

HJR

41

COMPARISON OF SUBSISTENCE RESOLUTIONS

HJR 41 Subsistence Leadership Summit Drafting Committee	HJR 11 Representative Fred Dyson	HJR 29 Representative Fred Dyson	HJR 4 Representative John Davies
<p>Would this resolution allow the State to regain management of all fish and game uses throughout the state?</p>			
<p>Yes. It requires the legislature to adopt a subsistence priority over other uses, a rural resident preference, and an individual preference during Tier II. That would make Alaska law consistent with ANILCA, Title VIII.</p>	<p>No. It does not allow the legislature to adopt a rural resident preference or Tier II preference. Thus, it would not enable state law to be consistent with ANILCA, Title VIII.</p>	<p>No. Although it provides for a Tier II type of individual preference, it does not allow for a rural resident preference. Thus, it would not enable state law to be consistent with ANILCA, Title VIII.</p>	<p>Probably. Because it allows for a priority for subsistence users based on place of residence, the legislature could adopt a rural resident preference and a Tier II local resident preference, thus partially complying with ANILCA. The priority of subsistence over other uses and the remaining ANILCA Tier II criteria are not specifically provided for, but they probably can be adopted by statute without being specifically mentioned in the constitution.</p>

Does it have specific language regarding the value of subsistence?			
Yes. In a policy statement, recognizes the subsistence tradition of the indigenous people of the state.	Yes. Recognizes the right of the people to use wild food resources that are needed for subsistence for personal or family consumption.	No.	No.
Does it give or allow subsistence uses to have a priority over all other uses, such as commercial, sport, and personal use?			
Yes. The customary and traditional subsistence uses of that resource have a priority over other uses of the resource.	Uncertain. Provides that the right to use wild resources needed for subsistence for consumption "shall not be infringed." It is not clear if this establishes a priority over other uses of the resource.	Yes. Subsistence use is the preferred use in a fish or wildlife management area.	Yes. Allows the legislature to provide a priority for subsistence users in the taking of fish, wildlife, and other replenishable natural resources.
Under what circumstances does the priority exist?			
When necessary under the sustained yield principle to restrict the taking of a fish, wildlife, or other renewable resource.	"Subject to the sustained yield principle."	When the harvestable surplus of a fish or wildlife population in a management area is insufficient to provide for all beneficial uses.	"Consistent with the sustained yield principle."

To what resources does the subsistence priority apply?			
Fish, wildlife, or other renewable resources.	Wild food resources.	Fish or wildlife population.	Fish and wildlife and other replenishable natural resources.
Does it allow for a rural resident preference?			
Yes. It specifically mandates a preference for rural residents	No. The resolution provides for no preference among users.	No.	Yes. Because it allows a priority based on place of residence, the legislature could adopt a rural resident preference.
Does it allow for a local resident preference?			
Yes. The preference for rural residents occurs only in the area of the state where their customary and traditional subsistence uses of a particular resource occur. Also, in the Tier II situation of reduced abundance, rural residents living closer to the resource are more likely to be eligible to harvest it.	No. The resolution provides for no preference among users.	Yes. Each resident has an individual preference in an area where subsistence is the preferred beneficial use according to, among others, the person's proximity to the fish or game population.	Yes. Because it allows a priority based on place of residence, the legislature could adopt a local resident preference

Other features

Specifically authorizes the legislature to grant lower preferences for subsistence uses to nonrural residents who demonstrate customary and traditional use of a resource.	Requires the legislature to provide a preference for the harvest of fish and wildlife.	Subsistence priority is established by "fish and wildlife management areas." Besides proximity, each person's individual priority is based on that person's direct dependence on the resource and the availability of alternative food resources to that person.	Besides place of residence, the legislature may establish a priority based on dependence on resources for subsistence uses or on customary and traditional use of resources for subsistence uses.
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Bill History/Action Display



BILL: HJR 41

SHORT TITLE: CONST. AM: PRIORITY FOR
SUBSISTENCE USES

BILL VERSION:

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

CURRENT STATUS: (H) RES

STATUS DATE: 02/15/02

THEN JUD, FIN

HEARING: (H) RES Mar 27 1:00 PM CAPITOL 124 TELECONFERENCE

TITLE: Proposing an amendment to the Constitution of the State of Alaska relating to providing for priorities for and among subsistence uses in the allocation of fish, wildlife, and other renewable resources.

[Full Text](#)

[Fiscal Notes](#)

[Committee Action with Bill History](#)

Jrn-Date	Jrn-Page	Action
02/15/02	2279	(H) READ THE FIRST TIME - REFERRALS
02/15/02	2279	(H) RES, JUD, FIN
02/15/02	2279	(H) FN1: (GOV)
02/15/02	2279	(H) GOVERNOR'S TRANSMITTAL LETTER
02/15/02	2279	(H) REFERRED TO RESOURCES

[Similar Subject Match](#) or [Exact Subject Match](#)

[CONSTITUTIONAL AMENDMENTS](#)

[FISH & GAME \(BOTH\)](#)

[SUBSISTENCE](#)

Bill Root: [Display Bill Root](#)



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FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HJR 41
 (H) Publish Date: 2/15/02

Revision Date/Time (Note if correction): _____ Dept. Affected: GOV
 Title Constitutional amendment relating BRU Elections
to subsistence Component Elections
 Sponsor Rules
 Requester Governor Component No. 21

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual	1.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1.5	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	1.5	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal.

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. If this measure requires the printing an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Gail Fenomial, Election Programs Specialist
 Division: Division of Elections
 Approved by: Lieutenant Governor Fran Ulmer
 Agency: Office of the Lieutenant Governor

Phone 465-3935
 Date/Time 2/13/02 4:00 PM
 Date 02/13/2002

**An amendment proposed by a
drafting committee of Alaska citizens
and based on the work of the
Governor's Subsistence Leadership
Summit - August 2002**

- ❖ HJR 41 – Proposing an amendment to the Constitution of the State of Alaska relating to providing for priorities for and among subsistence uses in the allocation of fish, wildlife, and other renewable resources

- ❖ Report to Governor Knowles from Leadership Summit Drafting Committee
 - Letter transmitting report from drafting committee
 - Amendment proposed by drafting committee
 - Regulatory recommendations of drafting committee
 - Commentary on report from drafting committee

- ❖ “Subsistence Myths: What Have You Heard?”

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LAW

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December 17, 2001

The Honorable Tony Knowles
Governor
State of Alaska
Alaska State Capitol
Juneau, Alaska 99801

Dear Governor Knowles:

On behalf of your subsistence drafting committee, I present to you our final report, which consists of a constitutional amendment, proposed regulatory changes, and a commentary that explains the basis for recommendations we make to you.

All members of the drafting committee* actively participated in the formulation of a proposed solution to end the more-than-decade-long deadlock over subsistence. There was universal agreement about the important role subsistence plays in the lives of Alaskans and the goal of a subsistence priority for rural Alaskans. However, these principles were merely a point of departure.

The committee met eight times over the course of three months; examined and discarded countless formulations, and ultimately agreed on the version we offer you today. It does provide for the rural subsistence preference, but also has features that have never been assembled in a single amendment before. These include a special recognition of the cultural tradition of subsistence and its role in Alaskan society; a focus on discrete rural areas where customary and traditional subsistence uses occur; inclusion of three criteria, including the proximity criterion, in Tier II harvests; and authorization (but no directive) to create subsidiary classes of subsistence users (after provision of customary and traditional rural uses) who would have preference over other users.

* Al Adams, David Bedford, Bruce Botelho, Charlie Cole, Av Gross, Roy Huhndorf, Byron Mallott, Carl Marrs, Bob Penney, Rob Shoaf, and Bob Stiles.

The Honorable Tony Knowles
Governor

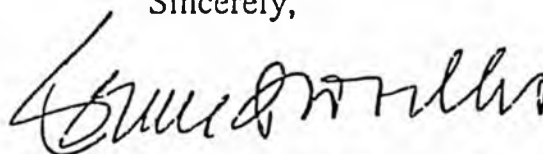
December 17, 2001
Page 2

The committee also recommends a management regime that provides for significant involvement by users through the establishment of regional subsistence advisory councils with defined responsibilities and composition. The committee wishes to underscore the importance of adequate funding and support for this structure. We believe legislation should also authorize the commissioner of fish and game to contract with organizations and individuals in aspects of fish and game management. Finally, we have recommended a series of definitions that should be part of a common subsistence framework in both state and federal law.

This product is the result of many compromises made by these Alaskans, who strove to find common ground. The discussions were frequently intense—a reflection of the historic significance we placed on the issue and our desire to contribute to the state's wellbeing—and conducted on a level of knowledge and values that should make our citizens proud. While each of the eleven is a state leader identified with a particular constituency, I want to emphasize that the recommendations are solely those of the members and do not purport to represent any organizational endorsement.

We have learned much during this process and remain optimistic that Alaskans of good will can come together and find common ground on subsistence. Thank you for the opportunity to serve.

Sincerely,



Bruce M. Botelho
Attorney General

Enclosures

BMB/css

subsistence resolution.doc
committee
12/15/01
rev.

JOINT RESOLUTION NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION**

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**Introduced:
Referred:**

A RESOLUTION

1 **Proposing an amendment to the Constitution of the State of Alaska providing for**
2 **priorities for subsistence uses in the allocation of fish, game, and other renewable**
3 **resources.**

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

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

7 **Section 19. Priorities for Subsistence Uses.** (a) The policy of the State of
8 Alaska is to recognize the subsistence tradition of the indigenous peoples of Alaska
9 and to accord a priority to customary and traditional subsistence uses in the allocation
10 of fish, game, and other renewable sources.

11 (b) The legislature shall provide that, whenever it is necessary under the
12 sustained yield principle to impose any restrictions on the taking of a fish, game, or
13 other renewable resource, the customary and traditional subsistence uses of that
14 resource by rural residents in the area in which those customary and traditional uses
15 have occurred shall receive priority over all other consumptive uses of the resource.

1 When a resource is not sufficient to satisfy all customary and traditional subsistence
2 uses, priorities among subsistence users shall be based on customary and direct
3 dependence on the resource as the mainstay of livelihood, proximity to the resource,
4 and the availability of alternative resources.

5 (c) The legislature may grant lower priorities for subsistence uses to other
6 residents who demonstrate customary and traditional use of a fish, game, or other
7 renewable resource. These priorities may be granted so long as they do not diminish
8 the subsistence priority of rural residents.

9 ***Sec. 2.** The amendment proposed by this resolution shall be placed before the voters of the
10 state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State
11 of Alaska, and the election laws of the state.

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16
17 6:30 p.m. 12/15/01

Common Federal and State Definitions		In State Law Now? Yes/No
Sec. 803: Definition of Subsistence Uses	<ul style="list-style-type: none"> Define "C&T" and "Subsistence Use" using existing state definitions. Delete "domiciled in rural area" from the definition of subsistence uses, to comport with proposed constitutional amendment subsection (c). Clarify that participation is by Alaska residents of rural areas or communities with customary and traditional use of particular resources. Clarify that subsistence uses include patterns, practices, methods and means of taking and use, including option for the board <i>to approve more efficient methods and means*</i>. 	<p>Yes</p> <p>No</p> <p>Yes</p> <p>No*</p>
<p>Approach to defining "rural"</p> <p>Federal Subsistence Board regulations:</p> <p>1) <2,500 – presumed rural</p> <p>2) 2,501 – 6,999 – no presumption; determination based on specified criteria</p> <p>3) 7,000 and above – presumed non-rural</p> <p>Presumptions can be overruled by characteristics of the community.</p>	<ul style="list-style-type: none"> Evaluate use of population criteria to define rural and non-rural presumptions. For communities with no presumption, establish appropriate factors to consider. Factors could include those found in current state law (16.05.258), which directs the boards to consider the following characteristics in identifying non-subsistence (non-rural) areas: (1) social and economic structure (2) stability of the economy (3) extent and types of employment (4) amount and distribution of income (5) cost and availability of goods and services (6) variety of fish and game species used (7) seasonal cycle of economic activity (8) % participation in hunting and fishing (9) harvest levels of fish and game (10) cultural and other values associated with taking and use of fish and game (11) geographic locations where people hunt and fish (12) extent of sharing fish and game (13) additional factors established by the boards. 	<p>No</p> <p>Yes</p>
Definition of "Customary Trade"	<ul style="list-style-type: none"> Non-commercial, <i>traditional*</i> limited exchange of money for fish, wildlife, or their parts is allowed in limited quantities (sale of fur or furbearers is exempt). Intent is to provide for an ongoing traditional practice, and not to allow people to engage in the ordinary stream of commerce. 	No*

Subsistence Statute Concepts for Consistency with ANILCA		In State Law Now? Yes/No
<p>Sec. 804: Preference for Subsistence Uses</p>	<ul style="list-style-type: none"> • When it is necessary to restrict taking of fish, game, or another renewable resource in a rural area, the legislature shall accord a priority to C&T subsistence uses of that resource by residents of the area in which those uses have occurred. • The priority for C&T subsistence uses shall be over all other consumptive uses of the resource. • Restrictions to protect particular subsistence uses may be applied outside the subsistence use area. • Tier II: When a resource is not sufficient to satisfy all C&T subsistence uses, priorities among subsistence users shall be based on customary and direct dependence on the resource as the mainstay of livelihood, <i>proximity to the resource*</i>, and the availability of alternative resources. • Tier II allocation is for human consumptive uses. 	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No*</p>
<p>Sec 805: Local and Regional Participation</p>	<ul style="list-style-type: none"> • There shall be a sufficient number of regions and Regional Councils (RCs) to ensure regional subsistence use patterns are adequately accommodated, subsistence users are meaningfully involved, and subsistence resources and uses are effectively managed. • RC members shall be rural residents and Alaska Natives of the region and be appointed by the governor, who shall consider nominations by local governmental units and tribal councils. • RC process will ensure participation and representation by commercial, personal use, sport and other users and members of the public. • RCs involved to the maximum extent possible in the management of subsistence uses and resources, including development of comprehensive subsistence management plans, which include, but are not limited to, recommendations for regulations consistent with C&T takings and uses, comprehensive research plans, and implementing Tier II. • Meaningful involvement of RCs in classification of rural and non-rural areas and accommodation of subsistence needs of groups and individuals in areas reclassified as non-rural. 	<p>No</p>

(continued)

(continued)	<ul style="list-style-type: none"> • RC chair joins board (ex officio) on issues affecting subsistence uses or resources of the region, including deliberations. • Boards must defer to council recommendations unless (1) not supported by substantial evidence; (2) violates recognized principles of fish and wildlife conservation; or (3) would be detrimental to subsistence uses. The Board's rejection must be supported by substantial evidence, and the Board shall recognize and give weight to traditional and local knowledge in making this determination. • If the Board rejects an RC recommendation, the Board must remand it one time to the RC for a chance to amend the recommendation, taking into consideration the Board's concerns. • The Department of Interior and State of Alaska shall provide annual funding, staff and support necessary to substantially strengthen the ability of the boards of fisheries and game to support the RC system and meet current and increasing responsibilities. • State agencies must consult with RCs and consider the RCs' management plans when making decisions affecting subsistence uses or resources within a region. • Strengthen the state advisory committee system and ensure coordination and participation with Regional Councils (RCs). 	
Other State Statutory or Regulatory Changes		In State Law Now? Yes/No
Defining a standard for implementation of the subsistence preference	<ul style="list-style-type: none"> • Regulations managing the harvest shall provide a meaningful opportunity, as determined by the appropriate board and consistent with customary and traditional patterns and practices of taking and use, to participate in a subsistence hunt or fishery with a meaningful expectation of success. Meaningful opportunity shall not guarantee the taking of fish or game. 	No
Coordination, consultation, contracting, use of traditional knowledge, creation of specific co-management bodies	<ul style="list-style-type: none"> • Commissioner shall seek data from, consult with, and make use of the special knowledge of local residents engaged in subsistence uses. • Commissioner may enter into cooperative agreements or otherwise cooperate with federal agencies, other state agencies, Alaska Native organizations, and other appropriate persons and organizations. 	No No

Other State Statutory or Regulatory Changes		In State Law Now? Yes/No
Taking fish and game by proxy (to address the situation of villagers who moved to urban areas)	<ul style="list-style-type: none"> A family member of a rural resident may take fish or wildlife on behalf of that rural resident, in a rural area. 	No*
Cultural and educational permits (to address the situation of villages that have become surrounded)	<ul style="list-style-type: none"> Boards allow permits for taking of fish and wildlife to teach and preserve historic or traditional uses and harvest practices. Taking may occur in non-rural areas. Not a subsistence priority under current statutes. Could be afforded <i>lower subsistence priority</i>* under subsection (c) of proposed constitutional amendment. 	Yes No*
Community hunt permits	<ul style="list-style-type: none"> Boards may allow subsistence harvest permits to be issued to areas, villages, communities, groups, as well as individuals. 	Yes

Commentary of
Governor's Subsistence Drafting Committee

December 15, 2001

CONSTITUTIONAL AMENDMENT

The drafting committee proposes this constitutional amendment in furtherance of the Governor's Subsistence Leadership Summit's call for an amendment "guaranteeing a rural subsistence priority for uses of Alaska's fish and game resources."

Subsection 19(a) sets the context for the following subsections. It is not intended to confer any rights. Instead, it is an expression of both the high value that the state holds for Alaska's first peoples and their subsistence way of life and the central role the subsistence way of life has and continues to play in Alaska. In the words of the Subsistence Leadership Summit of August 2001:

Customary and traditional uses of Alaska's fish and wildlife originated with Alaska Natives and continue to be integral to the lives and essential to the survival of Alaska Native peoples and communities, and have been adopted and supplemented by many non-Native Alaskans as well. These uses, among others, are culturally, socially, spiritually, and nutritionally important and provide a sense of identity for many subsistence users.

Subsection 19(b) establishes the basic subsistence priority. Before there can be any harvest of fish, game, or other renewable resource, sustainability of the resource for maintaining healthy populations and use by future generations must be satisfied. Once the requirements for sustained yield have been met, but there is insufficient harvestable surplus to meet all consumptive uses, the subsistence priority applies. Virtually all

harvestable species are subject to some restrictions. Thus, in practical effect, the subsistence priority is nearly always in place.

The subsistence priority itself is extended to rural residents for fish stocks, game populations, or other renewable resources customarily and traditionally taken for subsistence uses in the area in which the rural resident resides. In operation, this means that local rural residents have priority for the taking of such resources for subsistence uses over other rural residents living in areas that do not have customary and traditional use of those same resources. Also, rural residents in one part of the state will not have a priority for subsistence use in another area that is outside their subsistence use area (e.g., Barrow residents cannot claim a priority in the Angoon area since the community of Barrow does not have customary and traditional use of the area or resources near or reasonably accessible to Angoon).

There may be circumstances in which there is not enough harvestable surplus to meet all of the customary and traditional subsistence uses in an area. In that event, the number of subsistence users eligible to hunt or fish must be reduced by eliminating some potential users. Subsection 19(b) requires a reduction based on three criteria: (1) customary and direct dependence on the resource; (2) proximity to the resource; and (3) ability to obtain alternative resources.

Subsection 19(c) authorizes – but does not require – the creation of one or more categories of subsistence users with a subsidiary preference who will, in turn, have preference over other consumptive users (e.g., personal use, sport, and commercial

users). The subsidiary preference can be provided only when the activities of these secondary subsistence users would not diminish the ability to provide the primary subsistence priority in subsection 19(b). In proposing this subsection the drafting committee identified three groups that commended themselves to legislative review at the statutory level:

- (1) residents from outside a Section 19(b) area who have demonstrated customary and traditional use of a fish stock, game population, or other renewable resource;
- (2) residents currently living in urban Alaska who for an extended period of time lived in a rural area and participated in the subsistence harvest and wish to return to the rural area to continue doing so; and
- (3) discrete communities for which the subsistence way of life is central but which have been surrounded by or incorporated into urban areas (e.g., the Native Village of Eklutna in the Municipality of Anchorage and the Kenaitze Indian Tribe in the Kenai Peninsula Borough).

FRAMEWORK FOR REGULATORY CHANGES

The drafting committee proposes changes to meet the goals identified by the Governor's Subsistence Leadership Summit of August 15-16, 2001, and to

- implement the provisions of the proposed constitutional amendment to provide a rural subsistence priority, as discussed above;

- bring state law into conformance with the terms of ANILCA and, thus, regain unified state management of fish and game resources in Alaska; and
- provide an opportunity for participation by Alaska Natives and other rural residents in the management of Alaska's fish and game resources for subsistence uses, while reserving the state's final decision-making authority for management of those resources.

The changes agreed to by the committee address these goals and fall into three categories:

- (1) common federal and state definitions,
- (2) statutory concepts for consistency with ANILCA, and
- (3) other state statutory or regulatory changes for improvement of subsistence management.

Definitions of Subsistence Uses

The committee recommends defining both "customary and traditional" and "subsistence use" in essentially the same way as they are now used in state law. However, to accommodate the use of the term "subsistence" in paragraph 19(c) of the proposed constitutional amendment, which creates the ability to grant a subsidiary priority for subsistence, the committee recommends that the phrase "by a resident domiciled in a rural area" be removed from the statutory definition of subsistence uses.

The committee also recommends that the definition of subsistence uses be clarified to include customary and traditional patterns, practices, methods, and means of

taking and use but not so as to preclude more efficient methods and means that have evolved or been adopted over time.

The committee recommends that the statutes clarify that priority for participation in a particular subsistence hunt or fishery is granted to residents of the rural area with a customary and traditional use of the resource. This will, in effect, result in a "local" priority.

Approaches to Defining "Areas" and "Rural"

Because the subsistence priority is provided to residents who have a customary and traditional use of a particular fish stock or game population, the definition of "areas" is an important concept in the new statutory provisions. The drafting committee agreed that the Boards of Fisheries and Game should have flexibility to define subsistence areas that adhere to customary and traditional use patterns.

Determination of areas that are "rural" and "non-rural" would also be a prerogative of the Joint Boards, as it is now. The drafting committee recommends use of a population factor as the initial screen in determining whether an area is "rural" or "non-rural" (following the current practice of the Federal Subsistence Board), but recommends that criteria based on community characteristics be permitted to override presumptions based on population. While recommending population as a first screen, the committee neither endorsed nor rejected the levels used in current federal regulations, noting that the

Federal Subsistence Board is now sponsoring research designed to refine application of its population-based system.

Definition of "Customary Trade"

In drafting this definition the committee intends to provide for existing, ongoing traditional practices involving the exchange of limited quantities of fish or game for money. Such trade traditionally takes place outside the normal stream of commerce. The committee recognized that, absent regulation and oversight of such trade, it could easily be subject to abuse and could undermine general public support of the subsistence tradition.

Local and Regional Participation

The Subsistence Leadership Summit's recommendations to the governor stressed the importance of developing a subsistence management system that provides "a form of co-management of Alaska's fish and game resources that includes the opportunity for significant participation by Alaska Natives and rural residents"

The drafting committee supports this idea, agrees that aspects of co-management can create new tools to manage the state's fish and game resources, and endorses adoption of the essential structure of the popular federal subsistence regional advisory council structure. This structure can serve as a model for providing for local and regional

participation in management of subsistence resources. The committee recommends additional elements to improve on that system.

The regional council system should be structured to ensure participation and representation by commercial, personal use, sport, and other users as well as by Alaska Natives and other subsistence users. There must be enough regions and regional councils so that regional subsistence patterns are adequately accommodated, subsistence users are meaningfully involved, and subsistence resources and uses are effectively managed. Members of the councils should be rural residents and Alaska Natives of the region and would be appointed by the governor.

A critical element of a successful regional council system will be adequate support and funding from both state and federal sources. Section 805 of ANILCA Title VIII calls for the Secretary of Interior to reimburse the state for the operation of a regional council system when the state is exercising management of the resources (Sec. 805 (e)).

Standard for Implementation of Subsistence Preference

The subsistence preference would be implemented using the "meaningful opportunity" standard. This standard makes it clear that while a preference for subsistence offers an opportunity consistent with customary and traditional patterns to participate in a subsistence hunt or fish with a meaningful expectation of success, such a preference does not guarantee the taking of fish or game.

Though it was not expressly addressed by specific recommendations, the committee stresses the importance of "common sense" or a "rule of reason" in applying the subsistence preference. For example, the committee described the need to consider that a commercial fishery might reasonably harvest, as by-catch, an insignificant portion of a stock that is managed for subsistence purposes. In general, the committee believes it should be possible to restrict subsistence uses while allowing other uses to continue, so long as a meaningful opportunity for subsistence use is provided.

Coordination, Consultation, Contracting, Use of Traditional Knowledge, Creation of Specific Co-management Bodies

The proposed changes would give the Commissioner of Fish and Game specific authority to work with and make use of the special knowledge of local residents engaged in subsistence uses and to enter into cooperative agreements with tribes, Native corporations, and other organizations for the management of subsistence uses and resources, for research, and for other resource issues of mutual concern..

Taking Fish and Game by Proxy

The recommended provision would broaden the category of individuals for whom proxies could hunt and fish to include rural residents unable to fill their subsistence allocation. Current statutes allow disabled and elderly individuals to appoint proxies.

Cultural and Educational Permits

Under current regulations, cultural and educational permits may be issued to teach and preserve historic or traditional uses and harvest practices. This type of special permitting program would be placed in statute. These permits would not receive a subsistence priority. A subsidiary subsistence priority for such hunts and fisheries could be allowed under Section 19(c) of the proposed constitutional amendment, which allows the legislature to grant such secondary subsistence priorities.

Achieving Consistency in Definitions

The committee believes that, in keeping with its desire to fully resolve the subsistence issue, the definition of certain terms in state and federal law should be consistent. With some exceptions, those definitions are set out in the regulatory recommendations that accompany this report. There is a difference of opinion within the committee as to how to achieve this consistency. Some believe that ANILCA should be amended. Others disagree. Despite these differences, the committee remains united in its agreement about the important role subsistence plays in the lives of Alaskans and the goal of a subsistence priority for rural Alaskans.

SUBSISTENCE MYTHS

What Have You Heard?

(This article originally appeared in the November - December 1989 issue of Alaska Fish and Game. Harvest numbers have been updated with 1999 information.)

What have you heard about subsistence in Alaska? There are so many misconceptions about subsistence in casual conversation that we've begun to call them myths. We have heard people say, "Subsistence is for Natives only." "Subsistence takes most of the fish and game." "Subsistence is just welfare." "Subsistence is bad for wildlife conservation." "Subsistence is disappearing." In fact, the subsistence we know is very different. Here is a short quiz about subsistence in Alaska. See if what you have heard is fact or fancy.

Is subsistence for Natives only?

No. Under both state and federal law, both Alaska Natives and non-Natives may hunt and fish for subsistence.

Of course, there is always an exception. Marine mammal hunting is regulated by international treaty and the Marine Mammal Protection Act. Only Alaska Natives may hunt marine mammals, such as seals, whales, polar bears, and sea otters.

Does "subsistence" mean hunting and fishing for food?

Certainly food is one of the most important subsistence uses of wild resources. The current rural subsistence harvest is about 375 pounds of food per person per year. That is more than the U.S. average consumption of 255 pounds of domestic meat, fish, and poultry per year. (The average American uses a total of 1,371 pounds of all foods a year.) However, there are other important uses of subsistence products, such as:

- **Clothing:** Wild furs and hides are still the best materials for ruffs (wind guards), mitts, parkas, kuspuks, clothes lining, and mukluks (winter boots) in many regions.
- **Fuel:** Wood is a major source of energy in rural homes, and is used for smoking and preserving fish and meat.
- **Transportation:** Fish, seals, and other products are used to feed dog teams.
- **Construction:** Spruce, birch, hemlock, willow, and cottonwood are used for house logs, sleds, fish racks, and innumerable other items.

- **Home goods:** Hides are used as sleeping mats. Seal skins are used as pokes to store food. Wild grasses are made into baskets and mats.
- **Sharing:** Fish and wildlife are widely given out to support neighbors who cannot harvest for themselves because of age, disability, or other circumstances.
- **Customary trade:** Specialized products like seal oil are bartered and exchanged in traditional trade networks between communities. Furs sold to outside markets provide an important source of income to many rural areas.
- **Ceremony:** Traditional products are used in funerals, potlatches, marriages, Native dances, and other ceremonial occasions.
- **Arts and Crafts:** Ivory, grass, wood, skins, and furs are crafted into beautiful items for use and sale.

All of these uses of wild resources are recognized and protected in law. Subsistence is a rich pattern of living, of which food is but one important part.

Is big game (like moose or caribou) the main subsistence food?

As a general rule, no. The main subsistence food is fish. About 60 percent of the state's subsistence harvest by weight is fish, including salmon, halibut, herring, whitefish, cod, and Arctic char-Dolly Varden, among others. Land mammals are only about 20 percent of the state's subsistence catch. Marine mammals are 14 percent of the catch, and "other resources" are 6 percent (mostly clams, crabs, birds, berries, and plants).

Of course, the types of foods people eat vary from place to place. Fish is a smaller item in the extreme coastal arctic areas, where caribou, seal, whale, and walrus are major subsistence resources.

Does subsistence take most of the fish and game?

Again, as a general rule, no. Commercial fishing outstrips subsistence many times. In the 1990s in Alaska, commercial fisheries harvested on average about 1.2 billion lbs. of salmon, halibut, herring, shellfish (there was an additional commercial groundfish harvest of 4.1 billion lbs.) This compares with a harvest of 43,714,606 lbs. of subsistence foods and 9,740,012 lbs. of sport-caught fish and game. Thus, in recent years commercial fish took 96 percent, subsistence took three percent, and sport took one percent of the total statewide harvest (excluding commercial groundfish).

Of course, these proportions vary by area. In the areas with roads, the sport harvest is usually larger than the subsistence harvest. In the areas without roads, the subsistence harvest is larger than the sport harvest. But commercial fishing is the clear leader in overall volume.

Does subsistence involve money?

Yes. Rural families use money in order to purchase basic goods and services: fuel oil and electricity for heat, light, and power; family goods like clothing and shelter; subsistence equipment like guns, ammunition, fishing nets, power motors, gasoline, rain gear, and so forth. Money is used to invest in the tools for hunting, fishing, and gathering.

It is a common misconception that there is no money in traditional subsistence economies. However, trade and commerce have always been part of subsistence systems. Goods have been traded for thousands of years in Alaska. The commercial fur trade with European markets began about 300 years ago, bringing European currencies and goods into Alaska. So commercial enterprise and money have been part of traditional subsistence economies for a long time.

Rural Alaska's economies do operate differently from urban economies, however. In Alaska today, the rural economies are "mixed economies," where families and communities live by combining wild resource harvests with commercial-wage employment. Monetary jobs tend to be few and unstable. Monetary incomes tend to be small and insecure. Economic activity tends to occur in family groups, rather than business firms. Economic ventures tend to be small scale. Economic goals tend to be for the benefit of family groups, rather than monetary profits for business firms. These are major differences. Because of this, Alaska is a pluralistic society, with "mixed subsistence-cash economies" existing side-by-side with the "industrial capital economy" of the large population centers of Anchorage and Fairbanks.

Is subsistence compatible with wildlife conservation?

Rural communities depend on the land for subsistence. It is to their advantage to maintain undamaged land and ecosystems, so wildlife are abundant. Most subsistence communities have customary rules for treating the land and the ecosystem. These rules have been passed on through the generations: "Do not waste," "Take only what is needed," "Treat the animals with respect," "Do not damage the land without cause," among others. It is believed that if the rules are followed, then the land will continue to provide. Subsistence peoples are the original conservationists, although they may not use that word, because their very lives depend on it.

This is not to say there is perfect compliance with customary rules, as with any group of people. However, today most people still comply with the traditional rules and practices. They comply, even when there are additional government rules and regulations governing land and resource uses. In fact, rural areas commonly must

obey two sets of laws -- those from the state-federal administration, and those handed down from their forefathers as customary law.

Federal law recognizes the compatibility of subsistence and wilderness values. The law protects subsistence uses in the new parklands, national refuges, and wilderness areas. Subsistence peoples and traditional uses are part of the natural ecosystem and have helped to maintain it for generations.

Is subsistence compatible with wilderness?

Yes. Most areas designated as "wilderness" today are the traditional homelands of subsistence peoples. Alaskans have been living in and using these areas for thousands of years, and continue to do so. These areas would not appear pristine and undamaged today -- so they could be classified as wilderness -- if rural Alaskans had not treated the lands and wildlife well. The lands are wilderness now, because subsistence is compatible with wilderness.

Is subsistence a type of welfare for families with low incomes?

No. Subsistence is not a welfare system for people with low incomes. In fact, households with the highest incomes in rural communities usually produce the most subsistence foods. Households with the lowest incomes usually produce less subsistence foods.

This makes sense if subsistence is seen as a family enterprise. Households with the lowest incomes in the community are commonly the very elderly, single mothers with young dependent children, and young single persons or young couples who are just getting started. These households also very likely cannot subsistence fish and hunt very well. They often lack the time, the labor, and the equipment to harvest effectively. They usually eat subsistence foods produced by other households in the community.

The households who produce the most subsistence foods in a community are usually households with large, mature labor forces that have equipment for hunting and fishing. Usually, these are households with mature parents and several mature children. They have the labor and equipment to harvest wild foods. They typically produce extra subsistence food to share with elderly relatives, the less fortunate, and young adults. The mature households also usually have greater monetary incomes because there may be several household members with jobs.

Because of this, rural communities would suffer extreme hardship if subsistence hunting and fishing were limited to only households with low incomes. This would cut out the most productive households in the community.

Why don't subsistence hunters use bows and arrows?

Subsistence requires equipment that works, is safe, and is sustainable with ecological and economic conditions over the long term. Most people stopped using bows and arrows over a century ago in Alaska. Rural Alaska has been using guns for hunting longer than America has been using automobiles for transportation, since the 1860s in most areas.

Subsistence equipment is usually small scale, appropriate technology. It is efficient and modern. Equipment commonly includes fish nets, fish wheels, aluminum skiffs with small out-boards, snowmachines, binoculars, and citizens band radios. These may be used alongside dog teams, skin boats, smoke houses, and fish traps, depending upon the areas and conditions.

Is subsistence disappearing?

Subsistence is constantly changing, but as a whole, there is little evidence that it is disappearing as a way of life in Alaska. In rural Alaska, subsistence activities are among the most highly valued parts of the culture. Subsistence harvests still are essential parts of the rural economy. In most rural places, children continue to learn how to capture wild foods and prepare them for use by the family and community.

Nevertheless, some things do threaten subsistence. Roads into rural areas usually result in declines in the subsistence way of living. Roads bring about ecological change, increased competition for wild resources, and in-migration of cultural groups that do not hunt and fish for subsistence. Unregulated commercial harvesting that depletes stocks and game populations has resulted in declines in subsistence in certain areas in Alaska. Examples of this include commercial whaling and commercial walrus hunting in the Arctic, and commercial salmon traps in southeast Alaska. Unreasonably restrictive rules which limit access to traditional harvest areas or species may threaten subsistence over time. The new state and federal subsistence laws were intended to help bring about regulations beneficial to the subsistence way of life. In general, any change that depletes wild resources, reduces access to wild areas and resources, or increases competition between user groups can create problems for subsistence.

Alaska Department of Fish and Game