

ALASKA LEGISLATURE COMMITTEE FILES 1985 - 1986 8672
4222.9 SRES SUBSISTENCE MEETINGS - CORRESPONDENCE (file 1)

HORN: Well, in Congress, during the development of Title 8, there was considerable discussion about how should a subsistence program be established. Should it be a residency program, an area program, an individual program, a need program? When Congress addressed the issue of need, it decided not to go down that particular road for a very practical basis. It concluded that it would be inappropriate, very difficult, and extremely socially disruptive to, in essence, license a force of the equivalent of social welfare workers to go into rural Alaska, deciding who was needy and who wasn't, and therefore, who would qualify for a subsistence permit and who wouldn't.

It was decided that that would be such a nightmare and such a headache to go with this community system, a residency-based system, notwithstanding the fact that Congress knew that there would be circumstances in which relatively well-to-do individuals in some isolated communities would get a preference ahead of somebody less relatively well-to-do in an urban (setting), but for very practical reasons, they decided to reject the approach of need. Of course, that is clearly enshrined in the language in Section 803. They did bring need into effect when, of course, there is not enough resource to take care of the rural, customary, traditional subsistence users and said that the first criterion that you look at when you have to allocate among the subsistence users is customary and direct dependence. That's, basically, a need factor.

As I also indicated earlier, however, Congress did go on in the legislative history to specify that in defining the term customary and traditional, it would be appropriate to use the concepts of 804, including customary and direct dependence, and the availability of alternative resources, both of which are need based factors, that those could be among the factor considered in rendering and reaching a definition of what customary and traditional was. That, in essence, is the way need factors into the process and some of the decision making process that Congress used in rejecting an individual need program but leaving it in 804 and allowing parts of need to get into 803 under the hook of customary and traditional.

SENATOR HALFORD: This may be an unanswerable question, but with regard to all of these provisions that seem to be a problem in terms of state equality, is there any chance that Congress is ever going to look again at their _____ policy with regard to Alaska and possibly recognize the dangers.

HORN: I'm hardly the fellow to ask that question. There has been very little inclination in Congress to look at any amendments. With the Alaska Lands Act, you know, major effort was made on behalf of the delegation and the administration to change and come up and liberalize the sport-hunting rules and by expanding preserves, and I think we barely got that out of committee. The general issue of amending the Alaska Lands Act in any major fashion -- I don't think the prospects, in my personal opinion, don't remain, aren't very, very good at the present time. Whether or not Congress in the future will have ever the stomach to tackle Title 8 is a question that I'm really not in a position to answer now.

SENATOR HALFORD: So, if in fact, the state used a needs criteria based on the existing and long standing subsistence licenses that have been in the books for many years in the state, the Congress would come to the aid of the rural resident or employee of DOT (Department of Transportation) making \$90,000 a year with a varied differential and enforce the _____ against the rest of the people of Alaska?

HORN: I don't think it is Congress coming to the rescue. If the law is now on the books, it has been on the books for five and a half years, and we're in the position, obviously, of having to uphold and enforce that law notwithstanding the difficulty and personal heartburn that may cause for many of us, but it's an obligation that we have and we will discharge it. Not because we want to, not because it's a threat, just because we have no choice. If, obviously, folks don't think Title 8 is the best approach, they need to petition their elected members in the United States Congress to see if it may be changed.

SENATOR STURGULEWSKI: Are there other questions of Secretary Horn?

I want to thank you very much for a very complete statement and answers, and I think there were good questions on behalf of the committee.

(End of Secretary Horn's appearance before the committee)

SENATOR STURGULEWSKI; I just want to thank you very much for very complete and standard answers, and I think there were good questions on behalf of the committee. The issue is now before the committee. As you know, this has had a long process in the Senate. Senator Abood did a considerable amount of work on this bill over the legislative interim and during the session. We have had the issue

before us and consultation with many, many people on the issue as well as public hearings. It seems to me that this issue needs to, if at all possible, move forward. There are other committees of referral. One of the things that has been pointed out to me is that if we are to have a bill in place, it is going to have to go through the regulatory process. Regulations will have to be developed by it. I think we need to, if at all possible, go into the summer with a bill in place. I wish that the bill could go forward with no amendments. I know that is not practical, so what I shall do is to call upon Senator Fischer. If there are to be any amendments considered, I want to be sure that everybody had a copy of, first of all, the 3/4/86 draft which is before the committee and that you have copies of the amendments that are being discussed. I would like to point out that Mr. Kelso, Deputy Commission of Fish & Game, is in the audience as well as Larry Spengler from the Attorney General's office in case there are questions about any of the amendments.

Committee stood at ease briefly while copies of Senator Fischer's amendments were handed out.

SENATOR STURGULEWSKI: (after calling meeting back to order) We have before everyone a copy of proposed amendments by Senator Fischer.

SENATOR FISCHER: Draft version I am working from is marked Hein is in the upper corner and underneath his name is REV in brackets. There are two amendments, and I would like to move Amendment #1.

SENATOR FISCHER went on to explain the Madison decision, discussing tier 1 and tier 2 use. In the bill before the committee, tier 1 use is repealed. In effect, the resident under current law who has the ability to take fish and game for personal use over commercial and sports uses would lose that preference. Amendment #1 does not necessarily preserve personal use as a priority over all other uses except subsistence, but it does establish personal use as a full and legitimate category. The bill before the committee only mentions personal use in passing. In this amendment, those who don't have the preference rights under subsistence would be able to participate in the taking of fish through personal use.

SENATOR FISCHER went through the individual subsections of the amendment. The emphasis in subsection (d) is on fair and reasonable opportunity for each category of use, including personal use. Again, subsection (e) recognizes the three categories of personal use, sport, and commercial fishing with the board establishing criteria. The criteria

listed in (e) don't necessarily apply to all decisions in any species of fish or fish stock in all places of Alaska but to particular kinds of allocation decisions.

SENATOR FISCHER said the point in listing those criteria is that where there are allocation decisions to be made, such criteria will be taken into account. For example, the Copper River area has been heavily used for personal use as well as commercial purposes. These are objective criteria established before the use decisions are made.

SENATOR FISCHER stated that the objective is to make what is now a subsistence bill, a subsistence and personal use bill.

SENATOR ABOOD said the rest of the amendment after the first sentence of subsection (e) is superfluous due to the words: the criteria may. The amendment could be made more mandatory, but the use of the word may suggests that they don't have to use the criteria.

SENATOR FISCHER agreed with Senator Abood; however, the board may only deal with one of these factors and should not necessarily have to go through a checklist. The list establishes a clear legislative intent, however, and should be left in the amendment.

SENATOR HALFORD said the language of this amendment has to be taken into context under the Madison decision which does provide a priority for personal users. By passing this, the committee says they're going to consider it, but by passage of the bill, those people lose the priority they have under Madison.

SENATOR FAHRENKAMP said the bill puts a lot of responsibility on the board. She supports the concept behind the amendment but suggests that "shall consider one or all of" be used instead of the word "may" in order to make sure they will use the criteria.

SENATOR ELIASON stated that the bill is comparatively simple and will satisfy the requirements of the Department of the Interior. He suggests that the issues of the amendment should be addressed at another time.

SENATOR FISCHER agrees this is a simple bill that an average person can understand and is the type of bill that should be put through.

SENATOR FAHRENKAMP stated that the bill does not deal with personal use at all and that Anchorage, Fairbanks and Juneau are completely eliminated from the fisheries. She believes that the amendment is easily understandable.

SENATOR ELIASON felt that the definition does cover what Sen. Fahrenkamp was talking about and that the community he lives in will be covered by it, that those people will be allowed to get a personal use permit. However, Sen. Fischer says the problem does not exist in Sen. Eliason's community but does exist on the Copper River, the Yukon River, the Kenai, and Cook Inlet. There are many communities where this is not an issue.

SENATOR ZHAROFF felt that the issue may get too complicated. On page 4 of the bill, lines 22 and 23, personal use is defined.

SENATOR FISCHER said that what comes next is Amendment #1, which gives residents a preference for the taking of game for personal and family consumption.

SENATOR HALFORD said that the simplicity questions can be taken care of by deleting all but subsection (d) of the amendment.

SENATOR FISCHER discussed the fact that is it important to have a good balance between commercial, sport, and personal use taking of fish.

SENATOR HALFORD said that the language as originally proposed by Sen. Fischer says to provide fair and reasonable opportunity for which is broad enough to provide a lot of latitude with regard to the board's actions.

SENATOR COGHILL stated that he liked the amendment that Sen. Fischer is proposing and prefers the long version because it sets out the issues as to personal use. The bill takes care of the federal requirement, but the personal use program has to be addressed and this is the proper place to address it. Moreover, he likes the second amendment even better but would vote for the first, shorter amendment, if necessary.

SENATOR ZHAROFF stated that the issue of subsistence tends to polarize the state. The main part of the bill addresses the essence of the problem, the federal concern, but the amendment creates groups of people and will complicate everything again. It's necessary to let the boards of fish and game function on their own.

Sen. Fischer does not want to divide the state on this issue. He has worked on the amendment for almost a year with the idea of diffusing some of the problems. There are a lot of people who depend on personal use that this bill does not address. The purpose of the amendment is to make sure that all segments of the population have a fair, reasonable opportunity to take fish.

SENATOR ELIASON said the board of fish will not ignore the definition of personal use in the bill.

SENATOR HALFORD asked if he should offer his amendment to the amendment. The answer is no, to vote on the amendment itself first.

SENATOR FISCHER asked if this would be a good time to close the meeting and tackle the vote at the next meeting.

SENATOR COGHILL stated he had three or four more amendments to bring before the committee.

The committee meeting adjourned until next Monday.

Kie / Frank

FEB 4 1986

TESTIMONY OF JANIE LEASK, PRESIDENT OF THE
ALASKA FEDERATION OF NATIVES, BEFORE THE
SENATE STATE AFFAIRS COMMITTEE ON THE
COMMITTEE SUBSTITUTE FOR HB 288

Mr. Chairman, members of the committee, my name is Janie Leask. I am president of the Alaska Federation of Natives. The board of directors of AFN is composed of a representative of each of the thirteen Native regional corporations formed under the Alaska Native Claims Settlement Act - a representative of each of the twelve Native regional nonprofit associations - and twelve representatives of IRA councils and other village organizations.

On behalf of AFN, I would like to express our appreciation for the opportunity to testify this morning on the Senate State Affairs Committee substitute for House Bill 288.

As you are aware, Alaska is unique in that it is the only one of the fifty states in which the health, safety, and general well-being of such a significant number of residents is dependent upon the continued harvest of fish, game, and other wild renewable resources for personal and family consumption. The economy of rural Alaska is dependent upon the continuation of these uses.

In 1978 the Alaska legislature recognized this reality by enacting the state subsistence law. The law requires the

Board of Fisheries and Board of Game to adopt regulations which afford subsistence uses a priority in situations in which the harvestable surplus of a fish stock or game population is not large enough to safely accommodate a harvest for all uses. In 1980 the Congress established a federal subsistence priority which operates in similar fashion.

In 1982 a small, but vocal, group of Alaskans who had opposed enactment of the 1978 law obtained enough signatures to place an initiative to repeal the law on the general election ballot. As a result, the subsistence issue was thoroughly debated during the months preceding the 1982 election. And by an overwhelming margin, urban and rural Alaskans joined together to vote against the initiative and in favor of retaining the subsistence priority.

Throughout the debate on the subsistence repeal initiative, all Alaskans - both those who supported the 1978 law and those who opposed it - assumed that the subsistence priority was limited to hunting and fishing by residents of rural Alaska. No one thought the 1978 law provided a subsistence priority for those of us who live in Anchorage and Alaska's other large urban centers.

However, early last year the Alaska Supreme Court decided that that was what the 1978 legislature had intended. *Madison v. Alaska Department of Fish and Game* the Court held that once a customary and traditional use of a particular fish stock or game population had been

established in a particular area, all Alaskans - whether they live in Anchorage or Tuluksak - must be afforded a subsistence priority over other user groups.

The Governor and the members of the the Board of Fisheries and Board of Game immediately recognized that implementation of the Madison decision would seriously disrupt the normal hunting and fishing activities of urban Alaskans. As a result, Governor Sheffield asked the legislature to amend the 1978 law to limit the identification of subsistence uses of fish and game to hunting and fishing by residents of rural Alaska.

The House of Representatives held a series of statewide hearings on the subject and passed a bill to limit the identification of "subsistence uses" of fish and game to hunting and fishing by rural Alaskans.

Unfortunately, the Senate took no action prior to the adjournment of the 1985 legislative session.

Urban Alaskans suffered the consequences. The Board of Game was compelled to implement the Madison decision by establishing so-called Tier II subsistence hunts from which most urban hunters were excluded. Although sport fisheries on the Kenai Peninsula were not similarly disrupted, it was only because no one attempted to fish for salmon with set nets in rivers usually devoted to rod and reel fishing. However, several weeks ago criminal charges were dismissed against a person caught snagging salmon on a Kenai Peninsula river. This decision establishe : the precedent that

snagging and set net fishing for Cook Inlet salmon stocks normally harvested by sport fishermen in freshwater rivers is protected by the Madison subsistence priority.

In addition to the disruption which the Madison decision has caused to normal hunting and fishing activities, because the state subsistence priority is no longer limited to hunting and fishing by rural Alaskans, Assistant Secretary of the Interior William P. Horn has informed the State of Alaska that its subsistence management program is no longer in compliance with the federal regulatory standards set forth in title VIII of the Alaska National Interest Lands Conservation Act. If the State program is not brought back into compliance with title VIII, the Board of Fisheries and Board of Game must begin adopting hunting and fishing regulations pursuant to federal - rather than state - law. And should they refuse to do so, the Secretary of the Interior will be compelled to adopt his own subsistence regulations.

Mr. Chairman, the events of 1985 have provided ample evidence that the 1978 statute should be amended. The question is how. The simplest way to solve the problems created by the Madison decision and bring the 1978 statute into compliance with ANILCA is to limit the definition of "subsistence uses" to hunting and fishing by rural Alaskans.

Last session individuals who have long been opposed to any subsistence priority attempted to convince legislators who represent urban districts that urban Alaskans oppose a

rural subsistence priority. The House rejected this argument - and for good reason.

A statewide poll recently conducted by Hellenthal and Associates indicates that 60 percent of the Alaskans surveyed support a rural subsistence priority, including a significant majority of Alaskans who live in Anchorage and other urban areas. A copy of the statewide subsistence poll is attached to my written testimony. The poll is consistent with the vote of the people in 1982. The vast majority of Alaskans believe that the subsistence way of life in rural Alaska should be protected by state law - and that the best way to do so is to establish a rural subsistence priority.

Mr. Chairman, the legislature should enact acceptable subsistence legislation this session which contains the rural subsistence priority which all Alaskans support. However, if it does not, it is important to note that it is the residents of urban, not rural, Alaska who will again suffer the consequences. Native and non-Native Alaskans will continue to be protected by the federal rural subsistence priority.

Because the Senate State Affairs Committee substitute has only been available for public review and comment for a few hours my comments on sections of the bill dealing with matters other than the definition of "subsistence uses" must be of a somewhat cursory nature. However, during AFN's review of previous drafts many provisions appeared to

establish state regulatory standards inconsistent with the federal regulatory standards set forth in ANILCA.

Don Mitchell has had an opportunity to review the new bill and I would like for him to present AFN's comments on the technical aspects of the latest draft.

ALASKA PUBLIC OPINION RESEARCH

SURVEY

ALASKAN FEDERATION OF NATIVES (AFN)

DECEMBER 1985

ALASKA PUBLIC OPINION RESEARCH SURVEY

DECEMBER 1985

Prepared for

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The research and studies forming the basis for this report were conducted pursuant to a contract between Alaskan Federation of Natives and Hellenthal & Associates, Inc. The author and publisher are solely responsible for the accuracy of statements or interpretations contained therein.

HELLENTHAL & ASSOCIATES, INC.

INTRODUCTION AND METHODOLOGY

This report presents an analysis of a survey of Alaska statewide adults. The survey measured properties of Alaskan residents' demographics and attitudes toward subsistence. Research typically involves estimating the characteristics of a designated population. Because of the costs of conducting a census of all items in a population, and the adequacy of sample results, sample statistics were used to make statistical inferences concerning population parameters.

Five hundred and fifty five (555) Alaskan adults were interviewed between November 14th and 22nd, 1985. Interviewing was conducted by telephone on a random digit basis. All Alaskan adults who are accessible by telephone, had an equal chance of being interviewed.

The sample used for this survey was stratified by geographic areas. The following number of interviews were conducted by geographic region: Southeast (House Districts 1 through 4) = 25; Cordova, Valdez, Kenai Peninsula (House Districts 5,6, and 7) = 99; Anchorage (House Districts 8 through 15) = 204; Mat-Su and Greater Fairbanks (House Districts 16 and 17) = 100; Fairbanks (House Districts 18 through 21) = 100; and Rural (House Districts 22 through 27) = 26. The results presented in this report were weighted to reflect the actual population of each geographic region.

At a 95% confidence level, the empirical proportions presented in this report can be projected, within plus or minus 4.16%, to the entire Alaskan population of adults — aged 18 and over. This means one can be 95% sure that the frequencies reported in this survey are within 4.2% of the true Alaskan adult population proportions.

The following is a presentation of certain specialized tables concerning Alaskan adults' perception of subsistence.

QUESTIONNAIRE:
SUBSISTENCE, POLITICAL AND GENERAL
FREQUENCIES

ALASKA STATEWIDE PUBLIC OPINION RESEARCH SURVEY

December 1985

HELLENTHAL & ASSOCIATES, INC.
2200 Vanderbilt Circle
Anchorage, Alaska 99508
(907) 276-1001 or
277-2315

Hello, I am _____ from HELLENTHAL & ASSOCIATES. We are conducting a State-wide public opinion research survey. Your telephone number was randomly selected. The questions I need to ask will take only 8 to 10 minutes. All of your responses will be completely confidential. (PAUSE AND PROCEED)

S1. Is this telephone number _____? (IF NO, TERMINATE WITH, "I'm sorry, I dialed the wrong number.")

S2. Is this a residence in which you live? (IF NO, TERMINATE INTERVIEW WITH, "I'm sorry, I need to talk with someone at a residence.")

S3. Are you 18 years old or older?

IF YES, THEN PROCEED TO QUESTION #1

IF NO, THEN ASK

Is there anyone home who is 18 years old or older?

IF YES, THEN ASK

May I speak with them? (PROCEED TO QUESTION #1 OR TERMINATE AND NOTE ON TELEPHONE CALL RECORD SHEET)

IF NO, THEN ASK

When will someone be home who is 18 or older? (TERMINATE AND NOTE ON TELEPHONE CALL RECORD SHEET)

1. What is the closest major intersection to your residence? (GET AS MUCH DETAIL AS POSSIBLE. LABEL EAST-WEST AND NORTH-SOUTH STREETS ON THE ANSWER SHEET AND PLACE AN 'X' IN THE PROPER QUADRANT.)

ASK IN ANCHORAGE AND FAIRBANKS ONLY

Do you live North or South of this intersection?
(ANCHORAGE: DOWNTOWN = NORTH; RABBIT CREEK = SOUTH)

Do you live East or West of this intersection?
(ANCHORAGE: MOUNTAINS = EAST; INLET = WEST)

AREA OF STATE	FREQUENCY	PERCENT
Southeast.....	81.....	14.6%
Valdez, Kenai, S. Anchorage.....	59.....	10.6%
Anchorage.....	224.....	40.4%
Mat-Su, Greater Fairbanks.....	50.....	9.0%
Fairbanks.....	76.....	13.7%
Rural.....	65.....	11.7%

HOUSE DISTRICT	FREQUENCY	PERCENT
One.....	21.....	3.9%
Two.....	14.....	2.5%
Three.....	11.....	2.0%
Four.....	35.....	6.2%
Five.....	33.....	6.0%
Six.....	11.....	2.0%
Seven.....	15.....	2.7%
Eight.....	43.....	7.7%
Nine.....	25.....	4.5%
Ten.....	30.....	5.3%
Eleven.....	25.....	4.6%
Twelve.....	25.....	4.6%
Thirteen.....	22.....	3.9%
Fourteen.....	25.....	4.6%
Fifteen.....	29.....	5.2%
Sixteen.....	43.....	7.8%
Seventeen.....	7.....	1.2%
Eighteen.....	17.....	3.1%
Nineteen.....	7.....	1.3%
Twenty.....	34.....	6.2%
Twenty-one.....	18.....	3.2%
Twenty-two.....	7.....	1.2%
Twenty-three.....	6.....	1.1%
Twenty-four.....	8.....	1.4%
Twenty-five.....	8.....	1.4%
Twenty-six.....	22.....	3.9%
Twenty-seven.....	15.....	2.7%

2. Are you presently registered to vote in the State of Alaska?

REGISTERED TO VOTE	FREQUENCY	PERCENT
Yes.....	147.....	80.5%
No.....	108.....	19.5%

3. Are you registered to vote as a (IF THEY ARE NOT REGISTERED TO VOTE, ASK "If you were to register to vote, would you register as a")

PARTY AFFILIATION	FREQUENCY	PERCENT
Democrat,.....	120.....	21.6%
Republican,.....	145.....	26.1%
Libertarian, or did you indicate.....	17.....	3.0%
No Party Affiliation (Non-Partisan)?.....	273.....	49.3%

4. In 1982, three years ago, did you vote in either the August 24th Primary or November 2nd General State Elections?

VOTE IN 1982 ELECTIONS	FREQUENCY	PERCENT
Yes.....	362.....	65.2%
No.....	193.....	34.8%

5. In 1984, last year, did you vote in either the August 28th Primary or November 6th General State Elections?

VOTE IN 1984 ELECTIONS	FREQUENCY	PERCENT
Yes.....	373.....	67.3%
No.....	182.....	32.7%

6. Do you consider yourself to be

RESPONDENT'S IDEOLOGY	FREQUENCY	PERCENT
1. Very Liberal.....	16.....	3.0%
2. Liberal,.....	112.....	20.2%
3. Moderate,.....	237.....	42.7%
4. Conservative, or.....	172.....	31.0%
5. Very Conservative.....	18.....	3.2%
(MEAN = 3.11?)		

7. Would you say that you generally are

INTEREST IN CAMPAIGNS	FREQUENCY	PERCENT
1. Very interested,.....	119.....	21.4%
2. Somewhat interested, or.....	319.....	57.6%
3. Not very interested in political campaigns?.....	117.....	21.4%
(MEAN = 1.997)		

8. I am going to read to you a list of names of organizations. Please tell me whether your feelings toward each of them is VERY POSITIVE, POSITIVE, NEUTRAL, NEGATIVE, or VERY NEGATIVE — or if you don't know what they are. Are your feelings toward _____ (FILL IN ORGANIZATION) very positive, positive, neutral, negative, or very negative — or don't you know what it is?

ORGANIZATION	4 VERY POSITIVE	3 POSITIVE	2 NEUTRAL	1 NEGATIVE	0 VERY NEGATIVE	WHO?	MEAN
Alaskans for Sensible Fish and Game Management.....	7.3%	36.2%	17.2%	4.2%	0.9%	34.3%	2.682
Alaska State Department of Fish and Game.....	14.0%	51.5%	20.8%	9.2%	2.3%	2.2%	2.672
Oil Companies in Alaska.....	10.6%	50.0%	29.3%	7.2%	1.2%	1.7%	2.626
Alaska Sports Fisherman Association.....	8.2%	44.9%	21.3%	8.4%	0.7%	16.6%	2.616
Alaskans for Equal Hunting and Fishing Rights.....	9.4%	38.0%	19.2%	6.9%	1.9%	24.7%	2.612
Alaska Outdoors Council.....	6.9%	25.1%	15.2%	4.8%	0.9%	47.2%	2.611
Rural Alaska Community Action Program or RuralCap.....	3.0%	22.4%	19.3%	3.2%	0.3%	51.8%	2.512
Alaska Native Foundation (ANF).....	7.1%	32.8%	28.2%	10.1%	1.7%	20.1%	2.418
Alaskan Federation of Natives (AFN).....	6.1%	30.1%	32.1%	10.1%	1.4%	20.3%	2.370
Womens' Political Groups, such as NOW, in Alaska.....	5.5%	34.1%	30.2%	12.4%	3.1%	14.7%	2.311
United Tribes of Alaska (UTA).....	4.6%	20.5%	28.3%	9.5%	0.6%	36.6%	2.298
The Republican Party in Alaska.....	4.6%	28.0%	53.9%	10.0%	1.9%	1.6%	2.238
The Democratic Party in Alaska.....	1.9%	26.3%	52.1%	13.4%	3.4%	2.9%	2.101
Unions in Alaska.....	4.4%	23.3%	29.1%	27.5%	11.0%	4.6%	1.818
The Alaska Association of White Men.....	1.5%	7.4%	10.6%	10.6%	6.0%	63.9%	1.663

9. There is presently a bill before the Legislature that defines subsistence use as providing a priority for rural Alaskans, over urban Alaskans, in the taking of fish and game for personal consumption as food, clothing, fuel, or tools. Do you favor or oppose providing a priority for rural Alaskans in the taking of fish and game for subsistence use?

PRIORITY FOR RURAL ALASKANS	FREQUENCY	PERCENT
Favor.....	315.....	56.7%
Oppose.....	203.....	36.5%
DON'T KNOW.....	38.....	6.8%

10. Do you favor or oppose Alaskan Natives being allowed to regulate fish and game in their own areas?

NATIVES REGULATE IN OWN AREAS	FREQUENCY	PERCENT
Favor.....	222.....	40.4%
Oppose.....	269.....	48.4%
DON'T KNOW.....	64.....	11.6%

11. Do you favor or oppose Alaskan Native efforts for tribal self-government?

TRIBAL SELF-GOVERNMENT	FREQUENCY	PERCENT
Favor.....	266.....	48.0%
Oppose.....	195.....	35.1%
DON'T KNOW.....	94.....	16.9%

12. Do you favor or oppose Alaskan Native efforts for sovereignty?

NATIVE SOVEREIGNTY	FREQUENCY	PERCENT
Favor.....	160.....	28.8%
Oppose.....	282.....	50.9%
DON'T KNOW.....	113.....	20.3%

13a. Think now about the overall quality of hunting and fishing in Alaska during the last three years. Do you think the quality of hunting and fishing in Alaska has improved, stayed the same, or gotten worse over the past three years?

QUALITY OF HUNTING/FISHING	FREQUENCY	PERCENT
Improved.....	75.....	13.6%
Stayed the Same.....	236.....	42.5%
Gotten Worse.....	244.....	43.9%

13b. (IF "WORSE", ASK) Which of the following reasons do you think are most responsible for this change for the worse?

REASONS	FREQUENCY	PERCENT
There are more fishermen.....	186.....	33.5%
There are more hunters.....	179.....	32.2%
There are fewer animals.....	140.....	25.3%
There are more outside trophy hunters.....	137.....	24.6%
There are more restrictions on where one can hunt.....	135.....	24.3%
There are more restrictions on where one can fish.....	135.....	24.3%
There are fewer fish.....	100.....	18.0%

14a. Do you feel there is enough fish and game in Alaska for everyone to go hunting and fishing for whatever amount they want, or do you feel there should be regulations limiting the amount of fish and game any individual can take?

NON-REGULATION VS REGULATION	FREQUENCY	PERCENT
Whatever Amount They Want.....	28.....	5.0%
Regulations Limiting Amount.....	515.....	92.7%
DON'T KNOW.....	12.....	2.2%

14b. If a fish stock or game population is not large enough to allow everyone to fish or hunt, should rules limiting the amount of fish and game people can take be based on

REASONS	FREQUENCY	PERCENT
The customary and traditional uses of fish and game for personal consumption?.....	337.....	60.7%
Income or economic status of the household?.....	240.....	43.2%
Rural residency?.....	247.....	44.5%
How much people depend on fish and game?.....	402.....	72.5%
A person's race?.....	28.....	5.1%

15. Alaska's fish and game resources are used in three ways: subsistence use which is personal consumption by rural Alaskans for food, clothing, fuel, or tools; sports and recreational use; and commercial use. Please tell me which of these fish and games uses is most important for Alaska? How about 2nd most important? And least (3rd) important?

FISH AND GAME USES	1ST	2ND	3RD	DON'T KNOW	MEAN
Subsistence.....	47.7%....	29.5%....	20.8%....	2.0%....	1.725
Sports and Recreation.....	12.6%....	31.6%....	52.9%....	2.8%....	2.415
Commercial.....	37.9%....	36.0%....	23.4%....	2.7%....	1.851

16. How important would you say subsistence hunting and fishing by rural Alaskan residents for personal consumption is to the economies of rural communities? Would you say it is very important, somewhat important, neither important or unimportant, somewhat unimportant, or very unimportant?

IMPORTANCE OF SUBSISTENCE	FREQUENCY	PERCENT
Very Important.....	275.....	49.6%
Somewhat Important.....	166.....	29.9%
Neither Important or Unimportant.....	39.....	7.0%
Somewhat Unimportant.....	36.....	6.5%
Very Unimportant.....	16.....	2.9%
DON'T KNOW.....	23.....	4.1%

17. There has been some discussion in Alaska concerning subsistence fishing and hunting. Some people believe, if there is not enough fish or game for all Alaskan residents, a priority for the taking of fish and game should be given to rural Alaskans. Other people believe subsistence is not that important anymore and that all Alaskan residents should be treated the same. Do you think rural Alaskan residents should be given a priority or do you think all Alaskan residents should be treated the same?

RURAL VS ALL RESIDENTS	FREQUENCY	PERCENT
Rural Alaskan Residents.....	265.....	47.8%
All Alaskan Residents.....	275.....	49.5%
DON'T KNOW.....	15.....	2.7%

18. Some people say it is fair for rural subsistence uses of fish and game to be considered more important than commercial and recreational uses of fish and game? Do you think it is fair or not fair for rural subsistence uses to be considered more important than commercial and recreational uses?

RURAL VS OTHER USES	FREQUENCY	PERCENT
Fair.....	301.....	54.3%
<u>Not</u> Fair.....	225.....	40.6%
DON'T KNOW.....	28.....	5.1%

19. Now I am going to read you a short series of statements. Please tell me if you STRONGLY AGREE, MILDLY AGREE, MILDLY DISAGREE, OR STRONGLY DISAGREE with each of the following statements: (IF AGREE OR DISAGREE SAY, "Is that strongly agree/disagree or just mildly agree/disagree?")

STATEMENTS	1	2	4	5	3	MEAN
	STRONGLY AGREE	MILDLY AGREE	MILDLY DISAGREE	STRONGLY DISAGREE	DON'T KNOW	
In Alaska there are people who need to hunt and fish in order to live.....	55.0%	35.8%	6.0%	2.7%	0.4%	1.656
In Alaska the supply of fish and game is limited and <u>no</u> Alaskan should be allowed to catch all the fish or take all the game they want.....	55.8%	27.6%	9.0%	4.1%	3.5%	1.780
People in Rural Alaska are more dependent on fish and game than Urban Alaskans.....	39.8%	40.0%	12.3%	4.1%	3.7%	2.010
Both Alaska natives and Alaska non-natives need to hunt and fish in order to live.....	32.5%	38.1%	19.3%	8.4%	1.7%	2.329
<u>Not</u> providing a subsistence priority for rural Alaskans harms those who want to live off the land.....	18.3%	37.0%	28.9%	6.1%	9.7%	2.675
<u>Not</u> providing a subsistence priority for rural Alaskans harms rural people who live off the land to the benefit of urban sports fishermen.....	16.5%	35.6%	25.4%	6.5%	16.0%	2.697

STATEMENTS (CONTINUED)	1 STRONGLY AGREE	2 MILDLY AGREE	4 MILDLY DISAGREE	5 STRONGLY DISAGREE	3 DON'T KNOW	MEAN
Rural Alaskans <u>should</u> have a priority to fish and hunt over Urban Alaskans.....	24.9%	28.7%	24.8%	16.4%	5.2%	2.790
<u>Not</u> providing a subsistence priority for rural Alaskans only invites the federal government to come into Alaska to regulate fish and game on federal land in Alaska.....	16.0%	29.2%	26.2%	11.1%	17.5%	2.872
All Alaskans are equal and no Alaskan should have a hunting and fishing priority over any other Alaskan.....	22.4%	27.6%	30.6%	15.8%	3.7%	2.899
<u>Not</u> providing a subsistence priority for rural Alaskans is a direct attack on Alaska tradition and Native Alaska Culture.....	17.9%	27.0%	30.6%	14.6%	9.7%	2.972
Unimproved land owned by Native Corporations should <u>remain</u> exempt from local property taxes.....	12.6%	23.0%	31.8%	20.9%	11.8%	3.253
Alaska natives receive a greater share of State Revenues than they should.....	10.1%	13.6%	36.0%	16.2%	24.0%	3.347
Alaska natives take more fish and game than they really need.....	9.2%	20.3%	27.7%	23.7%	19.1%	3.364
Those groups and people presently fighting subsistence laws are partially, at least, racially motivated against Alaskan Natives.....	6.3%	22.0%	29.5%	22.9%	19.4%	3.407
Alaska natives, in this day and age, no longer need to fish and hunt in order to survive....	6.1%	19.6%	39.1%	32.1%	3.2%	3.714
Improved land owned by Native Corporations <u>should be</u> exempt from local property taxes.....	5.6%	10.4%	33.9%	38.0%	12.1%	3.883

20. Now that you have heard some of the reasons for and against providing a subsistence priority for rural Alaskans. Let me ask you again, do you favor or oppose providing a priority for rural Alaskans in the taking of fish and game for subsistence use?

PRIORITY FOR RURAL ALASKANS #2	FREQUENCY	PERCENT
Favor.....	338	60.9%
Oppose.....	178	32.1%
DON'T KNOW.....	39	7.0%

21. Do you know any rural Alaska residents who live off the land by fishing and hunting?

KNOW ANYONE LIVES OFF LAND	FREQUENCY	PERCENT
Yes.....	290.....	52.2%
No.....	265.....	47.8%

22. Have you ever lived in rural, remote, primarily native areas of Alaska?

LIVED IN RURAL ALASKA	FREQUENCY	PERCENT
Yes.....	189.....	34.0%
No.....	366.....	66.0%

23. During the past 12 months, how many times did you, or someone else in your household, go hunting or trapping for game?

HUNTING LAST 12 MONTHS	FREQUENCY	PERCENT
1 to 3 Times.....	110.....	19.7%
4 to 10 Times.....	79.....	14.2%
11 or More Times.....	80.....	14.4%
NO HUNTER IN HOUSEHOLD/NONE.....	288.....	51.7%

24a. During a typical 12 month period or year, how many times do you, or someone else in your household, go hunting or trapping for game?

HUNTING TYPICAL 12 MONTHS	FREQUENCY	PERCENT
1 to 3 Times.....	123.....	22.2%
4 to 10 Times.....	92.....	16.6%
11 or More Times.....	102.....	18.4%
NO HUNTER IN HOUSEHOLD/NONE.....	237.....	42.8%

24b. Typically, do you, or someone else in your household hunt or trap

GAME	FREQUENCY	PERCENT
Duck or Geese?.....	126.....	22.7%
Moose, Caribou, bear, sheep, goat, Ptarmigan, rabbit, fox, etc.?.....	264.....	47.6%

24c. Typically, when you, or someone else in the household, goes hunting or trapping, do you hunt or trap

AREAS	FREQUENCY	PERCENT
In the Matanuska-Susitna Borough		
Anchorage or Chugach Mountain area?.....	117.....	21.1%
On the Kenai Peninsula?.....	100.....	18.0%
In the Fairbanks or Brooks Range area of Northern Alaska?..	94.....	16.9%
In Southeast Alaska?.....	84.....	15.1%
In Western Alaska or west of the Alaska Range?.....	66.....	11.9%
In Kodiak or the Aleutians Islands?.....	58.....	10.5%
In the Copper River, Wrangell, or Valdez area?.....	54.....	9.7%

25. During the past 12 months, how many times did you, or someone else in your household, go fishing?

FISHING LAST 12 MONTHS	FREQUENCY	PERCENT
1 to 5 Times.....	147.....	26.4%
6 to 10 Times.....	72.....	12.9%
11 to 20 Times.....	94.....	16.9%
21 or More Times.....	130.....	23.4%
NO FISHERMEN IN HOUSEHOLD/NONE.....	113.....	20.4%

26a. During a typical 12 month period or year, how many times do you, or someone else in your household, go fishing?

FISHING TYPICAL 12 MONTHS	FREQUENCY	PERCENT
1 to 5 Times.....	139.....	25.1%
6 to 10 Times.....	92.....	16.5%
11 to 20 Times.....	110.....	19.7%
21 or More Times.....	142.....	25.4%
NO FISHERMEN IN HOUSEHOLD/NONE.....	74.....	13.3%

26b. Typically, when you, or someone else in the household, goes fishing, do you fish

AREAS	FREQUENCY	PERCENT
On the Kenai Peninsula?.....	248.....	44.7%
In the Matanuska-Susitna Bourough, Anchorage or Chugach Mountain area?..	197.....	35.5%
In Southeast Alaska?.....	127.....	22.8%
In the Fairbanks or Brooks Range area of Northern Alaska?.....	97.....	17.4%
In the Copper River, Wrangell, or Valdez area?.....	73.....	13.2%
In Kodiak or the Aleutians Islands?.....	62.....	11.1%
In Western Alaska or west of the Alaska Range?.....	59.....	10.6%

27. In 1971, the U.S. Congress passed a law which set up village and regional corporations whose stock is owned only by Alaska natives. Under the current law, in 1991, village and regional corporation stock may be bought by non-natives. Alaska natives want to ammend the law so that the native shareholders of each corporation, by a majority vote, may decide whether the corporation's stock can be sold to non-natives after 1991. Do you favor or oppose amending the law to allow village and regional corporation shareholders to decide whether stock can be sold to non-natives after 1991?

AMENDING STOCK LAW	FREQUENCY	PERCENT
Favor.....	357.....	64.4%
Oppose.....	156.....	28.1%
DON'T KNOW.....	42.....	7.5%

28. What type of residence do you live in? Is it a.....

HOUSING TYPE	FREQUENCY	PERCENT
Single family,.....	358	64.6%
Apartment, or a.....	86	15.4%
Duplex,.....	50	9.1%
Mobile home?.....	32	5.7%
Zero lot line,.....	11	2.0%
Condominium,.....	10	1.7%
Townhouse,.....	8	1.5%

29. Does someone in your household own your home, or do you rent it?

EQUITY STATUS	FREQUENCY	PERCENT
Owr.....	373	67.2%
Rent.....	182	32.8%

30. In what year were you born? (COMPUTED TO AGE BY SUBTRACTING FROM 85)

AGE OF RESPONDENT	FREQUENCY	PERCENT
18 - 24.....	74	13.4%
25 - 29.....	91	16.4%
30 - 34.....	93	16.8%
35 - 39.....	91	16.5%
40 - 49.....	113	20.4%
50 plus.....	92	16.6%

(n = 555)
(MEAN = 37.603)
(MEDIAN = 35.034)

31. How many total years and months have you lived in Alaska?

ALASKAN RESIDENCY	FREQUENCY	PERCENT
1982 - 1985.....	87	15.7%
1976 - 1981.....	129	23.3%
1967 - 1975.....	144	26.0%
Before 1967.....	194	34.9%

(n = 555)
(MEAN = 16.400)
(MEDIAN = 12.967)

32. How many total years and months have you lived in the _____ area?
(FILL IN AREA CALLING AND WRITE NUMBER OF YEARS AND MONTHS ON ANSWER SHEET)

LOCAL RESIDENCY	FREQUENCY	PERCENT
1982 - 1985.....	160	28.9%
1976 - 1981.....	149	26.8%
1967 - 1975.....	124	22.3%
Before 1967.....	122	22.0%

(n = 555)
(MEAN = 11.766)
(MEDIAN = 7.330)

33. Are you, or is any member of your household (living at home), a veteran?

VETERAN IN HOUSEHOLD	FREQUENCY	PERCENT
Yes.....	250.....	45.1%
No.....	305.....	54.9%

34. Are you, or is any member of your household (living at home), a member of a union?

UNION MEMBER IN HOUSEHOLD	FREQUENCY	PERCENT
Yes.....	182.....	32.8%
No.....	373.....	67.2%

35. Are you married, separated, divorced, widowed, never married and living with another adult, or never married and living alone?

MARITAL STATUS	FREQUENCY	PERCENT
Married.....	370.....	66.7%
Divorced.....	67.....	12.1%
Never Married and Living with Another Adult.....	63.....	11.3%
Never Married and Living Alone.....	35.....	6.4%
Widowed.....	11.....	2.0%
Separated.....	8.....	1.4%

(COMPUTED FROM MARITAL STATUS AND GENDER QUESTIONS)

MARITAL STATUS BY GENDER	FREQUENCY	PERCENT
Married Males.....	185.....	33.2%
Married Females.....	185.....	33.4%
Single Males.....	110.....	19.8%
Single Females.....	75.....	13.5%

(COMPUTED FROM AGE, CHILDREN, GENDER, AND MARITAL STATUS QUESTIONS)

FAMILY STATUS	FREQUENCY	PERCENT
Mature Family.....	127.....	22.9%
Young Family.....	101.....	18.2%
Mature Couple.....	97.....	17.4%
Young Single.....	76.....	13.8%
Adult Single.....	57.....	10.2%
Single Parent.....	52.....	9.3%
Young Couple.....	45.....	8.1%

36. Do you or does anyone in your household (living at home) work for the federal, state or local government? IF YES, ASK, "Which level of government? Is it the"

GOVERNMENT EMPLOYEE	FREQUENCY	PERCENT
NO GOVERNMENT EMPLOYEE.....	319.....	57.4%
State, or.....	135.....	24.3%
Federal,.....	56.....	10.2%
Municipal Government?.....	45.....	8.1%

The last few questions are being collected purely for statistical purposes.

37a. How many total people, including children and adults, live in your household?

HOUSEHOLD SIZE	FREQUENCY	PERCENT
One.....	68.....	12.2%
Two.....	164.....	29.5%
Three.....	118.....	21.2%
Four.....	122.....	22.0%
Five or More.....	84.....	15.1%
	(n = 555)	
	(MEAN = 3.079)	
	(MEDIAN = 2.392)	

37b. Of the people in your household, living at home, how many are adults — aged 18 and older?

NUMBER OF ADULTS	FREQUENCY	PERCENT
One.....	87.....	15.6%
Two.....	361.....	65.1%
Three.....	85.....	15.4%
Four or More.....	22.....	3.9%
	(n = 555)	
	(MEAN = 2.082)	
	(MEDIAN = 1.528)	

37c. How many are children or adolescents under 18 years old?

CHILDREN IN HOUSEHOLD	FREQUENCY	PERCENT
NONE.....	275.....	49.5%
One.....	111.....	20.0%
Two or More.....	169.....	30.4%
	(n = 555)	
	(MEAN - ALL HOUSEHOLDS = 0.997)	
	(MEDIAN - ALL HOUSEHOLDS = 0.025)	
	(MEAN - HOUSEHOLDS WITH CHILDREN = 1.976)	
	(MEDIAN - HOUSEHOLDS WITH CHILDREN = 1.266)	

38. How many total years of education have you completed? (FORMAL ATTENDANCE IN SCHOOL) (EIGHTH GRADE = 8; HIGH SCHOOL = 12; TRADE SCHOOL = 13; COLLEGE GRADUATE — BA OR BS = 16; MASTERS DEGREE = 18; LAWYER, DOCTOR, PH.D = 19)

YEARS OF EDUCATION	FREQUENCY	PERCENT
12 Grade or Less.....	194.....	34.9%
1 - 2 Years College.....	170.....	30.6%
3 - 4 Years College.....	124.....	22.3%
Post Graduate.....	68.....	12.2%
	(n = 555)	
	(MEAN = 13.941)	
	(MEDIAN = 13.055)	

39. Are you seasonally employed, annually employed, unemployed and looking for work, not looking for work, or retired?

EMPLOYMENT STATUS	FREQUENCY	PERCENT
Annually Employed.....	341.....	61.5%
Seasonally Employed.....	74.....	13.3%
<u>Not</u> Looking for Work.....	66.....	11.9%
Retired.....	39.....	7.0%
Unemployed and Looking for Work.....	35.....	6.4%

40a. How many individuals in your household are presently working fulltime 35 or more hours per week? How many part-time, 34 or less hours?

(COMBINES WAGE EARNERS COMPUTED FROM THE PRECEEDING TWO QUESTIONS)

TOTAL WAGE EARNERS	FREQUENCY	PERCENT
Under One.....	52.....	9.4%
One.....	185.....	33.4%
One and One-half.....	77.....	14.0%
Two.....	176.....	31.6%
Over Two.....	65.....	11.6%
	(n = 555)	
	(MEAN = 1.545)	
	(MEDIAN = 1.259)	

41a. Including only those living at home, what was your total household income for 1984 before taxes and other deductions were made? Please tell me the figure to the nearest thousand dollars.

41b. We don't need the exact dollar figure; could you tell me which of these broad categories it falls in...

- Less than 16,000 dollars,
- Between 16,000 and 25,000 dollars,
- Between 26,000 and 35,000 dollars,
- Between 36,000 and 45,000 dollars,
- Between 46,000 and 55,000 dollars,
- Between 56,000 and 65,000 dollars,
- Between 66,000 and 75,000 dollars, or
- More than 75,000 dollars?

(COMPUTED INCOME FROM THE PRECEEDING TWO QUESTIONS)

1985 HOUSEHOLD INCOME	FREQUENCY	PERCENT
\$ 0 - \$15,999.....	73.....	14.5%
\$16,000 - \$25,999.....	67.....	13.3%
\$26,000 - \$35,999.....	74.....	14.6%
\$36,000 - \$45,999.....	93.....	18.5%
\$46,000 - \$65,999.....	96.....	19.1%
\$66,999 or More.....	101.....	20.0%
	(n = 504)	
	(MEAN = \$46,132)	
	(MEDIAN = \$39,889)	

(COMPUTED FROM WAGE AND INCOME QUESTIONS)

INCOME PER WAGE EARNER	FREQUENCY	PERCENT
\$ 0 - \$15,999.....	133.....	26.4%
\$16,000 - \$25,999.....	116.....	23.0%
\$26,000 - \$35,999.....	104.....	20.7%
\$36,000 - \$49,999.....	80.....	15.9%
\$50,000 or More.....	71.....	14.0%

(n = 504)
(MEAN = \$30,595)
(MEDIAN = \$25,777)

42. Is your telephone number.....

TELEPHONE LISTING	FREQUENCY	PERCENT
Listed or.....	483.....	87.0%
Unlisted.....	72.....	13.0%

43. SEX.....

GENDER OF RESPONDENT	FREQUENCY	PERCENT
Male.....	295.....	53.1%
Female.....	260.....	46.9%

THIS COMPLETES THE SURVEY, THANK YOU VERY MUCH FOR HELPING US — GOODBYE

SUBSISTENCE PRIORITY FOR RURAL ALASKANS

BY

POLITICAL AND GENERAL DEMOGRAPHICS

SUBSISTENCE PRIORITY		FREQUENCY	PERCENT		
FAVOR		338	60.9%		
OPPOSE		178	32.1%		
DON'T KNOW		39	7.0%		
DEMOGRAPHICS	n	FAVOR	OPPOSE	DON'T KNOW	TOTAL % OF ADULTS
AREA OF STATE: (Row %)					p = 0.0190
Valdez-Kenai-S. Anc	59	59.3%	33.7%	7.0%	10.6%
Anchorage	224	60.2%	34.4%	5.4%	40.4%
Mat Su/Grtr Fbks	50	54.2%	39.9%	5.9%	9.0%
Fairbanks	76	47.9%	43.0%	9.1%	13.7%
Southeast-Rural Alaska	146	71.7%	19.7%	8.6%	26.3%
REGISTERED TO VOTE: (Row %)					p = 0.4858
Yes	447	59.9%	33.3%	6.8%	80.5%
No	108	64.8%	27.4%	7.8%	19.5%
PARTY AFFILIATION: (Row %)					p = 0.0007
Democrat	120	73.8%	19.4%	6.9%	21.6%
Republican	145	66.1%	31.4%	2.5%	26.1%
Libertarian	17	63.5%	29.9%	6.6%	3.0%
Independent	273	52.3%	38.3%	9.4%	49.3%
VOTED IN 1982, NOVEMBER: (Row %)					p = 0.2295
Yes	362	59.0%	34.6%	6.4%	65.2%
No	193	64.4%	27.6%	8.0%	34.8%
VOTED IN 1984, NOVEMBER: (Row %)					p = 0.1290
Yes	373	58.1%	34.8%	7.1%	67.3%
No	182	66.7%	26.6%	6.8%	32.7%
IDEOLOGY OF RESPONDENT: (Row %)					p = 0.0461
Liberal	128	70.5%	23.4%	6.1%	23.2%
Moderate	237	59.4%	32.0%	8.6%	42.7%
Conservative	190	56.3%	38.3%	5.5%	34.2%
INTEREST IN STATE CAMPAIGNS: (Row %)					p = 0.7837
Very Interested	119	56.4%	36.5%	7.0%	21.4%
Somewhat Interested	319	61.3%	31.5%	7.2%	57.6%
Not very Interested	117	64.3%	29.4%	6.3%	21.0%
ADULT MARKET SHARE		60.9%	32.1%	7.0%	100.0%

Addendum to Statement by Jim Kowalsky for the Rural Alaska Resources Association to the State Affairs Committee, Alaska State Legislature, Anchorage, Alaska on August 27, 1985.

Amend Title XVI to Authorize Regional Fish & Game Councils

An examination of Title XVI will demonstrate that the Alaska State Legislature has not addressed Regional Fish and Game Councils. It has, on the other hand, specifically addressed the system of local fish and game advisory committees. Notwithstanding this omission, the State of Alaska has created a system of regional fish and game councils by regulation only.

This combined system of local advisory committees, regional councils and game and fisheries boards gives the people of Alaska a major voice in fish and game management. This system is unequalled anywhere else in the nation. It would seem an oversight that the Legislature has overlooked the opportunity to authorize the State's six regional councils by statute.

It also would seem that, if the Alaska Legislature is going to go through the task of revising the statute so as to make it complete that it might as well deal with all the necessary corrections at this time so as to avoid having to come back to the issue again yet one more time in the future.

Among the most compelling arguments in the Senate and, ultimately the House in a free Conference Committee, to add the authorization of regional fish and game councils to any legislative amendments to Title XVI likely are:

- 1) Regional fish and game councils, made up as they are of chairpersons of all the state's fish and game advisory committees or their designees be they rural or urban, do increase and make complete the public participation element in the process of establishing fish and game regulations - in other words, here urban and rural people get together and have a voice; and
- 2) the Legislature should take steps now to avoid having to come back yet a third time to fix the state fish and game statute.

Another reason for action on this matter exists:

- 3) Federal law, ANILCA, (PL 96-487 Dec. 2, 1980) Title VIII, Sec. 805, "Local and regional participation" states:
 - (a) "-- the state shall establish -
 - (3) a regional advisory council in each subsistence resource region.

Section 805 continues to set forth the requirements for the composition

and authorities of regional councils, and authorizes the Secretary of the Interior to establish such councils and local advisory committees. But Sec. 805 (d) states

The Secretary shall not implement subsections (a), (b) and (c) of this section if within one year from the date of enactment of this Act the State enacts and implements laws of general applicability which are consisted with, and which provide for the definition, preference and participation specified in, sections 803, 804, and 805 ----- (emphasis added)

On one hand critics of the request to amend to include regional councils may point to the fact that the State has provided for regional fish and game councils since before 1980 by regulation (if not by statute). However, I could argue, so has the state made certain subsistence provisions by regulation only, not by statute. This approach lacks statutory foundation in both instances - subsistence preference and also regional fish and game councils.

I submit to you that the cure is simple, should lack all the controversy associated with subsistence preference, gives a voice to Alaskans, and, to take this action now will save having to deal with it later, a third time.

Regional councils should be added to any amendment package to Title XVI under consideration by the Senate and the full Legislature.

Thank you for considering these views.

I will be brief. Today is May 1st. We have exactly one month until the date set by the Department of Interior for federal takeover of the management of our fish and game. A federal task force composed of the B.I.A., Parks, B.L.M., the Forest Service, and the Fish and Wildlife Service has been formed to oversee the federal takeover; a team of regulation writers from the various federal agencies has been assembled from around the country.

Per Danziger assigned work & will be

In no way does
~~Anyone who believes that federal takeover is an empty threat is engaging in wishful thinking.~~ I realize that there are those who feel that a lasting solution to the subsistence crisis will require a change in federal law. I would point out there are ongoing private lawsuits challenging the federal law. There is ^{absolutely} nothing about passing a law that complies with the federal law that precludes court challenges or legislative attempts to change federal law. Both of these things, however, ~~are~~ may take long periods of time with very uncertain results.

One of the main reasons we became a state was to control our own resources. To pass a bill that gives part of that away makes no sense. When Assistant Secretary Horn was here he testified that the Resources CS did comply with federal law and that a version that included economic need criteria would not comply. *at the time of his appearance we requested written confirmation* I would like to distribute to you a letter from Mr. Horn that confirms that the Resources CS does comply and the excerpt from Mr. Horn's testimony where he discussed need. If this committee decides to advance a version of the bill that includes an economic criteria *(which is not included in the Senate CS)* I want to be certain *that the committee is aware of the implications.*

If the Resources CS is advanced, either here or on the floor,
I would welcome an amendment to delete the administrative
appeals section. This section is innocuous but may not fit
under the title.

60 - 200.000

5.
Family of 4
13,000 }
17,000 } 130% Federal minimum
need in the Judiciary bill.

TESTIMONY
BY THE
HONORABLE DON W. COLLINSWORTH
COMMISSIONER OF THE
ALASKA DEPARTMENT OF FISH AND GAME
BEFORE THE
STATE SENATE COMMITTEE ON STATE AFFAIRS
ANCHORAGE, ALASKA
AUGUST 27, 1985

Mr. Chairman, my name is Don Collinsworth, and I am the Commissioner of the Alaska Department of Fish and Game. I appreciate the opportunity to be able to testify before your committee today.

Mr. Chairman, the last time I met with your committee I made an appeal to you to take legislative action to amend the state's subsistence law. I advised your committee at that time that there was no administrative or regulatory solution which could be undertaken by the administration or the Boards of Fisheries and Game to solve the problems which we perceived would develop as a result of the Alaska Supreme Court's decision in Madison and the Court of Appeals' decision in Eluska. I advised you that the only solution to avoid disruption in the existing uses and patterns of use in fish and game was a legislative amendment to the state's subsistence law. I pointed out that the state's subsistence law must be amended to allow the Boards of Fisheries and Game the flexibility to continue to regulate fisheries and hunts as they had since the passage of the state subsistence law, but prior to the Madison and Eluska court decisions, and that it was our belief that the law would have to be amended in order not to lose state management on federal lands under the provisions of ANILCA.

I would like to present to you for the record a chronology of events leading to the emergency fish and game regulations which have resulted in considerable public consternation.

On February 22 of this year, the Alaska Supreme Court's decision in the Madison case changed the way the Boards of Fisheries and Game could regulate subsistence hunting and fishing.

The supreme court ruled in Madison that the state law (statute) would not allow the Boards of Fisheries and Game the flexibility to continue to regulate fishing and hunting based on the criteria that the boards had developed and believed to be fair and reasonable.

The Department of Fish and Game pointed out that serious disruptions to established hunting and fishing use patterns would result, and that neither the boards nor the Department of Fish and Game has the authority to overcome these problems without legislation. Accordingly, on March 13, 1985, legislation was introduced by the administration which would have given the boards the flexibility to regulate as they had prior to the supreme court decision.

The Boards of Fisheries and Game met in late March and early April. The boards recognized that serious problems lay ahead unless the authority they had exercised previously was

restored. Neither board felt comfortable making the extensive regulatory changes necessary in order to meet the standards announced in Madison without the opportunity for public comment. The Board of Game wished to leave in place the permit drawings and limited registration hunts for one more season.

However, on April 12, 1985 (after the Boards of Fisheries and Game had adjourned), the Alaska Court of Appeals ruled that because the Board of Game had not adopted specific regulations governing subsistence hunting, a "subsistence defense" could be used to block prosecution for some violations of existing regulations.

In effect, the Eluska decision required the Game Board to adopt separate subsistence regulations consistent with Madison or face unenforceability of many regulations.

The Court of Appeals also interpreted the supreme court opinion in Madison to mean that the current statutes are not adequate to allow the boards or the Department of Fish and Game to significantly impair subsistence for any Alaskan until they have first closed all sport and commercial fishing or hunting on a particular fish stock or game population.

On May 4, the House passed CSHB288 (Jud), 52 days after being introduced. The Legislature adjourned on May 13, without completing action on the House-passed bill.

On May 22, 1985, state Chief Prosecutor Daniel Hickey wrote a memorandum to Commissioner Robert Sundberg and me establishing guidelines for enforcement personnel and prosecuting attorneys in light of the Eluska decision. Mr. Hickey concluded that unless the Legislature took action, certain specific regulatory steps were necessary in order for normal enforcement and prosecution to continue.

With respect to fishing regulations, the Department of Law advised the Commissioner of Fish and Game "to exercise his authority under 5 AAC 01.015 and the authority delegated to him by the Board of Fisheries and to issue subsistence permits for taking salmon in areas where subsistence harvests have been historically authorized and conducted." I consulted with the Board of Fisheries and initiated the required emergency regulations on May 28, 1985.

With respect to hunting, Mr. Hickey explained that specific subsistence regulations consistent with Madison and Eluska were necessary. Until regulations were adopted which complied with Eluska, guidelines would have to be followed which would sharply limit state prosecutions of hunting violations.

In response to the Eluska decision and Chief Prosecutor Hickey's guideline memorandum, the Board of Game convened June 10, 1985, in emergency session to ensure that hunting regulations would continue to be fully enforceable.

Attorney General Norman Gorsuch met with the board and advised them what steps were necessary in order to comply with the Madison and Eluska decisions. These are the rules as explained by the Department of Law:

Under Eluska, the Game Board must adopt separate subsistence hunting regulations consistent with Madison, or the "subsistence defense" can be used and many regulations will be unenforceable.

Under Madison, subsistence hunting means hunting by any Alaskan for food, shelter, fuel, clothing, tools, transportation, customary trade, barter or sharing.

Unless sustained yield would be jeopardized, subsistence hunting must be authorized on any game population that has been hunted in the past and used for these purposes.

Because Alaska law requires that meat be salvaged from most game hunted in Alaska, these populations have been

documented to be taken for food. This includes species like sheep, goats, and bison.

If subsistence hunting of a game population must be restricted (that is, "significantly impaired") to protect the resource, then nonsubsistence uses (nonstate resident hunting) must be eliminated first.

If, after nonresident hunting has been eliminated, and subsistence hunting on a game population must still be restricted (significantly impaired) to protect the resource, then the board must use the three criteria listed in AS 16.05.255(b) to determine how hunting opportunities are to be distributed among Alaskans. These criteria are:

- (1) customary and direct dependence upon the resource as the mainstay of one's livelihood;
- (2) local residency; and
- (3) availability of alternative resources.

The Board of Game concluded that it was essential to have enforceable regulations and therefore took the following steps to comply with the court decision.

The practical results of the board's emergency actions in June include the following:

1. Separate subsistence and general hunting regulations were adopted; in the process, approximately 450 regulations were evaluated and amended or readopted.
2. Hunting opportunities in many areas of the state are open to both residents and nonresidents.
3. Hunting opportunities for some species in certain areas are open to Alaska residents only (Tier I).
4. Tier II standards were applied to distribute hunting opportunities for certain species in certain areas where more Alaskans wish to hunt than can be accommodated while maintaining sustained yield.

The Board of Game adopted emergency regulations in June which will become "permanent" approximately the first of October.

The board has scheduled these regulations for review and further action at its November meeting; comment from the advisory committees and other members of the public is invited.

The Board of Game took only those actions they believed necessary under the court decisions and to protect wildlife resources; the board used Tier II standards only when they concluded there was no effective alternative.

The board had previously used general permit drawing hunts and limited registration hunts to allocate hunting opportunity in situations where more people wished to hunt than could be accommodated.

The board would have used the same system this year if changes had not been necessary because of the Madison and Eluska decisions.

Before the Madison decision, both the Board of Fisheries and the Board of Game had interpreted "subsistence" narrowly; as a result, use of Tier II standards had not been necessary.

Under the boards' approach, even if some resource circumstances were to require the use of Tier II standards, the category of users affected by Tier II would be much narrower, and urban hunters would have been virtually unaffected.

Tier II standards were applied to a large number of hunts only because Madison overturned the boards' interpretation of "subsistence uses" and greatly broadened the "subsistence" category. Consequently, many more situations

resulted in which people who now qualified for subsistence hunting were competing for limited game resources.

Tier II standards will also be applicable to subsistence fishing, although in most areas the problem is likely to be less immediately acute than in hunting; however, where circumstances warrant, the three criteria (dependence, local residency, alternative resources) must be applied.

Mr. Chairman, in my opening remarks I mentioned a state rights issue, retention of state management. Without amendment to the state subsistence law, state management of Alaska's fish and wildlife is in jeopardy on all federal lands (about 60 percent of the land area) and associated waters if the state is out of compliance with federal law; this may include species which move through or onto these lands and waters even if they do not remain there throughout their life cycles (including virtually all anadromous fish and a large proportion of the state's wildlife).

The department believes that loss of state management authority would be detrimental, both to proper management of Alaska's resources and the Alaskan users of these resources.

Mr. Chairman, rather than speculate about what the federal government may or may not do, I would suggest you may want

to invite a representative of the Department of Interior to address your committee.

Mr. Chairman, the administration believes that there should be four key elements of any new subsistence legislation.

1. It must be constitutional.
2. It must be consistent with federal law so the state can retain management.
3. It must be enforceable.
4. It must provide reasonable opportunities for all uses: commercial, recreational, personal use, and subsistence.

Experience with the Board of Game emergency regulations underscores the need for a solution which meets all four of these standards.

In summary, Mr. Chairman, the two court decisions have radically changed the way the boards and the department may do business. The current law does not provide the boards the authority they need to regulate hunting and fishing in the fair and reasonable manner as they had in the past.

Neither the boards nor the department have the authority to remedy the situation.

We appeal to you again, Mr. Chairman, to take legislative action to return to the boards the authority to provide for all uses. The board system is a good one and it can work.

We also appeal to you, Mr. Chairman, and all Alaskans to work together to solve this problem in the spirit of cooperation.

Remarks to the State Affairs Committee of the Alaska State Senate
Concerning Subsistence, Anchorage, Alaska, August 27, 1985.

My name is Jim Kowalsky. I speak today as chairman of the Rural Alaska Resources Association, or as we refer to it "R.A.R.A." Our board of directors is made up of representatives of each of ten regional non-profit Native corporations, and also of the Native village of Tyonek and the North Slope Borough. I am employed by the Tanana Chiefs Conference, Inc. as director of its subsistence program. R.A.R.A. is a statewide subsistence advocacy organization.

I wish to make one major point Mr. Chairman, and it is a point which I feel is being missed or which is becoming obscured in this debate, and it is or should be the main consideration of this committee and of the State Senate as they consider any legislative amendments to the state's subsistence law. The point is that the only thing that really matters in this debate to our Alaskan people who live in the far flung, remote rural communities of our state is that they have the opportunity to feed themselves, their families, and their communities - including the elderly, those who are handicapped, who are ill and/or too young, or otherwise unable to hunt or fish.

The animals and the fish are the mainstay of the economy of rural Alaska. Harvesting these resources is an economic activity and it is the only major economic activity in which rural Alaskans generally have any real confidence. On the other hand confidence in the cash economy is limited, not strong, not secure. Generally there is little cash, very few jobs. In some communities there have, at times, been no jobs. Coastal communities in many cases have a richer resource base than do Interior communities, and in some cases may have more seasonal jobs associated with commercial fishing or perhaps in the timber industry. By contrast Interior communities have less resource base.

But in any case no matter how each of you or others in our urban communities choose to discuss or debate subsistence solutions, the economic realities for our rural Alaska communities remains a fact of Alaskan life. This is a compelling and a major issue in the equation which we all seek - whatever local wealth exists in rural Alaska exists as natural harvestable renewable fish and wildlife, and the confidence to harvest these to support human life perpetuates this economic base. I should urge you to consider that there is now available a sizeable body of literature which very competently documents these socio-economic realities of rural Alaska's communities.

Mr. Chairman, I would respectfully like to make several suggestions to the committee:

- 1) Pass the Governor's proposed amendment to the existing subsistence statute. Return the system to what it was in past years, a system perhaps far from perfect, but one which protects the relative handful of rural people who may need the protection this amendment would provide from time to time, but will also allow Anchorage and other urban hunters to participate in, say, the Nelchina Caribou hunt for example. Few rural people like the Tier II subsistence hunt process either. Nikolai may be the one exception in the Interior where local people are able to hunt bison for the first time.
- 2) Don't put the rural subsistence economy on a lottery or drawing system. Can you imagine having your own opportunity to actually feed your family and community placed in a drawing, on a system of chance?
- 3) Don't attempt to devise legislation which will make subsistence into a welfare system which would for example, weed out and prevent a specific rural hunter from engaging in his "employment" just because he might

have a cash income higher than most others in his community. This hunter likely provides meat for a large family plus elderly or disabled community residents who may exist in substantial numbers and for whom few other reliable sources of meat or fish exist. Let your legislation reflect the fact of rural Alaskan life which is that communities subsist as communities, but that individuals do not subsist. Also, remarks urging your committee to adopt standards which consider a subsistence priority only be given to a community or individual at the point when they reach the poverty or even starvation level should not be followed. The assumptions made by the advocates of such standards are incorrect. Subsistence is a support system, not a last ditch life support system to which a dying patient is to be hooked onto just before death. A subsistence family and community ideally is a happy, healthy, prosperous people, not a people down and out, standing in the last ditch bread line waiting for the crumbs of a welfare handout.

To conclude, allow me to again emphasize that the subsistence economic system must remain a central or anchor point to your deliberations. In familiar cash flow terms, the rural communities which I attempt to characterize generally range from poor to very poor; but in terms of harvest of renewable resources, rural communities are not to be considered as poor. Rather, the consideration should be that the harvest, the actual physical act of going out to harvest, is the economic system of rural Alaska, it is the employment.

I believe this committee and the Alaska Legislature and the Administration generally do have an obligation to give this economic system the protection that is necessary to allow rural communities the confidence and the best opportunity possible to provide for and to help support themselves. I respectfully must

remind you that you have gone to enormous, far, far-reaching ends to protect, encourage and foster the economy and the economic system and opportunities of most other, if not all other sectors of the Alaskan population.

Thank you for hearing my testimony.

May 1, 1986

Announcement of Senate Resources Committee Meetings

Friday May 2 1:00 - 3:30 Butrovich Room

- HB 407 Use of, and certain reports and records concerning game animals
- SB 485 Alaska Research Development Endowment
- SJR 49 Constitutional amendment creating Alaska Research Development Endowment
- HB 492 Sport fishing from commercial vessels
- SJR 50 Incidental catch of high-value fish stocks within the U.S. exclusive economic zone
- HB 635 Establishing Willow Creek State Recreation Area
- SB 467 Relating to the operation of campgrounds

Monday May 5 1:30 - 3:30 Butrovich Room

- HB 605 Shuyak State Game Refuge
- SJR 38 Federal tax on imported oil
- HB 693 Alaska Research Policy

5/1/86 Calendar
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Wednesday May 7 1:30 - 3:30 Butrovich Room

SUBSISTENCE

Correspondence

- file 1 -

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Senate Committee on Resources

MEMORANDUM

May 5, 1985

TO: Senator Don Bennett,
President of the Senate

FROM: Senator Arliss Sturgulewski, 
Chairman, Resources Committee

As you are aware, on Saturday the House, by a one vote margin, passed an amended version of CS for HB 288 (Judiciary), the governor's subsistence bill. Unfortunately, the governor has chosen to present a bill that he must realize has no chance of passage by the full legislature. While warning of the dire consequences if a subsistence bill is not passed, he has steadfastly opposed any amendments which might increase the possibility of developing an acceptable bill.

We are all aware of the possible ramifications of no legislation. Among these may be: the closing of some of our major sport and commercial fisheries, federal intrusion into the management of our fish and wildlife resources, unprosecuted violations of fish and game laws, and potential damage to our resources. I realize that there are many in our state who discount these dangers, but the combined risks are grave enough to be of serious concern.

SB 231, the Senate version of the governor's subsistence bill, is still in State Affairs, its committee of first referral. Because of this, the Resources Committee has not held any public hearings on this issue. However, as chairman of the Senate Resources Committee, I have been actively working on the subsistence problem since the Supreme Court decided the Madison case.

I realize the available time for public hearings will be limited if a bill reaches my committee, and that it is vital the interests of groups on all sides of this issue be considered in trying to find a solution. Because of this, I have attempted to include representatives of as many of those interests as possible in discussions of this problem.

This office has worked with other Senators and Representatives; with officials from the departments of Fish and Game and Law; with representatives of the Outdoor Council and other outdoor groups; with representatives of the Alaska Federation of Natives and other Native organizations; with the United Fishermen of Alaska and other commercial fishing interests; with professional big game guides; and with any one

else who has called or come into my office with concern about this issue.

The result of this work has been an evolutionary series of draft bills and letters of intent. The latest of these drafts and its letter of intent are attached to this memo. By no means do I intend to imply that everyone with whom we have worked is in agreement with this draft or that this effort is a perfect solution. If that were so, we would not be faced with a problem. The draft, however, is an honest attempt to craft a subsistence bill that will pass the legislature, will comply with ANILCA, and will balance the competing interests for our resources.

I wanted to be sure that you had this information before making referrals on HB 288. If the house subsistence bill comes to the Resources committee this session, I anticipate acting swiftly to pass out a committee substitute similar to the attached draft. I stand ready to meet with you and explain the draft bill and my grave concerns about the consequences of inaction.

cc: members,
Senate Resources Committee
Senator Mitch Abood,
Chairman State Affairs Committee

DRAFT LETTER OF INTENT

5/4/85

SENATE CS for HB 288

It is the intent of the legislature in enacting this legislation, to comply with the spirit and intent of The Alaska National Interest Lands Conservation Act, P.L. 96-487 while avoiding possible violations of the equal protection guarantees of Article I, Section 1 and Article VIII, Section 15 of the Alaska Constitution.

— This legislation maintains subsistence use as a priority use of Alaska's wild, renewable resources in accordance with ANILCA, and establishes a system of preferences of beneficial uses of these resources. All uses are subject at all times to limitations based on the sustained yield principle and to reasonable regulations as to seasons, catch or bag limits, and methods and means without requiring that uses of lower priority be eliminated first.

If the harvestable surplus of a fish stock or game population is not large enough to provide a reasonable opportunity for all subsistence uses, individual local residents who have a direct and customary dependence upon fish or game populations as a mainstay of their livelihood and who lack available alternative resources have the highest priority of use.

Subsistence uses in rural Alaska by Alaska residents who, in a cost effective manner, use, including consume, their take in the same rural area it was taken, have the next highest priority of use. It is intended that the boards shall have the authority to determine cost effectiveness, considering methods and means of harvest characterized by efficiency and economy of effort and cost, and conditioned by local circumstances.

The boards must establish a mandatory allocation that ensures all Alaskans a reasonable opportunity for sport or personal use fishing or hunting, unless such regulations would jeopardize or interfere with the maintenance of a fish stock or game population or with the continuance of subsistence. In making allocation decisions, the Boards of Fish and Game shall continue to strive to ensure the health and prosperity of commercial, sport, personal use and subsistence uses, while guaranteeing Alaskans a reasonable opportunity to take and use fish stocks and game populations for the full range of beneficial uses.

5/6/85 ✓

Original sponsor: Rules/Governor

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for
7 subsistence and personal use; and providing for an
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. FINDINGS. The legislature finds that

11 (1) nonresidents visiting Alaska take fish stocks and game
12 populations primarily for commercial, trophy, and recreational purposes;
13 Alaska residents, who take fish stocks and game populations for noncommer-
14 cial purposes, use the stocks and populations primarily for food for per-
15 sonal or family consumption;

16 (2) the taking of fish stocks and game populations by residents
17 for personal or family consumption is important to the health, safety, and
18 general well-being of all Alaska residents;

19 (3) the customary and traditional use of local fish stocks and
20 game populations in rural areas of the state is a significant characteris-
21 tic of the economy of many Alaskan communities and areas because it is cost
22 effective and important to the health, safety, and general well-being of
23 Alaskans;

24 (4) the taking of fish stocks and game populations for commer-
25 cial, recreational, and other uses by both residents and nonresidents is
26 important to the economy of the state and particularly to the economies of
27 communities dependent upon commercial fishing; and

28 (5) commercial fishermen often use a portion of their catch for
29 personal use.

1 * Sec. 2. AS 16.05.251(a) is amended to read:

2 (a) The Board of Fisheries may adopt regulations it considers
3 advisable in accordance with the Administrative Procedure Act (AS 44.-
4 62) for

5 (1) setting apart fish reserve areas, refuges and sanctu-
6 aries in the waters of the state over which it has jurisdiction,
7 subject to the approval of the legislature;

8 (2) establishing open and closed seasons and areas for the
9 taking of fish;

10 (3) setting quotas, bag limits, harvest levels, and sex and
11 size limitations on the taking of fish;

12 (4) establishing the means and methods employed in the
13 pursuit, capture and transport of fish;

14 (5) establishing marking and identification requirements
15 for means used in pursuit, capture and transport of fish;

16 (6) classifying as commercial fish, sport fish, personal
17 use fish, subsistence fish, or predators or other categories essential
18 for regulatory purposes;

19 (7) watershed and habitat improvement, and management,
20 conservation, protection, use, disposal, propagation and stocking of
21 fish;

22 (8) investigating and determining the extent and effect of
23 disease, predation, and competition among fish in the state, exercis-
24 ing control measures considered necessary to the resources of the
25 state;

26 (9) prohibiting and regulating the live capture, posses-
27 sion, transport, or release of native or exotic fish or their eggs;

28 (10) establishing seasons, areas, quotas and methods of
29 harvest for aquatic plants;

1 (11) establishing the times and dates during which the
2 issuance of fishing licenses, permits and registrations and the trans-
3 fer of permits and registrations between registration areas is
4 allowed; however, this paragraph does not apply to permits issued or
5 transferred under AS 16.43;

6 (12) regulating selected stocks in nonrural areas for catch-
7 and-release sport fishing and regulating selected stocks in rural
8 areas for catch-and-release sport fishing and subsistence;

9 (13) regulating commercial, sport, personal use, and subsis-
10 tence fishing.

11 * Sec. 3. AS 16.05.251(b) is repealed and reenacted to read:

12 (b) The Board of Fisheries shall establish a mandatory alloca-
13 tion that ensures all residents a reasonable opportunity for sport or
14 personal use fishing, and shall adopt regulations authorizing these
15 types of takings in accordance with the Administrative Procedure Act
16 (AS 44.62), unless the regulations will jeopardize or interfere with
17 the maintenance of a fish stock on a sustained-yield basis or with the
18 continuance of subsistence. Takings authorized under this subsection
19 are subject to reasonable regulation of seasons, catch limits, and
20 methods and means.

21 * Sec. 4. AS 16.05.251 is amended by adding new subsections to read:

22 (d) The Board of Fisheries shall adopt regulations in accordance
23 with the Administrative Procedure Act (AS 44.62) permitting the taking
24 of fish stocks for subsistence uses unless the board determines that
25 adoption of the regulations will jeopardize or interfere with the
26 maintenance of a fish stock on a sustained-yield basis. Whenever it
27 is necessary to restrict the taking of a fish stock to assure the
28 maintenance of the stock on a sustained-yield basis, or to assure the
29 continuation of subsistence uses of the stock, subsistence shall be

1 the priority use. Takings authorized under this subsection are sub-
2 ject to reasonable regulation of seasons, bag limits, and methods and
3 means.

4 (e) If the harvestable surplus of a fish stock is not large
5 enough to provide a reasonable opportunity for the taking of fish from
6 the stock for subsistence uses, the board shall adopt regulations that
7 establish restrictions and limitations on the taking of fish from the
8 stock for subsistence uses on the basis of the following criteria:
9 (1) customary and direct dependence upon the fish stock as the main-
10 stay of one's livelihood; (2) local residency; and (3) availability of
11 alternative resources. Subsistence fishing authorized under this
12 subsection is subject to reasonable regulation of seasons, bag limits,
13 and methods and means.

14 * Sec. 5. AS 16.05.255(a) is amended to read:

15 (a) The Board of Game may adopt regulations it considers advis-
16 able in accordance with the Administrative Procedure Act (AS 44.62)
17 for

18 (1) setting apart game reserve areas, refuges and sanctu-
19 aries in the water or on the land of the state over which it has
20 jurisdiction, subject to the approval of the legislature;

21 (2) establishing open and closed seasons and areas for the
22 taking of game;

23 (3) establishing the means and methods employed in the
24 pursuit, capture and transport of game;

25 (4) setting quotas, bag limits, harvest levels, and sex,
26 age, and size limitations on the taking of game;

27 (5) classifying game as game birds, song birds, big game
28 animals, fur bearing animals, predators or other categories;

29 (6) methods, means, and harvest levels necessary to control

1 predation and competition among game in the state;

2 (7) watershed and habitat improvement, and management,
3 conservation, protection, use, disposal, propagation and stocking of
4 game;

5 (8) prohibiting the live capture, possession, transport, or
6 release of native or exotic game or their eggs;

7 (9) establishing the times and dates during which the
8 issuance of game licenses, permits and registrations and the transfer
9 of permits and registrations between registration areas and game
10 management units or subunits is allowed;

11 (10) regulating sport and subsistence hunts.

12 * Sec. 6. AS 16.05.255(b) is repealed and reenacted to read:

13 (b) The Board of Game shall establish a mandatory allocation
14 that ensures all residents a reasonable opportunity for the taking of
15 game for personal or family consumption, and shall adopt regulations
16 authorizing the taking in accordance with the Administrative Procedure
17 Act (AS 44.62), unless the regulations will jeopardize or interfere
18 with the maintenance of a game population on a sustained-yield basis
19 or with the continuance of subsistence. Takings authorized under this
20 subsection are subject to reasonable regulation of seasons, bag lim-
21 its, and methods and means.

22 * Sec. 7. AS 16.05.255 is amended by adding new subsections to read:

23 (d) The Board of Game shall adopt regulations in accordance with
24 the Administrative Procedure Act (AS 44.62) permitting the taking of
25 game populations for subsistence uses unless the board determines that
26 adoption of the regulations will jeopardize or interfere with the
27 maintenance of a game population on a sustained-yield basis. Whenever
28 it is necessary to restrict the taking of a game population to assure
29 the maintenance of the population on a sustained-yield basis, or to

1 assure the continuation of subsistence uses of the population, subsis-
2 tence shall be the priority use. Takings authorized under this sub-
3 section are subject to reasonable regulation of seasons, bag limits,
4 and methods and means.

5 (e) If the harvestable surplus of a game population is not large
6 enough to provide a reasonable opportunity for the taking of game from
7 the population for subsistence uses, the board shall adopt regulations
8 that establish restrictions and limitations on the taking of game from
9 the population for subsistence uses on the basis of the following
10 criteria: (1) customary and direct dependence upon the population as
11 the mainstay of one's livelihood; (2) local residency; and (3) avail-
12 ability of alternative resources. Subsistence hunting authorized
13 under this subsection is subject to reasonable regulation of seasons,
14 bag limits, and methods and means.

15 * Sec. 8. AS 16.05.940(21) is amended to read:

16 (21) "sport fishing" means the taking of or attempting to
17 take for personal use or for personal or family consumption, and not
18 for sale or barter, any fresh water, marine, or anadromous fish by
19 hook and line held in the hand, or by hook and line with the line
20 attached to a pole or rod that [WHICH] is held in the hand or closely
21 attended, or by other means defined by the Board of Fisheries;

22 * Sec. 9. AS 16.05.940(23) is repealed and reenacted to read:

23 (23) "subsistence uses" means the customary, traditional and
24 cost-effective taking and use by Alaska residents in rural areas of
25 wild, renewable resources for direct personal or family consumption as
26 food, shelter, fuel, clothing, tools, or transportation, for the
27 making and selling of handicraft articles out of nonedible by-products
28 of fish and wildlife resources taken for personal or family consump-
29 tion, and for the noncommercial customary trade, barter, or sharing

1 for personal or family consumption. Wild and renewable resources
2 taken for subsistence uses must be used in the same area in which they
3 are taken. In this paragraph,

4 (A) "family" means persons related by blood, marriage,
5 or adoption, and persons living in the household on a permanent
6 basis;

7 (B) "rural area" means a historic hunting or fishing
8 area associated with a community or area in which the taking of
9 fish stocks and game populations for personal and family consump-
10 tion is a significant characteristic of the economy of the commu-
11 nity or area;

12 * Sec. 10. AS 16.05.940 is amended by adding a new paragraph to read:

13 (28) "personal use fishing" means the taking, or attempting
14 to take by Alaska residents for personal or family consumption and not
15 for sale or barter, finfish, shellfish, or other fishery resources
16 with gill net, dip net, seine, pot, fish wheel, long line, or other
17 similar means defined by the Board of Fisheries.

18 * Sec. 11. This Act takes effect immediately in accordance with AS 01.-
19 10.070(c).
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Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
BETTYE FAHRENKAMP, Vice Chairman
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Senate Committee on Resources

February 27, 1986

Honorable William P. Horn
Assistant Secretary
Fish and Wildlife and Parks
Department of the Interior

Dear Secretary Horn:

Enclosed is Senate Resources CS for CS for House Bill No. 288 (Resources) and a sectional analysis of this bill. This committee substitute has been formally adopted by the Resources Committee as the working document before the committee.

I am looking forward to your visit and hope that you can address this bill in your testimony. It has been our intent, in drafting this bill, to comply with federal law.

If you have the opportunity to call me after you have had a chance to look at the bill and before you come to Juneau, I feel this would be beneficial. I appreciate your continued help and concern on this issue.

Sincerely yours,

Senator Arliss Sturgulewski
Chairman, Resources Committee

1986
R O N S O M E R V I L L E

FOR

GOVERNOR OF ALASKA

8800 Glacier Hwy., Suite 250
JUNEAU, AK. 99801

March 5, 1986

Senate Resources Committee
State of Alaska
Senator Arliss Sturgulewski, Chairman
Pouch V
Juneau, AK. 99811

Dear Senators:

It is my understanding that your review of Senate CS for HB 288 (subsistence) is coming to an end and there may not be any further public testimony on this piece of legislation in your committee. Unfortunately, I was unaware of your one teleconference on the bill and thus was not able to testify. I do believe, however, that there are a few points that have not been stressed adequately and since it appears that I will not be able to present them personally, I am putting them in writing.

First, I want to stress that all Alaskans are praying that a fair and workable law will be forthcoming which will lay the subsistence controversy to rest, once and for all. We are also appreciative of the complexity of the problem and the seriousness of the issue as, in one way or the other, it affects the daily lives of most Alaskans.

I would like to compliment the State Affairs and Resource Committees attempts to improve on the simplistic legislation introduced by the Governor and narrowly passed by the House during the last session. There are definite improvements in the legislation.

The provisions which provide the authority to regulate subsistence taking, give the Boards authority to identify subsistence stocks, authorize issuance of subsistence permits, provide that subsistence users be given a reasonable opportunity to harvest and allow no subsistence defense for fish and wildlife harvested outside the regulations are all important and crucial additions to the original bills.

The major stumbling blocks of the subsistence law debates are, however, still left unattended. The committee chose to eliminate

a critical section of an early draft which allowed the Boards to apportion subsistence use among species, stocks and populations that are similar and reasonably available. The committee also chose to insert the word "rural" into the state law without providing a definition which would possibly narrow a subsistence priority down to the "true subsistence users" which most Alaskans would agree deserve some preferential treatment.

The committee has also chosen to ignore the overwhelming testimony of most Alaskans that any preferential allocation of our common property resources for subsistence should be based on need rather than residency. Alaskans have also strongly endorsed a revision of the existing policy to base subsistence on individual or family need rather than on a community basis where "need" is totally ignored.

We all fully realize that you are under pressure from the Federal government and subsistence advocates to adopt a state law precisely in line with their narrow interpretations of the existing Federal law. Unfortunately, most Alaskans are not going to endorse a law which discriminates based on where a person lives in Alaska.

One of the most volatile issues has been concerned with identifying "who" is a subsistence user. In your legislation, by complying with the Federal law and inserting the word rural, the only residents that are really eliminated from the priority use are those that live in Anchorage, Fairbanks, Juneau and Ketchikan. I fully realize that you have provided direction, through the letter of intent, for the Boards of Fisheries and Game to further delineate "subsistence uses" and "rural areas". In my opinion, by passing the buck to the regulatory boards, the legislature is neglecting its responsibilities. It is obvious that if each legislator is forced to define which area is or is not a subsistence area and thus which constituents are subsistence users, that it is going to be extremely difficult to draft legislation which will pass both houses.

I maintain that the boards are even less prepared to deal with the construction of socially discriminatory laws than is the legislature and further more it is not the function of an allocation board. It is clearly the function of the legislature to develop clear guidelines by which the boards would follow in implementing the laws. Most importantly, every Alaskan would be able to judge and comment personally on the legislation. It is critical that everyone be able to determine whether he or she is "in" or "out" directly from the proposed legislation.

I believe it is hypocritical for the legislature to consistently criticize the administrative agencies for developing broad regulatory authority and then pass a piece of legislation as poorly constructed as this legislation with almost unlimited regulatory options. It is clear that because the legislature cannot deal with the politics of this issue, they are pulling the pin and throwing the hand grenade to the Boards in hope that they

will develop the political guts to do what the legislature is apparently unable to do.

I personally feel you should craft a subsistence law which is acceptable to most Alaskans based on some criteria of need and lack of alternative resources and let the courts settle whether or not it is in compliance with the Federal law. I also strongly urge you to face up to your public responsibilities if you decide to descriminate against urban residents by giving a priority to rural residents by precisely defining what is rural. The public deserves that much consideration on this volatile issue.

I would like to point out in closing that despite recent testimony to the contrary, Alaskans voted in 1982 to retain the exisiting State law which clearly does not descriminate against urban users. For some reason, subsistence advocates have twisted the 1982 vote as an endorsement of the privilege for only rural residents.

It is also important to express my concern for your lack of consideration for public input into the constantly changing legislation. One poorly advertised teleconference can hardly be considered public participation.

Thank you for considering my comments.

Sincerely,



Ron Somerville

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
BETTYE FAHRENKAMP, Vice Chairman
JACK COGHILL
DICK ELIASON
VIC FISCHER
RICK HALFORD
FRED ZHAROFF



POUCH V
JUNEAU, ALASKA. 99811
(907) 465 4807

Senate Committee on Resources

March 10, 1986

Ron Somerville
c/o Somerville for Governor
8800 Glacier Highway, Suite 250
Juneau, Alaska 99801

Dear Ron,

Thank you for your letter which I received Friday. As you are aware, though we have agreed on some aspects of the subsistence issue and disagreed on others, I have always valued your opinions.

I share your opinion that we all deeply desire a fair and workable subsistence law that will lay the subsistence issue to rest once and for all. The Senate State Affairs and Resources Committees have worked long and hard to make such a bill a reality. I appreciated your compliments on the improvements to the bill.

As you mention, the subsistence bill now has a number of important provisions that were lacking last year. Among these are:

- a requirement that the boards identify subsistence stocks and populations by area;
- an exclusion from subsistence harvest of stocks and populations which the boards do not identify as subject to subsistence uses. Examples would probably be bison, elk, and mountain goats, most populations of Dall sheep and some steelhead and trout stocks and brown bear populations;
- a requirement that subsistence users be given a reasonable opportunity to harvest;
- a provision that all takings of fish and game are subject to reasonable regulation of seasons, bag limits, and methods and means, including prohibitions on wanton waste;
- a prohibition against the use of the subsistence defense in violations of fish and game laws.

I believe we agree that all of these are important improvements to last year's bill. Unfortunately we seem to

disagree on the major principle of whether or not the legislature should pass a bill that complies with federal law. I believe passage of a bill that lacks that compliance would be a meaningless charade and a deception of the public. Lack of compliance will cause a federal takeover of management of our fish and game on all public lands on June 1, 1986. Management of our own resources was one of the driving forces in our becoming a state, and I am not going to be part of giving away that principle.

There may be many who would like to characterize the danger of federal takeover on June 1st as an empty threat or as federal bullying. Unfortunately, neither is true. The Department of Interior certainly wishes to avoid takeover and has neither the money nor manpower to do a decent job of management of our fish and game. Assistant Secretary Horn emphasized that point, but he also made it plain that this is an issue on which the department does not have discretion.

If the department tries to ignore the federal law, I believe we would immediately see the issue in court under Section 807, the Judicial Enforcement section of ANILCA. We would then be faced not only with a federal takeover of fish and game management, but with the very real risk of a federal judge deciding that he is going to personally supervise that management. Before anyone dismisses that risk, I would suggest that he or she look very carefully at what happened in Washington State with Judge Boldt.

I realize that there are persons, including some in the legislature, so strongly opposed to subsistence that they would welcome such a scenario, believing the results would be so onerous that out of the resulting political chaos a strong movement would develop to change the federal law. That approach is playing Russian roulette with our resources. The State Affairs and Resources committees have worked very hard with people on all sides of the issue to hammer out a subsistence bill that will work for all of us, rather than yielding to easy rhetoric based on how we wish things were.

I should point out that there are ongoing private court suits challenging the constitutionality of the federal subsistence law. Enactment of legislation will have no effect on the outcome of those suits. Such legal battles can take years, however, with very uncertain results. The same can be said for attempts to change the federal law. We need a fair and equitable law now, one that retains our own control of our resources, and is enforceable and constitutional. The Senate Resources Committee Substitute for House Bill 288 is such a bill.

In your letter you raise the issues of need and residence. As you well know, the use of a criterion based on individual economic need is clearly not in compliance with federal law.

Assistant Secretary Horn testified to that during his appearance before the Senate Resources Committee on March 5, 1986. The federal legislative history on the subject states in part, "The policy also requires that regulatory systems which employ income requirements may not be imposed on rural residents."

Also, as you well know, the federal law explicitly and repeatedly refers to "rural residents." A bill which ignores this fact would also clearly not comply. Again the federal legislative history is specific on this point. It states, "It also should be noted that customary and traditional subsistence uses must be evaluated on a community or area basis, rather than an individual basis." This leaves us a good degree of flexibility, however, in defining "rural area" for the purpose of this bill.

Your interpretation of which areas of the state would have subsistence use eliminated in them may have been correct for the bill as it was originally introduced by the governor. That interpretation is clearly incorrect, however, for the Senate Resources Committee substitute.

"Rural area" in the bill is defined as "a community or area of the state in which the noncommercial, customary, and traditional use of fish or game for personal or family consumption is a significant characteristic of the economy of the community or area." The bill's accompanying sectional analysis cites Congress's intent to protect subsistence uses where "...such uses have played a long established and important role in the economy and culture of the community...". The sectional further states, "It is expected that the boards ...would review areas as conditions change to assure a rural or nonrural classification is still appropriate."

Whether or not a community or area is classified as a "rural area" for the purposes of this bill will be a factual determination by the Boards of Fish and Game. Subsistence will exist in areas only after the boards have made a factual determination based on the economy of the particular area and then only on stocks and populations identified by the boards as subject to subsistence use. The result of limiting the subsistence preference to those who live in areas so identified will be to protect subsistence where it is really needed, but limit it to a small percentage of our population so conflicts will be dramatically reduced. All of this is in perfect compliance with federal law.

We realize that many Alaskans in every part of our state eat a great deal of fish and game. This bill is not intended to limit that in any way. What is intended, however, is to limit the number of people who have a preference over the rest of us when it comes times to harvest that food.


In closing, I feel the need to respond briefly to your last two paragraphs which left me more than a bit bemused. Your interpretation of the 1982 vote is one of the most interesting attempts at revisionist history I have ever come across. Since you spearheaded the move to repeal the existing law in 1982, I take it you felt differently then.

Your expressed concern for the lack of public hearing falls in a similar category. As this bill has made its way through the legislature, it has had as many public hearings as any piece of legislation I am aware of. There have been numerous statewide teleconferences as well as two-day public hearings in Fairbanks and Anchorage. These hearings culminated in a statewide teleconference by the Senate Resources Committee where we listened to every person who wished to testify.

I am sorry you were not aware of the meeting, but I feel compelled to point out that it was thoroughly advertised, very well attended, and included testimony by Roberta Booher who officially represented the Alaska Outdoor Council, the organization of which you are the former executive director.

I will present your letter to the Senate Resources Committee. I appreciate the depth of your feeling on this issue, and as I said in the beginning of this letter, though we disagree on some aspects, I always value your opinions.

Sincerely yours,



Senator Arliss Sturgulewski
Chairman, Senate Resources Committee

cc: Senate Resource Committee Members

Jim Rearden
413 E. Lee Drive
Homer, Alaska 99603

Phone: (907) 235-8543

Member, American Society
of Journalists & Authors

Jan. 15, 1986

Representative Mike Davis
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Mike:

I believe there is a simple and satisfactory solution to the subsistence issue that could:

1. Provide rural residents who depend on game for food with maximum opportunity to get their game.
2. Put every Alaskan hunter on equal footing.
3. Meet the federal requirement for providing a subsistence priority for rural residents.
4. Put an end to squabbling, end racism, end divisiveness in hunting/fishing matters.
5. End the controversial and unworkable "point system" for individuals.
6. Allow the board of game to get back to managing game instead of wrangling about and trying to understand an impossible subsistence law.
7. Simplify hunting regulations so that they can be easily understood.
8. End the discrimination that non-residents feel exists for big game hunting in Alaska.
9. Put game management back on a biological basis.
10. Be legal and constitutional. It should also be acceptable to reasonable Alaskans.

The idea is so simple that you may have difficulty in accepting it. I urge that you to give it some thought.

It would be necessary to repeal the present state subsistence priority law.

In its place I suggest that the legislator hammer out a law that would require the Board of Game to provide longer seasons and larger bag limits, within biological limits, for rural game management units, than for urban game management units.

As you know, there are 26 game management units (GMU) in the state. Some are clearly "rural", others are clearly more heavily utilized by urban residents. Many are used by both rural and urban hunters.

A study of game regulations since the 1940's clearly shows that rural areas have consistently had longer seasons and larger bag limits than "urban" game management units. Common sense dictated this: where hunting pressures are lower, more generous seasons and bag limits can be allowed.

Whether intentionally or accidentally, the Alaska Game Commission, the old Board of Fish and Game, and even the (1975

to date) present Board of Game, enacted regulations that clearly favored rural residents of Alaska with longer seasons and larger bag limits than were set for areas hunted by urban residents.

Obviously, an easily-reached rural GMU with generous seasons and bag limits would attract urban hunters. The solution to this has already been worked out by the Board of Game.

The legislature could direct the Board to establish controlled use areas, and to establish seasons favored by local residents - which are often seasons that discourage hunters from outside the area from participating.

The controlled-use area concept solved a lot of problems when urban aerial hunters started hunting the middle and lower Yukon areas. Local residents accepted and liked the idea. Airplane hunters had to land their planes and hunt afoot or from boats, as most local residents do. This slowed the ingress of urban hunters, and controlled those who did come in. Ask Game Board member Sidney Huntington of Galena about this. ATV's can be controlled, as can boats, or other methods of hunting, by establishing a controlled use area.

Urban hunters don't show up in great numbers in a distant and rural GMU in Nov., Dec., Jan., Feb., or March for a moose or caribou hunt. November hunts have been popular in rural areas because it is easier traveling at that time with snowmachines, and easier to haul meat. Meat keeps without refrigeration in November and after, an advantage to rural residents.

During the period 1950-78 in the face of growing urban populations and increasing hunting pressures, this system worked, although it was not formalized by law. Rural residents had ample opportunity to take the game they needed - and providing that opportunity is really all that any subsistence priority law can do.

My suggestion is simply that the legislature formalize by law a common sense game management approach that has already proven itself.

A clear statement of intent, passed by the legislature, along with a law that provides the Board of Game no choice but to establish longer seasons and larger bag limits in rural GMU than in urban GMU's (within biological limitations), should make it possible for the Game Board to effectively provide subsistence users with abundant hunting opportunity. The controls to prevent overhunting, mechanized hunting, too much competition, or crowding, are already in place and have long been used by the Game Board.

My proposed solution does not address the subsistence fishery. At the time the priority subsistence law passed in 1978, subsistence fisheries existed all over the state, and they

were not and have not since really been in dispute. The subsistence fishery could be worked into my suggestion, but I think it would unnecessarily complicate it. New subsistence fishery legislation should be easily accomplished.

Most of the opposition to the subsistence law is not because Alaskans oppose the use of fish and game for subsistence, but because they don't like its discriminatory aspects. State game biologists have repeatedly warned that the law threatens the proper management of the resource. I agree with them.

If regulations in each GMU applied equally to all hunters, there would be few complaints. The regulations are already tailored to the hunting pressures, game populations, and transportation problems of each Game Management Unit. No new concepts would be needed.

In the four or five years I wrestled with the present subsistence law as a Board of Game member, I never got a clear picture as to how it could or should work. The fact that legal council to the Board disagreed with one another, and gave different interpretations from one meeting to the next, didn't help.

It also appeared to me and some other Board Members that the Dept. of Law was misinterpreting the Legislature's action and intent. The state Supreme Court's decision confirmed that, of course, when it said that all Alaskans were eligible for subsistence privileges.

I've been involved in fish and game management in Alaska for more than 35 years as a U.S. Fish and Wildlife Service employee, a professor of wildlife management at the University of Alaska at College, as a fishery biologist for ADF&G, and as an 11-year member of the old Board of Fish and Game and the Board of Game. I've been Outdoors Editor of ALASKA magazine for 17 years. My suggestion for a subsistence solution is a personal one.

I hope you'll give this suggestion serious thought and consider it a concept, not a detailed plan. Input from a lot of knowledgeable people on the concept might result in a surprisingly simple and effective solution to the subsistence issue.

Sincerely,



Jim Rearden

P.S. I am sending personally addressed copies of this letter to other members of the legislature - members I either personally know, or those who have shown an interest and knowledge on the subsistence issue.



United States Department of the Interior

NATIONAL PARK SERVICE

ALASKA REGIONAL OFFICE
2525 Gambell Street, Room 107
Anchorage, Alaska 99503-2897

IN REPLY REFER TO:
L7019 (ARO-ONR)

FEB 17 1986

12 FEB 1986

Honorable Arliss Sturgulewski
Chairman, Senate Resources Committee
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Sturgulewski:

It is our understanding that the Senate State Affairs Committee recently amended and forwarded Bill No. 288 (State Subsistence Bill) to your Committee on Natural Resources. The National Park Service, as you might suspect, has a special interest in this legislation. It is our hope that a bill can be devised to put the state back in compliance with Alaska National Interest Lands Conservation Act (ANILCA) and, perhaps, resolve some other issues related to subsistence as well.

It is in this context that we offer to you and your committee the attached suggestions and comments. Please keep in mind that these suggestions and comments are coming from one federal agency, the National Park Service, and we are not attempting to speak for others.

The underlined phrases indicate suggested wording and the "Discussion" portions are intended to provide you with our rationale for the suggested wording. Additionally, we are attaching some of the Congressional Legislative History associated with Sections 803-804-805 of ANILCA which might be of particular interest and assistance to you and other committee members.

Your task is complicated and, as you know, there is a minimum amount of time in which to act. If the National Park Service can be of assistance to you during the legislative process, please do not hesitate to call upon us.

Sincerely,

Boyd Evison
Regional Director
Alaska Region

Enclosures

Many of us believed that the question of subsistence rights in rural Alaska was settled with the election of 1982. Since that time, a Supreme Court opinion has opened the question again. Today, a bill is locked up in the Alaska Senate which would again insure subsistence priority for rural Alaskans. I am writing to urge your assistance in helping pass this important law.

The question of subsistence priority is more than one of access to our state's fish and game. It is a question of our state's responsibility to assist in maintaining cultural distinctions which predate most Alaskan's arrival here by thousands of years. It is the responsibility of all of us to protect the rights of Alaskans who depend on fish and game for their daily food and to insure that they have priority access to this food source.

You can assist me in the passage of this legislation by writing letters and sending public opinion messages to members of the Alaska State Senate. With your assistance, we can again insure that the subsistence rights of our fellow Alaskans are protected.

Warmest regards,

Stephen McAlpine
Lieutenant Governor

RECEIVED
FEB 28 1986



Official Business

Alaska State Legislature

House of Representatives

FEB 13 1986

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: MEMBERS, HOUSE SUBCOMMITTEE ON SUBSISTENCE

FROM: Representative John G. (Jack) Fuller *J*

DATE: February 13, 1986

SUBJECT: SCS CSHB 288(SA)

As you know, the Senate State Affairs Committee has passed out its version of the subsistence bill, HB 288. Please find attached a copy of the latest version of the bill, along with an analysis prepared by Larri Spengler of the Attorney General's office and one by Don Mitchell, for the Alaska Federation of Natives. The bill is in Senate Resources, and is scheduled for February 19.

During our hearings last fall, information was gathered on subsistence as an economic system, on hunting and fishing patterns over time in the Copper Basin area, and on a subsistence study done in the Kodiak area. These reports are attached for your review. Recent news articles are also included.

cc: Senator Artiss Sturgulewski

ALASKA FEDERATION OF NATIVES, INC.

411 W. 4th Avenue, Suite 1A • Anchorage, Alaska 99501 • Phone 907-274-3611



February 10, 1986

TO: AFN Board of Directors
FROM: Don Mitchell
SUBJECT: Abood Subsistence Bill

On February 4th the Senate State Affairs Committee unexpectedly reported a subsistence bill. A copy of the bill is attached. The bill is a substitute for HB 288, the bill passed by the House last session. Although it includes several of the concepts embodied in the House bill, the Abood bill makes a number of changes to title 16 which have nothing to do with subsistence.

BILL ANALYSIS

1. Drafting: Independent of its substantive effect the Abood bill has a number of technical drafting problems which should be remedied.

Sec. 3 amends A.S. 16.05.251(a) to delegate the Board of Fisheries authority to regulate personal use fishing, but the bill includes no definition of "personal use fishing".

Sec. 4 establishes an elaborate methodology which the Board of Fisheries and Board of Game must each follow to adopt hunting and fishing regulations (including but not limited to subsistence regulations). The first step in this process is to identify "subsistence uses" of a fish stock or game population. The second step is to determine if the stock or population is healthy enough to sustain any harvest (for subsistence or any other purpose). The order in which these steps must be performed is nonsensical. If a stock or population which is the subject of "subsistence uses" cannot safely sustain a subsistence harvest no such harvest may be authorized. That being the case, identifying subsistence uses of a stock or population prior to determining whether the stock or population can safely sustain a harvest of any kind is a waste of time. The process should be reversed. An assessment of biological status should be the first step in the process for adopting regulations.

Sec. 7 establishes new definitions of the terms "subsistence fishing" and "subsistence hunting". The definitions state that subsistence fishing and hunting is hunting and fishing "by a resident domiciled in a rural area of the state for subsistence uses". However, the new definition of "subsistence uses" in the bill limits subsistence uses to "a resident domiciled in a rural area of the state". Consequently, inserting this phrase in the "subsistence fishing" and "subsistence hunting" definitions is redundant.

2. Shifting Subsistence Uses To Alternative Stocks And Populations: The bill repeals A.S. 16.05.251(b) and .255(b) - the sections which presently govern the adoption of subsistence regulations - and establishes a new section A.S. 16.05.258 in their place. The new section establishes a new process for subsistence rulemaking. Subsection (f) of the new section provides:

In making allocation decisions the boards may apportion subsistence use among species, stocks, and populations that are similar and reasonably available.

If this provision were to become law the Board of Fisheries, for example, may shut down the king salmon fishery at Tyonek on the theory that it was providing the subsistence priority by shifting subsistence fishing to reds or some other species of salmon less coveted by sportsmen. Similarly, the Board of Game would be authorized to shut down subsistence hunting for moose or bear in a particular area if it could find another species of game to move the subsistence hunting effort to. Needless to say, this provision makes a mockery of the subsistence priority. It is also inconsistent with the regulatory standards set forth in title VIII of ANILCA. The legislative history of title VIII indicates that the federal subsistence priority is stock and population specific. Consequently, if this provision is enacted, the State will continue to be out of compliance with ANILCA.

3. Curtailing Nonsubsistence Uses Before Curtailing Subsistence Uses: Proposed section A.S. 16.05.258(c) is ambiguous as to whether all nonsubsistence uses of a stock or population must be eliminated before subsistence uses can be curtailed. In pertinent part, subsection (c) states:

If a surplus is not sufficient to accommodate all consumptive uses of the surplus, but is sufficient to accommodate subsistence uses of the surplus, then subsistence uses shall be accorded a preference over other consumptive uses, and the regulations shall provide a reasonable opportunity to satisfy subsistence

uses of the surplus, and may provide opportunities to satisfy other consumptive uses of the surplus.
(Emphasis added)

The federal subsistence priority requires all nonsubsistence uses of a stock or population to be eliminated before subsistence uses may be curtailed. If the language cited above authorizes the boards to do otherwise and the language is enacted, the State will continue to be out of compliance with ANILCA.

4. Sustained Yield, Sound Management, and the Maintenance of Healthy Fish Stocks and Game Populations: The Alaska Constitution requires fish stocks and game populations to be managed on a sustained yield basis. Consistent with this constitutional mandate, sustained yield is the regulatory standard in title 16 which presently triggers the ability of the Board of Fisheries and Board of Game to adopt any hunting and fishing regulations. For reasons that remain unclear, in addition to "sustained yield" the Abood bill establishes two additional standards, i.e., "sound management" and "the maintenance of healthy populations fish stocks and game populations", each of which must be met before a board may adopt any hunting or fishing regulations, including sport and commercial as well as subsistence. See proposed A.S. 16.05.258(b). If a fish stock is at sustained yield the Board of Fisheries would have no legal authority to adopt regulations authorizing fishing on the stock unless it first determined that such fishing would also be consistent with "sound management" and "the maintenance of a healthy stock". Neither of the new terms is defined. Instead the bill instructs the boards to adopt regulations defining all three terms. The addition of these new biological standards has nothing whatsoever to do with the subsistence controversy or the holding in the Madison case which the legislation is ostensible trying to fix. However, if enacted into law, the new biological standards will have a profound effect on all hunting and fishing. Since no one in Alaska has complained about the "sustained yield" standard, why Abood wants to use the subsistence bill to make such a radical change in fish and wildlife management policy is perplexing.

5. Subsistence Permits: Sec. 6 of the bill requires the boards to issue subsistence permits "for areas, villages, communities, groups, or individuals" whenever the implementation of the subsistence priority requires a reduction in nonsubsistence hunting opportunities. The language of the section provides no flexibility. The boards must issue subsistence permits regardless of how stupid it may be to do so.

6. Limitation of "Subsistence Uses" to Residents of Rural Alaska: The only reason subsistence legislation is needed is to limit the class of hunters and fishermen eligible to engage in "subsistence uses" to residents of rural Alaska. The Abood bill

appears to accomplish this goal, but in an unconstitutional way. On the one hand Sec. 7 satisfactorily amends the definition of "subsistence uses" in A.S. 16.05.940(23) to limit the purview of the definition to Alaska residents "domiciled in a rural area of the state". However, the bill then establishes a new definition of the term "domicile" which establishes a 12 month residency requirement. In addition to again taking the State out of compliance with title VIII (the legislative history of title VIII specifically prohibits durational residency requirements), a 12 month residency requirement is patently unconstitutional.

The above analysis highlights the provisions of the Abood bill which raise the most serious problems. The bill contains additional provisions which are either obnoxious or unnecessary but which do not conflict with the protection of subsistence hunting and fishing or with bringing the State back into compliance with the regulatory standards in title VIII of ANILCA. The Abood bill is now before the Senate Resources Committee chaired by Arliss Sturgulewski. The first work session on the bill has been scheduled for February 19th.

MATANUSKA VALLEY SPORTSMEN

BOX 1875


FALMER. AK 99645

To all interested persons:

At a general meeting of the Matanuska Valley Sportsmen, with a quorum present, the membership voted to support the recommendations of the Alaska Sport Fishing Association on the subsistence issue.

Please contact Noel Woods for any clarification and/or further help upon this very important issue.

Yours truly,



Noel W. Woods

member, Board of Directors