."
(p.30 of 58)

"If bag limits are imposed on subsistence hunting, there must be substantial evidence in the record that such restrictions are not inconsistent with customary and traditional uses...It must be clear in the record that subsistence uses will be accommodated, as regards both the quantity or volume of use and the duration of the use. Need is not the standard. Again, it matters not that other food sources may be available at any given time or place. The standard is customary and traditional use of game." (p.32)
(emphases added)

"...the Board of Game shall review its subsistence hunting regulations for Lime Village, Alaska, and shall submit to the court for review reenacted subsistence hunting regulations in accordance with...this decision." (p42)

Bobby v. Alaska, 718 F.Supp. 764 (D.Alaska 1989)

Judge Holland eventually allowed almost year-round, no bag limit seasons.

Attorney General Bruce Botelho and Assistant AG Stephen White confirmed that whenever the Administration says "in times of shortage", the Administration means "whenever there are harvest regulations".

*Public hearing before the joint House/Senate Judiciary Committee
First special session, 1998*



**This is what the federal law means
for Alaska's future —
if we surrender our Constitution to it.**

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JUL-20-98 MON 10:53 AM

07/20/98 MON 08:54 FAX

P.02/02



THE SECRETARY OF THE INTERIOR
WASHINGTON

July 20, 1998

The Honorable Tony Knowles
Governor, State of Alaska
P.O. Box 110001
Juneau, Alaska 99811-0001

Dear Governor Knowles:

You have asked whether I could agree to a single two-year extension of the congressional moratorium, due to expire on October 1, 1998, on the ability of the U.S. to promulgate regulations enlarging its management of fish and wildlife for subsistence purposes under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA).

After careful consideration, it is my position that if the Alaska Legislature votes to place on the November ballot the constitutional amendment contained in the compromise described in your June 29 letter, I would, reluctantly, acquiesce in a one-time extension of the current congressional moratorium to October 1, 2000. The moratorium would have to be written to make clear that it would expire if the amendment, once placed on the ballot, were rejected by the voters. Furthermore, my acquiescence in the extension is also contingent in all other respects on adoption by the Alaska Legislature of the compromise described in your letter.

I trust this answers your question.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bruce Babbitt".

TONY KNOWLES
GOVERNOR



P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 485-3500
Fax (907) 485-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

June 29, 1998

The Honorable Bruce Babbitt
Secretary of the Interior
U.S. Department of the Interior
1849 C Street NW, Room 6156
Washington, DC 20240

Dear Mr. Secretary:

During the special session of the 20th Legislature May 26 through June 1, my Administration and I worked closely with legislative leaders of both parties, the Alaska Federation of Natives, Alaskans Together, United Fishermen of Alaska, sports fishing groups, and other interested parties to develop a compromise subsistence proposal which we believe to be a true "Alaska solution" we can all support. We were successful in garnering agreement on that proposal from all these groups, although not from two-thirds of the Legislature that is necessary to put a constitutional amendment on the ballot.

Since the end of this session, supporters of the compromise have continued to cooperate in their efforts to broaden the public's understanding of the plan's key elements and to build more support for it within various groups, including the Legislature. Members of the Alaska Congressional Delegation have indicated, in letters to both legislative leaders and to me, that they find this creative solution supportable. They have also indicated their interest in working with you and with my office to make sure this compromise proposal achieves its objectives.

Our Alaska solution is a major step toward our goal of retaining state management of fishing and hunting while recognizing the importance of subsistence to the economy and culture of rural Alaska. To adopt the proposal, the Legislature must take action prior to the July 26 deadline for placing a constitutional amendment on the November ballot. I am writing today to share the key elements of this plan with you and to ask for your support as we work toward its adoption by the Legislature in the coming weeks.

We agreed on a plan that includes the following elements.

- ▶ **Subsistence Constitutional Amendment:** The compromise amendment would require the Legislature to provide a priority for "subsistence uses of a fish or wildlife resource by residents of a community or area that is substantially dependent on fish and wildlife for nutritional and other subsistence uses." The priority could be based on place of residence.

The Honorable Bruce Babbitt
June 29, 1998
Page 2

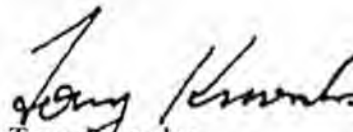
- ▶ **Delayed Effective Date of Amendment:** If approved by the voters, the amendment would not be effective until October 1, 2000, which would give legislators additional time to pursue a lawsuit challenging the constitutionality of Title VIII of ANILCA.
- ▶ **Legal Standing for Legislature:** As part of the compromise, I agreed to legislation authorizing the Legislative Council to pursue the ANILCA challenge in the name of the state.
- ▶ **Repeal of Constitutional Amendment if Lawsuit Succeeds:** The constitutional amendment would be repealed if a federal court issued a final judgment or order saying that the rural subsistence priority in Title VIII of ANILCA violates the Constitution of the United States.

Placing the constitutional amendment on the ballot is, of course, only the first step toward ensuring state management of hunting and fishing on all lands in Alaska, as we have continued to make clear in our discussions of this issue. The amendment must be approved by the voters, and statutory changes to implement the amendment and bring Alaska's law into conformity with ANILCA provisions will also be required. Equally important will be the willingness of both your department and Congress to extend the moratorium or otherwise delay the impending December 1, 1998, takeover until the amendment and statutes can go into effect.

Nevertheless, achieving consensus on putting the amendment on the ballot is the first step, and a critical one. I sincerely hope that all of us – the Department of Interior, the Congressional Delegation, the Alaska Legislature, and my Administration – can work together to make that happen. It is important for Alaskans to know your position on this Alaska solution. I support the compromise as a workable plan and would appreciate your support as well. For your information, I have included a summary of the proposal, a copy of the proposed constitutional amendment, and proposed statutory language to authorize the Legislative Council to pursue the ANILCA challenge in the name of the state.

If you have any questions, please feel free to call. I hope you will be able to join me in supporting this important step toward solving the state-federal impasse on subsistence.

Sincerely,


Tony Knowles
Governor

Enclosures

A COMPROMISE PROPOSAL TO HELP RETAIN STATE MANAGEMENT OF FISHING AND HUNTING IN ALASKA

During the Special Session of the 20th Legislature (May 26-June 1, 1998), legislative leaders of both parties, the Alaska Federation of Natives, Alaskans Together, United Fishermen of Alaska, sports fishing groups, and the Knowles Administration agreed on a compromise subsistence proposal. The proposal, which was not adopted by the Legislature, would be a major step toward the state's goal of retaining state management of fishing and hunting while recognizing the importance of subsistence to the economy and culture of rural Alaska. To adopt the proposal, the Legislature must take action prior to the July 26 deadline for placing a constitutional amendment on the November ballot.

After the legislative session, Secretary of the Interior Babbitt indicated support for this compromise, while noting that in order to conform with ANILCA and gain full state management, the state will still have to adopt revisions to its fish and game statutes. All three members of the Alaska Congressional Delegation have stated support for the compromise.

ELEMENTS OF THE COMPROMISE PROPOSAL

Subsistence Constitutional Amendment: The compromise amendment would require the Legislature to provide a priority for "subsistence uses of a fish or wildlife resource by residents of a community or area that is substantially dependent on fish and wildlife for nutritional and other subsistence uses." The priority could be based on place of residence.

Delayed Effective Date of Amendment: If approved by the voters, the amendment would not be effective until October 1, 2000, which would give legislators additional time to pursue a lawsuit challenging the constitutionality of Title VIII of ANILCA, which requires a rural priority for subsistence uses.

Legal Standing for Legislature: As part of the compromise, Governor Knowles agreed to legislation authorizing the Legislative Council to pursue the ANILCA challenge in the name of the state.

Repeal of Constitutional Amendment If Lawsuit Succeeds: The constitutional amendment would be repealed if a federal court issued a final judgment or order saying that the rural subsistence priority in Title VIII of ANILCA violates the Constitution of the United States.

Delayed Federal Takeover of Fishing and Hunting: Both Senator Stevens and Secretary Babbitt have agreed to seek to hold off the federal takeover, now scheduled for December 1, 1998, if voters approve the amendment in November 1998 and the Legislature acts to change state laws governing fish and game management to conform with the amendment and provide for subsistence.

PROPOSED CONSTITUTIONAL AMENDMENT

SENATE JOINT RESOLUTION NO. 101 am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTILETH LEGISLATURE - FIRST SPECIAL SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Offered:

Referred:

A RESOLUTION

1 **Proposing amendments to the Constitution of the State of Alaska relating to establishing a**
2 **priority for subsistence uses of fish and wildlife; and providing for an effective date.**

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

4 *** Section 1. Article VIII, Constitution of the State of Alaska, is amended by adding a new**
5 **section to read:**

6 **Section 19. Subsistence Priority. The legislature shall, consistent with the**
7 **sustained yield principle, provide a priority for subsistence uses of a fish or wildlife resource**
8 **by residents of a community or area that is substantially dependent on fish and wildlife for**
9 **nutritional and other subsistence uses. The priority may be based on place of residence.**

3 * Sec. 2. Article XV, Constitution of the State of Alaska, is amended by adding a new section to
4 read:

5 Section 29. **Effective Date and Repeal of Amendment.** (a) If adopted by the
6 voters at the 1998 general election, the amendment set out in Section 19 of Article VIII,
7 regarding subsistence, takes effect on October 1, 2000.

8 (b) Section 19 of Article VIII, regarding subsistence, is repealed on the date of
9 a final, nonappealable judgment or order by a federal court deciding that the rural
10 subsistence priority in Title VIII, Alaska National Interest Lands Conservation Act, P.L.
11 96-487, amended violates the Constitution of the United States.

12 (c) In (b) of this section, "final, nonappealable judgment or order" means a
13 judgment or an order that cannot be appealed because all possible appeals, including a
14 petition for certiorari to the United States Supreme Court, have been taken or the time for
15 taking an appeal has expired without appeal.

16 * Sec. 3. The amendments proposed by this resolution shall be placed before the voters of the
17 state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of
18 Alaska, and the election laws of the state.

PROPOSED STATUTORY LANGUAGE
REGARDING THE LEGISLATIVE COUNCIL'S
STANDING IN COURT

1 **An act authorizing the Alaska Legislative Council to sue on behalf of the state concerning**
2 **the validity of a rural subsistence priority conferred in federal statute; and providing for**
3 **an effective date.**

4 * Section 1. The Alaska Legislative Council may sue on behalf of the state as the plaintiff in
5 Legislative Council v. Babbitt, Civil No. 1:98CV0069(JR), United States District Court for the
6 District of Columbia to determine whether the rural subsistence priority conferred in Title VIII,
7 Alaska National Interest Lands Conservation Act, P.L.96-487, as amended, violates the
8 Constitution of the United States.

9 *Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

Legislative Research Report 98.075

May 22, 1998

Subsistence Hearings Sponsored by the Legislature or the Governor, 1990-1998

Legislative Research Services
Division of Legal and Research Services
Legislative Affairs Agency
Alaska State Legislature

Prepared for Senator Tim Kelly
Prepared by Maria Gladziszewski, Manager



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SUMMARY

You asked about public hearings aimed at resolving the impact of the Alaska Supreme Court's December 1989 decision in *McDowell v. State*. In that decision, the Court held that the state's 1986 subsistence law violated the state constitution because it excluded urban residents from subsistence activities.

In attempts to resolve the issue since then, the legislature has met twice in special session (June 1990 and June 1992), and two governors have convened task forces (Governor Hickel's Subsistence Advisory Council in 1991-92 and Governor Knowles' Subsistence Task Force in 1997-98). Also, since the *McDowell* decision, the Legislature has held over 100 hearings on the issue, taking testimony from approximately 240 state and federal officials, and over 1,000 members of the public. Table 1 summarizes the statistics on legislative hearings; Tables 2 and 3 present more detail, including bill number and subject, committee, and hearing dates.

Table 1: Legislative Hearings on Subsistence, 1990-1998

LEGISLATURE	HEARINGS	TESTIMONY FROM PUBLIC OFFICIALS	TESTIMONY FROM MEMBERS OF THE PUBLIC (Including Interest group representatives)
16 th Legislature	25	78	152
17 th Legislature	30	79	235
18 th Legislature	0	0	0
19 th Legislature	11	10	259
20 th Legislature	37	72	482
TOTAL	103	239	1,128

NOTE: These numbers do NOT represent numbers of different individuals who testified; rather, they are the sum of the total number testifying at each hearing (i.e., many public officials and interest group representatives testified numerous times).

Governor Hickel's Subsistence Advisory Council, charged with proposing a statutory fix that did not include constitutional amendments, convened first in February 1991 but was reorganized in the fall. According to Advisory Council member Byron Mallott, the group met five or six times between November 1991 and February 1992, primarily in the governor's conference room in the Frontier Building in Anchorage. Mr. Mallott reports that while the meetings were open to the public and the press, and several individuals and representatives from stakeholder groups attended the meetings to express opinions, the meetings were informal and Advisory Council members did not open them to formal testimony.

TABLE 2

Legislative Hearings on Subsistence, 1990-1998, by Bill

Committee	Date	Heard Testimony From:
16th Legislature (1989-1990)		
HJR 74, 88, 90 -- Constitutional Amendments on Subsistence		
House Resources	March 7, 1990	5 state officials, 1 member of the public
House Resources	March 10, 1990	2 state officials, 51 members of the public
House Resources	March 21, 1990	1 state official, 28 members of the public
House Resources	April 5, 1990	2 state officials, 10 members of the public
House Resources	April 20, 1990	3 state officials, 5 members of the public
House Resources	April 21, 1990	2 state officials
House Judiciary	April 27, 1990	4 officials (3 state, 1 federal), 4 members of the public
House Judiciary	April 30, 1990	3 state officials, 3 members of the public
House Judiciary	May 1, 1990	3 state officials
House Judiciary	May 4, 1990	5 state officials
SJR 78, SB 305 -- Subsistence Uses of Fish and Wildlife		
Senate Resources	May 3, 1990	4 state officials
SJR 78 -- Subsistence Uses of Fish and Wildlife		
Senate Resources	May 4, 1990	4 state officials, 2 members of the public
Senate Resources	May 6, 1990	3 state officials
Senate Resources	May 7, 1990	1 state official, 6 members of the public
16th Legislature, First Special Session, 1990 (June 25-July 8)		
HB 599, HB 600, HB 601, HCR 68, HJR 97, SB 553, SJR 86, SJR 88 -- Various, on Subsistence		
SB 555 -- Commission on Subsistence Use of Fish & Game (became law -- Chapter 1 FSSLA 90)		
House Work Session	June 20, 1990	In Anchorage -- 2 state officials, 10 members of the public
House Resources	June 25, 1990	7 officials (incl. Cowper, Murkowski, Stevens, Young), 10 public
House Resources	June 26, 1990	4 state officials
House Resources	June 27, 1990	1 state official
House Resources	June 29, 1990	5 state officials
House Resources	June 29, 1990	5 state officials
SB 553, SCR 61, SJR 86, SJR 88 -- Various, on Subsistence		
SB 555 -- Commission on Subsistence Use of Fish & Game (became law -- Chapter 1 FSSLA 90)		
Senate Resources	June 26, 1990	17 members of the public
SCR 62 -- Subsistence Legal Challenge		
Senate Resources	June 27, 1990	5 state officials, 1 member of the public
Senate Finance	June 28, 1990	3 state officials, 1 member of the public
Senate Rules	June 29, 1990	No testimony; committee discussion only
HJR 99 -- Constitutional Amendment: Subsistence Preference		
House Rules	July 7, 1990	6 state officials, 3 members of the public
THE FOLLOWING BILLS RECEIVED NO HEARINGS:		
HB 602-Subsistence Hunting and Fishing		SB 556-Subsistence Hunting and Fishing
HB 603-Subsistence Uses of Fish/Game		SCR 39-Joint Commission on Subsistence
HCR 70-Subsistence Regulations		SJR 87-Constitutional Amendment: Subsistence
HJR 98-Constitutional Amendment		SJR 89-Constitutional Amendment: Subsistence
HJR 100-Constitutional Amendment: Subsistence/Personal Use		
HR 16 -- Requesting Alaska Supreme Court to Extend Stay (became Legislative Resolve 10)		

TABLE 2

Legislative Hearings on Subsistence, 1990-1998, by Bill

Committee	Date	Heard Testimony From:
18th Legislature (1993-1994)		
THE FOLLOWING BILLS RECEIVED NO HEARINGS:		
HJR 23 / SJR 42 -- Constitutional Amendment: Subsistence Preference		
SJR 12 -- Constitutional Amendment on Subsistence Preference		
19th Legislature (1995-1996)		
HB 312 -- Extend Current Subsistence Law		
House Resources	April 25, 1995	3 state officials, 1 member of the public
House Resources	April 27, 1995	1 state official, 4 members of the public
HJR 33 -- Amendments to ANILCA		
House Judiciary	March 17, 1995	24 members of the public
House Judiciary	March 22, 1995	2 state officials, 80 members of the public
SCR 6 -- State v Babbitt Lawsuit Continuation (became Legislative Resolve 1)		
House Rules	January 27, 1995	No testimony; committee discussion only
SB 171 -- Extend Current Subsistence Law (became law -- Chapter 68 SLA 95)		
Senate Resources	April 28, 1995	1 state official, 3 members of the public
SJR 19 -- Ask Congress to Amend ANILCA (became Legislative Resolve 26)		
Senate Resources	March 29, 1995	In Fairbanks -- 1 state official, 69 members of the public
Senate Resources	April 8, 1995	In Soldotna -- 33 members of the public
Senate Resources	April 10, 1995	1 state official, 29 members of the public
Senate Rules	April 11, 1995	No testimony; committee discussion only
House Judiciary	May 1, 1995	1 state official, 16 members of the public
THE FOLLOWING BILLS RECEIVED NO HEARINGS:		
HCR 7 -- State v Babbitt Lawsuit Continuation		
HJR 14/SJR 2 -- Constitutional Amendment: Subsistence Preference		
20th Legislature 1997-1998		
HJR 21 -- Requesting that Congress Amend Title VIII of ANILCA		
House Resources	March 13, 1997	19 members of the public
House Resources	March 20, 1997	1 state official, 14 members of the public
House Resources	March 27, 1997	No testimony; committee discussion, then bill moved out
House State Affairs	April 10, 1997	1 state official, 15 members of the public
House State Affairs	April 15, 1997	23 members of the public
House State Affairs	May 3, 1997	No testimony; committee discussion, then bill moved out
HB 243 -- Extend Current Subsistence Law (became law -- Chapter 109 SLA 97)		
House Resources	May 1, 1997	2 state officials, 1 member of the public
Senate Resources	May 8, 1997	1 state official
HB 255 -- Subsistence Hunting & Fishing		
House Resources	May 1, 1997	2 state officials, 7 members of the public

TABLE 3

Legislative Hearings on Subsistence, 1990-1998, by Date

Committee	Date	Heard Testimony From:
16th Legislature (1989-1990)		
House Resources	March 7, 1990	5 state officials, 1 member of the public
House Resources	March 10, 1990	2 state officials, 51 members of the public
House Resources	March 21, 1990	1 state official, 28 members of the public
House Resources	April 5, 1990	2 state officials, 10 members of the public
House Resources	April 20, 1990	3 state officials, 5 members of the public
House Resources	April 21, 1990	2 state officials
House Judiciary	April 27, 1990	4 officials (3 state, 1 federal), 4 members of the public
House Judiciary	April 30, 1990	3 state officials, 3 members of the public
House Judiciary	May 1, 1990	3 state officials
Senate Resources	May 3, 1990	4 state officials
House Judiciary	May 4, 1990	5 state officials
Senate Resources	May 4, 1990	4 state officials, 2 members of the public
Senate Resources	May 6, 1990	3 state officials
Senate Resources	May 7, 1990	1 state official, 6 members of the public
House Work Session	June 20, 1990	In Anchorage -- 2 state officials, 10 members of the public
House Resources	June 25, 1990	7 officials (incl. Cowper, Murkowski, Stevens, Young), 10 public
House Resources	June 26, 1990	4 state officials
Senate Resources	June 26, 1990	17 members of the public
House Resources	June 27, 1990	1 state official
Senate Resources	June 27, 1990	5 state officials, 1 member of the public
Senate Finance	June 28, 1990	3 state officials, 1 member of the public
House Resources	June 29, 1990	5 state officials
House Resources	June 29, 1990	5 state officials
Senate Rules	June 29, 1990	No testimony; committee discussion only
House Rules	July 7, 1990	6 state officials, 3 members of the public
17th Legislature (1991-1992)		
Senate Resources	April 5, 1991	1 state official
Senate Resources	March 5, 1992	4 state officials (including Governor Hickel)
Senate Resources	March 6, 1992	1 state official
Senate Resources	March 7, 1992	33 members of the public
Senate Resources	March 10, 1992	1 state official, 1 member of the public
Senate Resources	March 23, 1992	3 state officials
Senate Resources	March 27, 1992	1 state official
House Resources	April 1, 1992	2 state officials (including Governor Hickel)
Senate Judiciary	April 7, 1992	4 state officials, 2 members of the public
Senate Judiciary	April 9, 1992	2 state officials
House Resources	May 5, 1992	1 state official, 1 member of the public
House Resources	May 11, 1992	1 state official, 3 members of the public
House Resources	May 11, 1992	4 members of the public
Conference Committee	May 21-22, 1992	6 state officials, 1 member of the public
House Judiciary	June 10, 1992	3 state officials, 44 members of the public
S Comm of the Whole	June 15, 1992	2 state officials, 8 members of the public
House Resources	June 15, 1992	3 state officials
H State Affairs/Judiciary	June 16, 1992	3 state officials, 5 members of the public
S Comm of the Whole	June 16, 1992	4 state officials, 17 members of the public
House Resources	June 16, 1992	1 former state official

TABLE 3**Legislative Hearings on Subsistence, 1990-1998, by Date**

Committee	Date	Heard Testimony From:
House Judiciary	March 9, 1998	2 state officials
House Judiciary	March 11, 1998	4 state officials, 23 members of the public
House Judiciary	March 18, 1998	2 state officials, 10 members of the public
House Judiciary	March 20, 1998	3 members of the public
Senate Resources	March 25, 1998	2 state officials, 1 member of the public
House Judiciary	March 25, 1998	No testimony; committee discussion only
House Judiciary	March 27, 1998	3 state officials, 1 member of the public
House Judiciary	March 28, 1998	6 members of the public
House Judiciary	March 30, 1998	1 state official, 22 members of the public
House Judiciary	April 3, 1998	2 state officials
House Judiciary	April 6, 1998	3 state officials, 1 members of the public
House Finance	April 9, 1998	4 state officials
Senate Judiciary	April 25, 1998	9 members of the public
Senate Judiciary	May 1, 1998	1 member of the public
Senate Judiciary	May 5, 1998	1 state official, 4 members of the public
Senate Judiciary	May 6, 1998	No testimony or discussion, moved bill out

NOTE:

We compiled this information by first selecting major subsistence bills listed by subject in the *Final Status of Bills and Resolutions*, then searching through BASIS and FOLIO Views databases for meeting minutes. Because BASIS information is no longer available for the 16th and 17th Legislature, we also looked through committee records maintained in the Legislative Library.

SOURCES:

Final Status of Bills and Resolutions for each Legislature (published by the Legislative Affairs Agency); BASIS for the 18th, 19th, 20th Legislatures; FOLIO Views (committee minutes database); Committee records in the Legislative Library.

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

59/200

July 20, 1998

The Honorable Mike Miller
Senate President
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear President *Miller* Miller:

The attached joint resolution, calling for a vote on a state constitutional amendment, is the key element of a compromise plan developed at the end of the last special session. Along with a bill I am also introducing today on legal standing, this resolution offers a solution to Alaska's longstanding subsistence dilemma. The measure is the foundation of a plan that will enable the state to regain and retain complete management of fish and wildlife on all land and water in Alaska.

This legislation will allow the people of the state to vote in this November's general election to amend the Alaska Constitution. The constitutional amendment would require the Legislature to provide a subsistence priority for residents of an area substantially dependent on fish and wildlife. The priority may be based on place of residence.

The resolution also addresses concerns over the on-going court challenge to ANILCA's subsistence provisions. If approved by the voters, the constitutional amendment would not take effect until October 1, 2000, allowing time to pursue legal action. Should a final court decision find ANILCA's subsistence priority unconstitutional, the state constitutional amendment would be automatically repealed.

Since the last special session this approach has been reviewed and received the support of the Secretary of the Interior and Alaska's Congressional Delegation. If favorable action is taken on a constitutional amendment this year, the Secretary has agreed to delay further federal takeover of fish and wildlife management now slated for December 1 of this year. To regain state management, however, the Legislature must still pass state statutory changes necessary to comply with ANILCA.

The Honorable Mike Miller

July 20, 1998

Page 2

Giving Alaskans an opportunity to make their contribution to solving the dilemma by allowing them to vote on the amendment is critical. To adopt the proposal, the Legislature must act prior to the July 26 deadline for placing an amendment on the November ballot. I urge the Legislature to demonstrate its faith in Alaskans by promptly considering and passing this resolution. This is our last opportunity for a number of years to prevent the federal government from dominating the management of fish and wildlife in Alaska.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tony Knowles".

Tony Knowles
Governor

FISCAL NOTE

No. 2
 Bill Version: STR 201
 (S) Publish Date: 7.20.98

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Revision Date (Note if correction) _____	Dept. Affected	Law
Title <u>Proposing an amendment to the Constitution ...</u>	BRU	Civil
<u>...relating to establishing a priority for subsistence uses ...</u>	Component	Natural Resources
Sponsor <u>Rules Committee</u>		
Requester <u>Governor</u>	Component Senal No.	<u>2212</u>

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This resolution proposes an amendment to the Constitution of the State of Alaska directing the legislature to establish, consistent with the sustained yield principle, a priority for subsistence uses of a fish and wildlife resource by residents of a community or area that is substantially dependent on fish and wildlife for nutritional and other subsistence uses. The priority may also be based on place of residence. If adopted by the voters of the State of Alaska, the new constitutional amendment would not take effect for two years, and would be repealed if a federal court determines that the rural subsistence priority in Title VIII, Alaska National Interest Lands Conservation Act, P.L. 96-487, violates the Constitution of the United States.

Adoption of this amendment would have no fiscal impact on the Department of Law.

Prepared by <u>Joan M. Kasson</u>	Phone <u>465-5370</u>
Division <u>Attorney General's Office,</u>	Date <u>7/13/98</u>
Approved by <u>Commissioner</u> <u>Bruce M. Botelho, Attorney General</u>	Date <u>7/13/98</u>
Agency <u>Department of Law</u>	

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FISCAL NOTE

No. 1
 BILL Version: STR 201
 (S) Publish Date: 7-20-98

STATE OF ALASKA
 1998 LEGISLATIVE SESSION

Revision Date (Note if correction) _____ Dept. Affected Office of the Governor
 Title Constitutional Amendment: Subsistence BRU Elective Operations
 Component General and Primary Election
 Sponsor Rules Committee at the Governor's Request
 Requester _____ Component Serial No. #22

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual	0.0					
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 ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

POSITIONS	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The division of elections has purchased a new ballot tabulation system which allows greater flexibility in ballot size. Ballots can be printed on paper size ranging from 8-1/2" x 11" to 8-1/2" x 17". Due to the expanded range of ballot size, the fiscal note is zero.

Prepared by Gail Fenumia *Gail Fenumia* Phone 465-3935
 Division Division of Elections Date 7/14/98
 Approved by C Lt. Governor Fran Ulmer Date 7/14/98
 Agency Office of the Lieutenant Governor

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