

ALASKA LEGISLATURE COMMITTEE FILES 1985 - 1986 8672
4222.21 SRES SUBSISTENCE LEGAL QUESTIONS (file 1) - (file 2) 1202

Robert Sundberg, Department of Public Safety
Don W. Collinsworth, Department of Fish & Game
All Criminal Division Offices, Department of Law

May 22, 1985
Page -2-

defendant. Instead, the court held that once the defense is raised (and that it may be raised prior to trial), the state has the burden of proving beyond a reasonable doubt that the taking or possession was not a subsistence use. Given the fact that neither the board nor the legislature has come up with a workable definition of subsistence, this will be virtually an impossible burden to meet. What this means in effect is that a resident of the state who asserts that his or her taking or possession involves a subsistence use cannot be convicted unless the state can prove beyond a reasonable doubt that either (1) the regulation allegedly violated did not restrict the taking of game, or (2) any such restriction placed an absolute priority on subsistence uses and was necessary to protect sustained yield.

Prior to the court of appeals decision in Eluska, the Alaska Supreme Court in Madison v. Department of Fish and Game, P.2d ____, Op. NO. 2911 (Alaska February 22, 1985), struck down a regulatory scheme designed to identify eligibility for subsistence fishing in Cook Inlet and to allocate fish resources among subsistence, commercial, personal use and sport fishermen. The court held that under AS 16.05.940(23), which defines "subsistence uses," all Alaskans were initially eligible for all subsistence hunting and fishing. The court additionally held that AS 16.05.251(b) establishes a priority for subsistence use over all others. In other words, to the extent that an insufficient number of fish exist to accommodate all potential users, subsistence use is to be allowed at the expense of sport, personal or commercial use. Governor Sheffield introduced a bill in response to the Madison decision that would have clarified and restricted subsistence taking. That bill was passed by the House of Representatives but not by the Senate and remains pending before the legislature.

AS 16.05.251(b), pertaining to fish, and AS 16.05.255(b), pertaining to game, are parallel provisions. Considering Eluska and Madison together, the conclusion to be drawn is that a "subsistence use" defense is now available for many hunting and subsistence fishing violations committed by Alaska residents.

Any Alaska resident, whether from a rural or urban area, can potentially and successfully assert a "subsistence defense" if the State has not adopted specific subsistence regulations consistent with Madison and Eluska and if the person reasonably believed he took the fish or game for "customary" or "traditional" uses. Unless and until remedial regulatory or legislative action is taken, a serious enforcement problem exists, and it is likely that there will be a significant increase in fish and game harvests, particularly around urban areas.

The Madison and Eluska decisions have had a serious effect on the State's ability to enforce fish and game violations under circumstances where someone can assert a subsistence use defense. The State has filed a Petition for Rehearing in Eluska seeking to have the court's opinion modified. That petition has recently been denied and we are now preparing a petition to the Supreme Court. However, unless the court reverses the decision or until the situation is addressed by the boards or the legislature, the guidelines described below are required.

B. Fisheries Violations

Throughout most of the state, the Board of Fisheries has already authorized subsistence fishing by regulation. The Department of Law has 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 to issue subsistence permits for taking salmon in areas where subsistence harvests have been historically authorized and conducted. If that is done and announced publicly, Fish and Wildlife officers and prosecutors will enforce all fishing regulations relating to taking or possessing salmon and other species.

Until that announcement is made, enforcement of fishing regulations relating to taking or possessing salmon will be limited to sport fishing violations,¹ violations committed in subsistence fisheries currently authorized in regulations and commercial fishing violations.

C. Game Violations

Until regulations are adopted which comply with Eluska, the following guidelines will apply to all game violations:

1. Violations Occurring in National Parks and Monuments

All game violations occurring in national parks and monuments should be referred to appropriate federal authorities (U.S. Fish and Wildlife Service and the United States Attorney's

1/ It is important to note that "sport fishing" is defined in AS 16.05.940(21) as fishing primarily by rod and reel for personal use, while "subsistence fishing" is defined in AS 16.05.940(22) as fishing primarily by nets and other efficient methods. It is subsistence fishing that is given special protection in AS 16.05.251(b).

Office). We have been advised that the Division of Fish and Wildlife Protection in the Department of Public Safety have worked out arrangements with federal authorities to refer such cases and to act as special federal enforcement agents.

2. Violations Occurring on All Other Lands

(a) Violations involving the following offenses are to be handled in accordance with normal procedures with respect to the issuance of citations and the seizure of appropriation evidence:

(1) All game violations committed by nonresidents or commercial operators;

(2) All non-possessory game violations, such as "wanton waste" and "hunting same day airborne";

(3) Any violations involving the illegal taking or possession of game when the taking occurred in an area totally closed year round or closed by an emergency order containing specific findings that the resource would be jeopardized by any further harvest including subsistence taking;

(4) Any violations involving the illegal taking or possession of game when the taking occurs in an area totally closed to the particular species in question or in an area totally closed to the taking of a particular sex of a species or closed to any harvest during a particular critical period such as the calving season; or

(5) Any violation involving illegal taking or possession when the taking is clearly not for personal use such as wolves.

(b) Violations involving the taking or possession of game taken for consumption are to be investigated, documented and referred to local district attorney offices at the discretion of enforcement personnel. No citations are to be issued, no evidence seized and no search warrants obtained, except at the direction of the district attorney, whenever the following circumstances are present:

(1) the game has been taken in an area open during any part of the year to the taking of that species, unless the animal taken is of a sex specifically prohibited from being taken;

Robert Sundberg, Department of Public Safety
Don W. Collinsworth, Department of Fish & Game
All Criminal Division Offices, Department of Law

May 22, 1985
Page -5-

(2) the game has been taken by a resident who asserts that his or her taking is for personal use; and

(3) the game has been taken in a game management area which is not covered by existing regulations that specifically provide for subsistence hunting.

Whenever a subsistence use defense is asserted in any case that has been filed, Assistant Attorneys General Larri Spengler (Juneau) or Liza McCracken (Anchorage) should be contacted for advice and assistance in preparing the state's response and handling any evidentiary hearing that may become necessary.

DWH/gb-10

cc: Larri Spengler
Assistant Attorney General
Juneau AGO

Liza McCracken
Assistant Attorney General
Anchorage AGO

SUBSISTENCE

LEGAL

QUESTIONS

(FILE 2)



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 16, 1982

MEMORANDUM

TO: Representative Tony Vaska

FROM: Leslie Longenbaugh, Research Staff ^{lv}

RE: Legislative History of ch 151 SLA 1978
Research Request Number 82-37

You asked that we research the history of ch 151 SLA 1978, the State's subsistence law. In particular, you asked for dates, places, and names of those who were in attendance and/or gave testimony, at meetings or hearings called for the discussion of the law before its passage.

Each of the four legislative committees that reviewed HB 960 in May and June 1978 held at least one meeting for that purpose. Records of the House Resources and the Senate Resources meetings are not available and may no longer exist. We checked newspapers of the time in hopes of finding some mention of the hearings, with no success. We were able to listen to a tape of the meeting of the House Special Committee on Subsistence, and we obtained the minutes of the House Finance Committee meetings. In addition, we obtained lists of the witnesses at public hearings held around the state in 1977 by the Interim Committee on Subsistence and by the Alaska Public Forum.

Attached to this memorandum are appendices including: a brief history of ch 151 SLA 1978 (Appendix A); as complete a description as we could piece together of each hearing or committee meeting pertaining to the bill (Appendix B); and a brief description of the statewide public hearings on subsistence, including for each hearing a list of the witnesses and some of those who attended (Appendix C).

If we are able to obtain any additional information on the hearings we will pass it on to you; please call on us if we can be of further assistance.

LL/dlp

Attachments: Appendices A, B and C

APPENDIX A

Legislative History of ch 151 SLA 1978

History of ch 151 SLA 78

- May 1, 1978 -- HB 960 introduced by House Rules at the request of the House Special Committee on Subsistence; first reading; referred to House Special Committee on Subsistence, House Resources and House Finance
- May 1, 1978 -- Meeting of House Special Committee on Subsistence
- May 2, 1978 -- House Special Committee on Subsistence passed HB 960 with amendments; referred to House Resources
- May 2, 1978 -- Meeting of House Resources Committee
- May 4, 1978 -- House Resources offers its committee substitute for HB 960; CSHB 960 is referred to Finance
- May 4, 1978 -- Fiscal note on HB 960 is printed in House Supplement
- May 12, 1978 -- House Finance meeting to consider CSHB 960
- May 12, 1978 -- Letter of intent on HB 960 from House Special Committee on Subsistence is printed in House Journal
- May 15, 1978 -- House Finance meeting to consider CSHB 960
- May 19, 1978 -- House Finance offers its committee substitute for CSHB 960; CSHB 960 is referred to House Rules
- May 26, 1978 -- HB 960 is read for the second time; House adopts CSHB 960 (Fin) in lieu of HB 960; CSHB 960 (Fin) is amended by the House; CSHB 960 (Fin) am is read for the third time; CSHB 960 (Fin) am passes the House on a vote of 28 yeas to 8 nays, with 4 excused
- May 26, 1978 -- CSHB 960 (Fin) am is engrossed, signed by the Speaker and sent to the Senate for consideration
- May 30, 1978 -- First reading in Senate of CSHB 960 (Fin) am; referred to Senate Resources and Finance Committees
- June 5, 1978 -- Senate Resources meeting to consider CSHB 960 (Fin) am
- June 9, 1978 -- Senate Resources meeting to consider CSHB 960 (Fin) am
- June 14, 1978 -- Senate Resources meeting to consider CSHB 960 (Fin) am

- June 16, 1978 -- Senate Resources committee substitute for CSHB 960 (Fin) am is adopted by the Senate; Senate reads SCS CSHB 960 am S for the second time; Senate waives referral to Senate Finance
- June 16, 1978 -- Letter of intent from Senate Resources regarding SCS CSHB 960 am S is printed in the Senate Journal
- June 16, 1978 -- SCS CSHB 960 am S advances to third reading in the Senate; SCS CSHB 960 am S passes the Senate on a vote of 17 yeas to 3 nays; notice of reconsideration
- June 17, 1978 -- Reconsideration of SCS CSHB 960 am S, which passes the Senate on a vote of 14 yeas to 2 nays, with one absent and three excused
- June 17, 1978 -- House concurs in Senate amendment to CSHB 960 (Fin) am, adopting SCS CSHB 960 am S
- June 29, 1978 -- SCS CSHB 960 am S is signed by presiding officers in House and Senate and is sent to the Governor for his signature
- July 22, 1978 -- SCS CSHB 960 am S is signed into law, ch 151 SLA 78, by the Governor

APPENDIX B

Committee Hearings Regarding HR 960, 1978

HOUSE SPECIAL COMMITTEE ON SUBSISTENCE

Date: May 1, 1978

Place: Court 650

Time: 12:30 p.m. (until approximately 1:00 p.m.)

Membership of Committee: Nels Anderson, Chair
Sam Cotten
William Akers
Leo Schaeffer
Al Nakek
Joe Hayes
Steve Cowper

Attending:* Nels Anderson, Chair
Sam Cotten
Al Nakak**
Joe Hayes**

Don Clocksin, Anchorage

Transcript: A tape of this meeting is on file at the Legislative
Affairs Library.

Product: amendments for HB 960

*The record of this meeting is on tape. Most of those in attendance
did not identify themselves; only those who spoke are listed here.

**Two of the men who spoke were identified only as "Joe" and "Al" on
the tape.

HOUSE RESOURCES COMMITTEE

Date: May 2, 1978

Place: Room 118, Capitol

Time: 1:30 p.m.

Membership: Alvin Osterback, Chair
Merle Snider, Vice-chair
William Akers
Don Bennett
Richard Eliason
Hugh Malone
Mike Miller
Sally Smith
Richard Urion

Attending: Unknown

Transcript: not available; Legislative Affairs Library does not have any record of this meeting.

Product: committee substitute for HB 960

HOUSE FINANCE COMMITTEE

Date: May 12, 1978

Time: 1:30 p.m. (adjourned at 4:40 p.m.)

Membership: Steve Cowper, Chair
Oral Freeman, Vice-chair
Thelma Buchholdt
Jim Duncan
Clark Gruening
Phillip Guy
E. J. Haugen
Russ Meekins, Jr.
Leo Rhode
Leo Schaeffer
Leslie Swanson

Attending: Committee: Freeman, Buchholdt, Duncan, Gruening, Guy,
Haugen, Meekins, Rhode, and Schaeffer

Others: Representative Nels Anderson*
Judy Dubois and Naomi Kipp,
Department of Labor (HB 920)
Commissioner Ron Skoog* and Bob Rausch*,
Department of Fish and Game
Roger Lang*, Alaska Federation of Natives
Ross Soboleff*, Rural Cap, Tlingit-Haida
Central Council
Bob Lohr*, Director, Upper Tanana Development
Corporation
Lloyd Telfon, Native Student Organization,
UA Anchorage
Bob Schroeder, Fiscal Analyst, Legislative
Finance Division (HB 920)

Transcript: minutes of this meeting are available through Legisla-
tive Finance Division; a copy of the minutes is attached.

Product: no new version of the bill

*These people gave testimony regarding HR 960.

HOUSE FINANCE COMMITTEE

Date: May 15, 1978

Time: 8:45 a.m.

Members: Steve Cowper, Chair
Oral Freeman, Vice-chair
Thelma Buchholdt
Jim Duncan
Clark Gruening
Phillip Guy
E. J. Haugen
Russ Meekins, Jr.
Leo Rhode
Leo Schaeffer
Leslie Swanson

Attending: Committee: Freeman, Gruening, Guy, Haugen, Rhode, and Swanson*

Others: Representative Nels Anderson

Transcript: Minutes available through the Legislative Finance Division; a copy of the minutes of the pertinent portion of the meeting is attached.

Product: reported out Finance committee substitute

*Other members arrived after the discussion of SSB 960 an (Fin)

SENATE RESOURCES COMMITTEE

Date: June 5, 1978

Place: Room 126, Capitol

Time: 2:30 p.m.

Members: Kay Poland, Chair
John Butrovich, Vice-chair
Chancy Croft
John Huber
Pete Meland
Bill Sumner
Clem Tillion

Attending: unknown

Transcript: documented information on the meeting is not available

Product: no new version of the bill

SENATE RESOURCES COMMITTEE

Date: June 9, 1978

Place: Room 126, Capitol

Time: 1:30 p.m.

Members: Kay Poland, Chair
John Butrovich, Vice-chair
Chancy Croft
John Huber
Pete Meland
Bill Sumner
Clem Tillion

Attending: unknown

Transcript: documented information on the meeting is not available

Product: no new version of the bill

SENATE RESOURCES COMMITTEE

Date: June 14, 1978

Place: Room 126, Capitol

Time: 9:00 a.m.

Members: Kay Poland, Chair
John Butrovich, Vice-chair
Chancy Croft
John Huber
Pete Meland
Bill Sumner
Clem Tillion

Attending: unknown

Transcript: documented information on the meeting is not available

Product: committee substitute for CSHB 960 (Fin) am

APPENDIX C

Interim Committee on Subsistence
Testimony at Public Hearings, 1977

INTERIM COMMITTEE ON SUBSISTENCE
PUBLIC HEARING

Place: Kotzebue; NANA Regional Corporation Museum

Date: September 16, 1977

Time: 3:00 p.m.

Attending:

Committee Members: Rep. Nels Anderson, Jr., Chair
Rep. Steve Cowper
Senator Pat Rodey

Committee Staff: Adelheid Herrmann

Testifying: John Schaeffer, Kotzebue
Lena Sours, Kotzebue
Willie Goodwin, Kotzebue
Keith Lawton
Fletcher Gregg, Sr., Kotzebue
Elvira Downey, Kotzebue
Levi Kowunna, Point Hope
Judith Allen, Kotzebue
Robert Newlin, Kotzebue
Marty Strauss (Mauneluk)

Record: a record of the testimony given at the hearing is on file
at the State Legislative Library

INTERIM COMMITTEE ON SUBSISTENCE
PUBLIC HEARING

Place: Nome Elementary School

Date: September 17, 1977

Time: 7:00 p.m.

Attending:

Committee Members: Rep. Nels Anderson, Jr., Chair

Committee Staff: Adelheid Herrmann

Testifying: Gerald Trigg, Nome
Duane Oozeva, Gambell
Charles Johnson, Nome
Perry Mendenhall, Nome
Dan Thomas, Nome
Nick Wongittilin, Nome
Nancy Mendenhall, Nome, Norton Sound Health Corporation
Teresa Sockpealuk

Registered: Helen M. Fagerstrom, Nome, Resident
Franklin Kanimgak, Gambell, Resident
Mark A. Hoelskin, Nome, KNOM Radio
Nancy Millheisler, Nome, Resident
Brenda Johnson, Nome
Esther Bourdon, Nome, Resident
Rita Hukill, Nome, Resident

Record: a written record of the testimony given at the hearing is
on file at the Legislative Library

INTERIM COMMITTEE ON SUBSISTENCE
PUBLIC HEARING

Place: Glennallen High School

Date: October 3, 1977

Time: 7:00 p.m.

Attending:

Committee Members: Rep. Nels Anderson, Jr., Chair
Rep. Steve Cowper

Committee Staff: Dorothy Larson

Registered: Bill Joe, Chistochina
Chuck McMahan, Gakona
Steven John, Chistochina
Ken Roberson, Glennallen, Dep't. of Fish and Game
Francis Hunt, Jr., Copper Center
Frances Hibble, Kenny Lake, Kenny Lake Community League
John F. Goertz, Kenny Lake
Sterling Eide, Glennallen, Dep't. of Fish and Game
Bud Carlson, Cantwell
Maggie Oliver, Anchorage, Cantwell-Yedatene Na Corporation
Helen Geisert, Anchorage, Chitina Native Corporation
Christine Yazzie, Glennallen
Millie Buck, Glennallen
Wilson Justin, Gakona
Lee Adlen, Glennallen
Clara (Billie) Peters, Gakona
Joe Roach
Sam Agaier, Gakona
Ruth Taylor, Glennallen
Patricia Hunt, Kenny Lake via Copper Center

Record: a record of the testimony given at this hearing is on file
at the State Legislative Library

INTERIM COMMITTEE ON SUBSISTENCE
PUBLIC HEARING

Place: Fairbanks; USO Building

Date: October 4, 1977

Time: 7:00 p.m.

Attending:

Committee Members: Rep. Nels Anderson, Jr., Chair
Rep. Steve Cowper
Rep. Joe Hayes
Sen. Pat Rodey

Committee Staff: Dorothy Larson

Testifying: Harold Gillam, Fairbanks
Jim Kowalsky, Fairbanks, Friends of the Earth
Alfred Fabian, Fairbanks
Bud Wiese, Fairbanks, Interior Wildlife Association
Samuel Demientieff, Fairbanks, Tanana Chiefs Conference
George Matz, Fairbanks, Fairbanks Environment Center
Hardy Smith, North Pole
Dan Rodey
Mrs. Samuelson
Tom Scarborough, Fairbanks, Tanana Valley Sportman's Assoc.
Rosita Worl
Gene Carlson
Dave Snarski, Ester, Alaska Conservation Society
Marian Hao, Fairbanks
Chris Anderson, Fairbanks
David Hawthorne
Mary E. Binkley, Fairbanks
Jonathan Solomon, Fort Yukon, Gwitchyeha Zhee Corporation
Moses Samuelson, Fairbanks
David G. Kelleyhouse, Fairbanks
A. M. Swarner, Fairbanks
T. Stell Nauman, Eagle River, NPS

Registered: Richard Stern, Fairbanks
Bob Rogers, Fairbanks
Jim Kubanyi, Fairbanks
Carole Yazzie, Fairbanks, Deloycheet, Inc.
Mark Baumgartner, Fairbanks
R. Clar, Fairbanks
E. Carlson, Fairbanks
Fred M. Anderson, Fairbanks, Dep't. of Fish and Game
John Wright, Fairbanks
Moris Samuelson, Fairbanks
Keith Samuelson, Fairbanks
Geoff Kennedy, Fairbanks

Record: a record of the testimony given during this hearing is on
file at the Legislative Library

INTERIM COMMITTEE ON SUBSISTENCE
PUBLIC HEARING

Place: Nenana; George Hall

Date: October 5, 1977

Time: 6:00 p.m.

Attending:

Committee Members: Rep. Nels Anderson, Jr., Chair
Rep. Steve Cowper

Committee Staff: Dorothy Larson

Testifying: Mitch Demientieff, Nenana
Lawrence A. Persley, Nenana
Ron Musinginya
Andrew Souders, Clear
Chris Anderson
Steve Matthew, Fairbanks
Mary Demientieff, Nenana
Joe Williams, Nenana
Jeff Kennedy, Fairbanks

Registered: Winnie Charlie, Nenana
Eli Charlie, Nenana
Colleen Loard, Nenana
Paul Esau, Nenana
Danial Betcis, Nenana
Paul George, Nenana
John Gonsazles, Clear
Walter Lord, Nenana
Richard Ketzler, Nenana
Larry Ketzler, Nenana
Victor Lord, Nenana
Henry Ketzler, Nenana
Cathy Demientieff, Nenana

Record: a record of the testimony given at this hearing is on file
at the Legislative Library.

INTERIM COMMITTEE ON SUBSISTENCE
PUBLIC HEARING

Place: Kodiak; Kodiak Borough Assembly

Date: October 17, 1977

Time: 7:00 p.m.

Attending:

Committee Members: Rep. Nels Anderson, Chair
Rep. Joe Hayes
Rep. Steve Cowper
Sen. Kay Poland

Committee Staff: Dorothy Larson

Testifying: Charles Naughton, Anchorage
David "Stick" Morrison, Kodiak
Bill Donaldson, Kodiak
Ivar Malutin, Kodiak
Jack Wick, Kodiak, Pres. of Kodiak
George Binder, Kodiak
Gene Sundberg, Kodiak
Karl Armstrong, Kodiak, Kodiak Is. Conservation Society
Frank Peterson, Kodiak, KANA Exec. Dir.
Dick Wamser, Kodiak
Pete Olson, Kodiak
Fred Zharoff, Kodiak
Jack Christianson, Old Harbor
Larry Matfay, Old Harbor
Alaska Conservation Society: submitted a position paper

Registered: Yvonne Zharoff, Kodiak
Bob Worl, Anchorage
Gust Rastopsoff, Larsen Bay
Thomas Peterson, Kodiak
Janet Wente, Kodiak
Wayne Marshall, Kodiak
Bill Hartman, Kodiak
Ron Brockman, Kodiak
Sylvia Barnes, Kodiak
Bill Berestoff, Kodiak

Record: a record of the testimony given at this hearing is on file
at the Legislative Library

INTERIM COMMITTEE ON SUBSISTENCE
PUBLIC HEARING

Place: Nome; King Island Community Center

Date: October 27, 1977

Time: 7:00 p.m.

Attending:

Committee Members: Rep. Nels Anderson, Jr., Chair
Rep. Al Nakak

Committee Staff: Adelheid Herrmann

Testifying: George Dan, Stebbins
Emma Willoya, Nome
Tomi Schubert, Nome, Student
Eddie Schubert, Nome
Evan Schubert, Nome
Caleb Pungowiyi, Nome, Kawerak, Inc.
Ralph Willoya, Nome
Vernon Kugzruk, Nome
Perry Mendenhall, Nome, Nome IRA Village
Henry Adams, Koyuk, Kawerak, Inc.
Richard Miller, Nome, Situasuak Native Corporation
Roger Seetot, Brevig Mission
Elmer Seetot, Sr., Brevig Mission
Ellie Kulukhon, Nome
Wesley Ahmasuk, Nome
Aaron Simon, White Mountain
Jenny Alowa, Nome
Jacob Ahwinona, Nome
Bill Dann, Nome, NHSC
Tereasa Sockpealak, Shaktoolik
Jeanette Martin, Nome
Sue Matthenis, Nome
John Larson
Ton Ellanna, Nome, King Island IRA and Kewarak, Inc.
Dan Thomas, Nome, NSHC
Carolyn Schubert, Nome, Council Native Corporation
John Waghii, Sr., Nome
Alfred S. Sahlin
Dan Karmun
Bessie Moses, Nome
Della Waghii, Nome

Registered: Charlie Kowchee, Nome, Kawerak
Ralph Kowchee, Nome
Mark Hoelsken, Nome, KNOM Radio
Little Sisters of Jesus, Nome
Charles M. Kokukuk, Nome, King Island TRA
Agatha Kokuluk, Nome
Heinrich Springer, Nome
Ronald Davena, Nome
Bertha Wilkalkia, Nome
Herbert Wilkalkia, Nome
Harold Ahmasuk, Sr., Nome
John Jemewouk, Elim, Elim General Council
Mina Pungowiyi, Nome
Nanci Millheisler, Nome
Chuck Blem, Nome
Mike Willoya, Nome
Jackie Wilson, Nome, Adult Basic Education
Charles Fagerstrom, Nome
Ralph Willoya, Golovin
Andrew Daniels, Elim, IRA Council - Elim
Ruth Wright, Nome
Tersa Smith, Anchorage, State Affairs Commission
Frances Binford, Nome
David Roeng, Anchorage, Counsel, State Affairs
Commission
Jeff Kowchee, Nome
Bernard Kasgnoc, Nome
Brenda Johnson, Nome
Truman Johnson, Nome
Alfred S. Sahlin, Nome, Sitnasusauk
J. J. Pullock, Nome, King Island

Record: a record of the testimony given at this hearing is on file
at the Legislative Library

INTERIM COMMITTEE ON SUBSISTENCE
PUBLIC HEARING

Place: Anchorage Community Center

Date: November 10, 1977

Time: 6:00 p.m.

Attending:

Committee Members: Rep. Nels Anderson, Jr., Chair
Rep. Sam Cotten
Rep. Steve Cowper
Rep. Al Nakak
Rep. Leo Schaeffer
Rep. Joe Hayes
Rep. William Akers

Committee Staff: Dorothy Larson
Adelheid Herrmann

Testifying: Mitch Demientieff
Isaac Juneby
Charles Nelson
Dale Bondurant
Mark Jacobs, Jr.
Judy Rosander
Woodrow Morrison
Irene Catalone
Peter Demoski
Phil Smith
Hank Ostrosky
Andy Jimmy
Phillip Dembroski
Joe Clark
Ed Norman

Record: a record of the testimony given at this hearing is on file
at the Legislative Library.

INTERIM COMMITTEE ON SUBSISTENCE
PUBLIC HEARING

Place: Anchorage; AFN Convention, Westward Hilton Hotel

Date: November 12, 1977

Time: 5:00 p.m.

Attending:

Committee Members: Rep. Nels Anderson, Jr., Chair
Rep. Sam Cotten
Rep. Joe Hayes
Rep. Leo Schaeffer
Rep. Al Osterback

Committee Staff: Dorothy Larson
Adelheid Hermann

Testifying: Byron Mallot
Betty Miller
Rosita Worl
Doug Motig
Carl Jack
Evelyn Pete
Larry Edwards
Luke Titus
Nelson Frank
Bill Wood
Nick Lunde
Dorothy Pegan
Peggy Woodly
Charlie Johnson
Ed Thomas

Record: a record of the testimony given at this hearing is on file
at the Legislative Library

INTERIM COMMITTEE ON SUBSISTENCE
PUBLIC HEARING

Place: Galena; Community Hall

Date: November 12, 1977

Time: 7:00 p.m.

Attending:

Committee Members: Rep. Nels Anderson, Jr., Chair
Rep. Steve Cowper
Rep. Sam Cotten

Committee Staff: Dorothy Larson

Testifying: Roger Huntington, Galena
Ronald Sam, Allakaket
Alfred Attla, Hughes
Norm Yaeger, Galena
David K. anberg
Charlie Rhea
Ivan Sipary, Nulato
Harvey Stranberg, Galena
Gerald Walker, Holy Cross
Sam Demientieff, Fairbanks

Registered: Harold Semaken, Galena
Russ Griffin, Galena
Edgar Nollner, Jr., Galena
Goodwin J. Semaken, Kaltag
Sanders Cleaver, Galena
Bruce Barber, Galena
Nicholas Grimaldi, Galena
JoAnn Grimaldi, Galena
Margaret Hegarty, Fairbanks
Jo Meacham, Fairbanks
Al Yatlin, Fairbanks
Bergman Moses, Galena
Alfred Evan, Galena
Robert Thurmond, Galena
Roland Quimby, Galena
Bill Demoski, Galena

(continued on the following page)

Registered: John Starn, Galena
Harry Pitka, Galena
Marjorie Attla, Galena
Lorraine Vent, Galena
Annie Vent, Galena
Larry W. Beary
Frank Thurmond, Galena
Jack Haklulen, Fairbanks

Record: a record of the testimony given at this hearing is on file
at the Legislative Library.

INTERIM COMMITTEE ON SUBSISTENCE
PUBLIC HEARING

Place: Juneau; ANB Hall

Date: December 9, 1977

Time: 7:00 p.m.

Attending:

Committee Members: Rep. Nels Anderson, Jr., Chair
Rep. Leo Schaeffer

Committee Staff: Dorothy Larson

Testifying: Robert Willard, Juneau, Tlingit-Haida Central Council
Amy See, Juneau, Sealaska Corporation
John Norton, Haines
Cliff Lobaugh, Juneau, Sierra Club

Registered: George See, Juneau, Sealaska Corporation
Vic White, Juneau, SEACAP
J. E. Leisu, Juneau, Southeast Alaska Empire
Harold Howard, Douglas
Peter Williams, Juneau, ANB

Record: a record of the testimony given at this hearing is on file at
the Legislative Library.

INTERIM COMMITTEE ON SUBSISTENCE
PUBLIC HEARING

Place: Barrow; North Slope Borough Assembly

Date: December 12, 1977

Time: 7:30 p.m.

Attending:

Committee Members: Rep. Nels Anderson, Jr., Chair
Rep. Leo Schaeffer
Rep. Sam Cotten

Committee Staff: Dorothy Larson

Testifying: Eben Hopson, Barrow, Mayor, North Slope Borough
William Thomas, Barrow, Arctic Slope Regional Corporation
Daniel Leavitt, Barrow, Whaler
Michael Jeffrey, Barrow, Barrow Office, ALSC

Registered: Eugene Brower, Barrow, North Slope Borough, Whaler
Morgan P. Soloman, Barrow, Alaska State Human Commission
Eugene S. Lawn, Juneau
Diane Baum, Barrow
Jonah Leavitt, Barrow, Hunter
Zachariah Alumalak, Barrow
Morgan A. Sakeagak, Barrow

Record: a record of the testimony given at this hearing is on file at
the Legislative Library.

ALASKA PUBLIC FORUM
PUBLIC WORKSHOP ON SUBSISTENCE

Place: Dillingham

Date: October 3, 1977

Attending:

Speaking: Governor Jay Hammond
Nancy Brunck, Anchorage, Moderator
Frank Woods

Registered: Bill Luria
Sue Green
Adelheid Herrmann, Staff, Interim Committee on Subsistence
Dave Cereson, Dillingham, City Council
Jim Bingham, Dillingham, City Council
Duane Bell, Dillingham, City Council
Gordon Ryan, Dillingham, City Manager
Harvey Samuelson, President, Bristol Bay Regional Corp.
Two employees of the Department of Fish and Game

Record: a record of the testimony given at this workshop is on file at
the Legislative Library.

HOUSE FINANCE COMMITTEE

May 12, 1978

1:30 p.m.

All members of the Committee were in attendance, except Chairman Cowper and Representative Swanson. Representatives Duncan, Buchholdt, Schaeffer and Gruening arrived later in the meeting. Also in attendance: Representative Nels Anderson; Judy DuBois, Administrative Officer, and Naomi Kipp, OSHA, Department of Labor; Commissioner Ron Skoog and Bob Rausch, Director, Division of Game, Department of Fish & Game. Those testifying on HB 960: Roger Lang, Vice President, Alaska Federation of Natives, Sealaska; Ross Soboleff, Rural Cap, Tlingit-Haida Central Council; Bob Lohr, Director, Upper Tanana Development Corporation; Lloyd Telfon, Native Student Organization, UA Anchorage. Also: Bob Schroeder, Fiscal Analyst, Legislative Finance Division.

PRESENT

Vice Chairman Freeman call the meeting to order and stated the first bill up for consideration is HB 920:

HB 920

"An Act making FY 78 appropriation adjustments for the Department of Labor, OSHA; and providing for an effective date."

[Representative Duncan arrived at this time.]

Ms. DuBois testified briefly regarding the change in status of the federal funding ratio of the OSHA program from 50% to 90%, with the State now contributing 10%. She advised this results in a substantial savings to the general fund. However, she added, the Department is in need of additional funding to expend the claims awards approved by the Fishermen's Fund Advisory and Appeals Council, to meet the increased cost of medical payments and for payment of disability awards, training and related costs incurred in FY 78. She discussed the Training and consultation areas of the OSHA program with regard to increased expenses. In answer to a question, she indicated the Department's intent is addressed in the workdraft of the Finance Committee Substitute for HB 920 and that she finds no problem with it.

At this time, Vice Chairman Freeman asked Mr. Schroeder to explain the workdraft of the Finance CSHB 920.

Mr. Schroeder advised the workdraft consists of the original bill, which reflects the change in the federal funding ratio, plus two additional requests; one, a \$35,000 appropriation from the Fishermen's Fund to the Department for payment of claims awarded in FY 78, and (2) a

\$254,800 appropriation from the Second Injury Fund to the Department for the payment of disability awards, training and related costs for FY 78.

In answer to a question, he explained the OSHA program is made up of five components: General Administration, Compliance Inspection, Health Inspection, Training and Consultation, and Planning and Standards. He advised the \$61,700 appropriation increase results from an increase of \$122,900 in federal funds, with a net reduction of \$61,200 in matching general funds that will lapse effective with this bill.

[Representative Buchholdt arrived at this time.]

In answer to a question regarding Section 8 of the work-draft, Ms. DuBois replied the Department has an agreement with the insurance company, whereby the Department reimburses them. She discussed the State's liability to ALPAC.

Representative Duncan moved and asked unanimous consent that Finance Committee Substitute for HB 920 be reported out. There being no objection, it was so ordered. Finance CS for HB 920 was reported out with a "do pass" recommendation.

FINANCE CS
FOR HB 920
REPORTED OUT

[Representatives Schaeffer and Gruening arrived at this time.]

At this time, Vice Chairman Freeman appointed Representative Duncan chairman of a special subcommittee to review HB 908 (Telecommunications). He advised Representatives Meekins and Brown and one other person would also serve. He requested the subcommittee report back to the full Committee on Monday morning May 15.

SUBCOMMITTEE
ASSIGNMENT
HB 908

The next bill to come before the Committee was HB 960:

HB 960

"An Act relating to fish and game management."

Mr. Rausch presented testimony on behalf of the Department of Fish and Game. He stated, in general, the Department opposes HB'960. He then cited specific sections of the bill (see attached) which the Department objects to and explained the reasons why.

RAUSCH
TESTIMONY

Representative Buchholdt requested that Commissioner Skoog appear before the Committee. Vice Chairman Freeman asked if it were possible for him to make an appearance today. Mr. Rausch then made a telephone call, and informed the Committee that Commissioner Skoog would arrive shortly.

Representative Meekins solicited the Department's views regarding the creation of the Division of Subsistence. Mr. Rausch stated they objected to the director of that division being appointed by the Governor. He advised, as outlined in the bill, this division appears to be separate from the Commissioner, which would cause problems in coordinated management. He pointed out the other division directors are appointed by the Commissioner--a position the Department supports. He further added the Department feels it can accomplish the intent of HB 960 within the existing organization, provided support funding is made available. Discussion followed, with Representative Meekins stating the purpose in creating the Division of Subsistence is to reorient the Department's priorities. Mr. Rausch commented, since 1972-73, subsistence has been the highest priority in the Department.

The definition of "barter" was discussed, with Mr. Rausch explaining the Department recommends the language contained in SB 506 ("...to exchange, trade for, or otherwise give and receive subsistence-taken fish or game or their parts in exchange for other subsistence-taken fish or game or their parts."), as opposed to the definition presently in HB 906 ("...the exchange or trade of fish or game taken for subsistence uses for valuable consideration other than money."). He stated the Department feels the former sticks more closely with the terms of "barter", and that the latter is not in this context. He commented "valuable consideration" could mean a snowmobile, etc., and that this would be opening up a "Pandora's box". Discussion followed, with Representative Buchholdt indicating the definition should be more broad to include such things as articles of clothing and food; while the Department maintained the definition should be more "traditional". The commercial aspect of "barter" was further debated.

[Commissioner Skoog arrived at this time.]

Representative Meekins referred to Section 16.05.221(a)(b) and asked why the Department is opposed to this. Mr. Rausch answered that, initially, the bill contained certain language which the Department felt made membership of the Boards of Fisheries and Game biased. He pointed out this does not pertain to the current Resources committee substitute, where that language has been omitted.

There was discussion on Section 7(c) of the bill, where the Department recommends deletion. Mr. Rausch stated this is a subjective matter, in that no consensus exists among user groups in determining when the season should be cut off. There was discussion on the definition of

"edible". Representative Guy gave a brief description of his life as a child with regard to subsistence hunting. Mr. Rausch commented, if item (c) is adopted, the Board of Game would not be able to accommodate the user group--use by the local people. He stressed the Board needs this flexibility.

Commissioner Skoog commenting on the palatability of game, used the moose as an example, and stated the larger animals are not as edible as the younger calves. But, he pointed out, there would be a lack of concensus as to which is edible. Representative Schaeffer requested the Department provide the Committee with information as to how they arrive at a concensus. Representative Haugen commented, when the rutting season was the open hunting season in Sitka, the hunters were taking only the antlers and leaving the carcass.

SKOOG
TESTIMONY

In answer to a question regarding the Department's position the creation of the Division of Subsistence, Commissioner Skoog replied this allows for a special appointment of the director by the Governor. He indicated this arrangement sets aside subsistence in a kind of special category--a line that exists outside the power of the Division of Game. He stated this would foster a lack of control and continuity, and he advised the Department is currently working on a departmental reorganization. In answer to a question, he advised there are four divisions within the Department, plus the Division of Administration--the operating division; Division of Game, Division of Sport Fish, Division of Commercial Fisheries and Division of FRED.

Representative Meekins commented he understood the Department's objection but that it would seem reasonable for the Department to appoint a Division of Subsistence, as they maintain it is their number one priority. Commissioner Skoog replied the Department feels this is not necessary as they can meet the needs of subsistence within the Division of Game. He stated he would prefer appointing a special assistant to the Commissioner--Special Assistant for Rural Affairs--who would function as a liason between the rural areas and the Department and who would look after the resources and identify surpluses that can be made available to the various users. He noted setting up another division along these lines would be a duplication of effort and mean more people and more funds; he feels the Division of Game is sufficient to handle the subsistence matter. In answer to a question, he stated this is currently being considered in the reorganization of the Department and noted the appointment of a Special Assistant for Foreign Affairs is also in the planning.

Representative Meekins commented he feels the subsistence question should be solved statutorily this year, as opposed to waiting until next year. He cited the possible replacement of the Administration, Legislature, etc., as being the reason. Discussion followed, with Commissioner Skoog noting the Legislature could put out a directive to the Department regarding subsistence. He also commented there should be new definitions for "subsistence users", "barter", "subsistence fishing", etc. In discussing the meaning of subsistence, Commissioner Skoog stated HR 39 was to preclude those people who move in to live off the land. He further stated, based on this definition alone, it would mean that anyone qualifies as a subsistence user.

Representative Guy commented on those people taking away game from the Native users, particularly in the Yukon-Kuskokwim area. Commissioner Skoog concurred in this but stated the constitution forbids discrimination against users. He stated the regulation of the use of aircraft should help the situation but noted the Department does not have the enforcement capability. Representative Guy commented this practice has been much too permissive.

Commissioner Skoog commented there is a restriction on the taking of moose and caribou in the the Yukon-Kuskokwim area, but no restriction on other animal species. He stated there are simply not enough moose and caribou. There was discussion on establishing quotas, with Commissioner Skoog advising this has been wherever possible. He further commented aircraft hunting is a definite problem, but that it is the snowmobile which really does the damage.

Representative Schaeffer stated restricting the users presents problems and asked about replenishing the herds. Commissioner Skoog discussed the natural fluctuation in the herds which is typical in wild species, but advised nothing is gained in a transplanting method. He further advised human utilization and the wolf are the only ways the Department has to control the threat to moose and caribou. In answer to a question, he replied, with big game animals the cycle of a herd may be over a period of 25-30 years, where they experience various highs and lows. In answer to a question, he advised disease is a factor in the thinning of a herd, but it is not the only factor. He advised the Department does have projects on moose and caribou.

With regard to Section 11, and the Department's recommendation for deletion, Commissioner Skoog answered a question by stating this requires that "The department shall investigate every petition or request...", which

means they would have to do this. He explained this would shift their entire effort and place a constraint on the Department. Representative Guy commented this is why a separate division is needed.

Representative Buchholdt asked if there were any problem with the definition of "family", page 7, lines 28-29, and Commissioner Skoog answered he has no objection to that at all. Representative Buchholdt then asked if the food could be transported from one area to another, and Commissioner Skoog replied that is permitted now. He added the problem stems from the term "barter", in that moose are being taken illegally and transported from one area to another. Mr. Rausch stated, in the transportation of game, there has to be some sort of certification, such as a letter.

At this time, Mr. Lang testified in favor of the bill. He stated all management of historic data points out there is a crisis as this relates to subsistence hunting and fishing--there is no management; no organization of subsistence hunters and fishermen; no protective mechanism for their voice to be heard. He discussed Title 7 in HR 39 and also indicated there is a period of 18 months after HR 39 is passed before there is federal management in the State of Alaska.

LANG
TESTIMONY

He advised he is more concerned with the overall policy regarding subsistence, rather than definitions, and strongly urged passage of the bill. He stated: "Pass the law; then you can amend it; but we need this now."

Vice Chairman Freeman asked Mr. Lang to comment on the director of the subsistence division being appointed by the Governor. Mr. Lang answered he understood the Department's objection to that portion of the bill and advised, "If this will kill the bill; then amend it."

Representative Gruening brought up the definition of "barter", stating SB 506 might be too restrictive, but it should not be defined too broadly, because then you get into the commercial aspect. Mr. Lang stated there shouldn't be that much of a problem, if you establish what you mean in intent. He added it wasn't so much the overfishing, but the misuse of the roe that resulted in the tight definition of "barter" in SB 506. There was further discussion, with Mr. Lang stating the AFN believes the best use of the resources "is for someone to eat."

Representative Anderson advised he concurred with Mr. Lang's testimony and stated he would answer questions from the Committee at this time. He commented he has put a lot of time into HB 960 and that it is a culmination of 10 month's work.

ANDERSON
TESTIMONY

Representative Gruening asked him to explain his position regarding the differences on the definition of "barter" in SB 506 and HB 960. Representative Anderson referred to Section 16(e) of the Resources CS, and stated the Boards of Fish and Game have the power to restrict barter, except where traditional. Vice Chairman Freeman commented he can see problems with barter in almost everyway you go. Discussion followed.

Commenting on the selection of the director of subsistence hunting and fishing, Representative Anderson pointed out it was his opinion the Commissioner should appoint this director. He noted, however, during the teleconference on subsistence, the public wanted the Governor to select a director; this is a direct reflection of public testimony. He commented he feels the safest thing to do, politically, is to change this and said he would have no hesitation in doing so. He stated he feels the Commissioner has done a good job, considering his longevity in the job, and feels he should have a chance to do the job.

Mr. Soboleff testified briefly at this time. He stated the Rural Cap board met and passed a resolution in support of HB 960. He noted subsistence has been a high priority of Rural Cap this session and that he agreed with the testimony of Mr. Lang.

SOBOLEFF
TESTIMONY

Next to testify in support of HB 960 was Mr. Lohr. He discussed the areas where people do not have access to "cash economy". Representative Rhode asked how he felt about the suggested amendments, and Mr. Lohr answered he feels it is a good bill either way--that the main purpose is to establish subsistence as the highest priority.

LOHR
TESTIMONY

Mr. Telfon, from Eagle River, testified the student government endorsed this bill to see that the State meets its responsibility in the area of subsistence. He commented he testified against the subsistence director being appointed by the Commissioner, but that he is not "hung up" on this, and would not be opposed to its being amended. He discussed "barter", stating in his area, they depend a lot on trade with the rural students. He commented sometimes they have something fresh and trade that for seal oil or dried fish or something that they need that others might have. Brief discussion followed.

There being no further testimony to be presented, Vice Chairman Freeman appointed Representative Gruening, chairman, of a special subcommittee to review HB 960 and to come up with a compromise definition on "barter" and report back to the full Committee on Monday, May 12. He asked that Representative Schaeffer and whoever else wished to work with Representative Gruening do so. Representative Anderson volunteered his services.

SUBCOMMITTEE
HB 960
APPOINTED

The meeting adjourned at 4:40 p.m.

ADJOURN (

HFC 78-110 #1496 - End
78-111 #0001 - End
78-112 #0001 - #0948

HOUSE FINANCE COMMITTEE
May 15, 1978
8:45 a.m.

All members of the Committee were in attendance except Representatives Buchholdt and Schaeffer. (Several members arrived later in the meeting.) Also in attendance was Representative Anderson.

PRESENT

Vice-Chairman Freeman called the meeting to order and brought HB 960 up for consideration.

HB 960

"An Act relating to fish and game management."

Representative Gruening presented proposed amendments to the Committee Substitute. He advised that one amendment deals with the appointment of the director of the Division of Subsistence Hunting and Fishing, and changes it from the Governor to the Commissioner. He stated there were two other amendments; one replaces section 7 (c), and the other replaces section 17 (27).

Representative Gruening moved to report out a finance committee substitute for HB 960 incorporating these three amendments. There being no objection, it was so ordered. CSHB 960 was reported out with a "do pass" recommendation.

HB 960
REPORTED
OUT

Representative Gruening stated they didn't examine the fiscal note for HB 960, but they might want to cut it down somewhat. He suggested that the fiscal analyst check over the fiscal note and revise it. No objection.

(Representatives Cowper and Duncan arrived.)

Chairman Cowper stated they would continue working on the CAPITAL BUDGET, in EDUCATION.

CAPITAL
BUDGET
EDUCATION

Chairman Cowper moved to add \$100.0 to the Public Broadcasting budget for the cost of equipment line in Ketchikan, Wrangell, and Petersburg. There being no objection, it was so ordered.

TRANSPORTATION

TRANSPOR-
TATION

Representative Freeman stated in the Capital Budget for Transportation, the majority of the projects are included in the bond bill (HB 711). There was discussion on bond bills. Chairman Cowper stated these would be taken up last.

(Representative Meekins arrived.)

5/15/78

HOUSE RESEARCH AGENCY
Pouch Y - State Capitol
Juneau, Alaska 99811
465-3991

MEMORANDUM

DATE: February 16, 1982
TO: Files
FROM: Leslie Longenbaugh
RE: Research Performed Out of Sequence

Research request # 82-37 was filled before other requests preceding it for the reason or reasons checked below:

Other prior requests assigned to me were ones for which legislators had indicated no pressing need and flexible deadlines well into the future. This request had a firm deadline, i.e. could not be extended and was not set by the legislator making the request. Examples of such deadlines are the deadline for introduction of personal legislation and scheduled committee hearing dates.

The hours required to complete this request were minimal and the work could be done without significantly delaying work on other projects.

More than one request by the same legislator had been assigned to me. The requesting legislator indicated that this request had higher priority than the others he/she had made preceding it.

I was awaiting clarification or further direction from legislators on requests made prior to this one.

Data necessary to complete other research requests preceding this one had not been received.

No partisan considerations or preference to legislative leadership was a factor in the decision to perform work on this request out of sequence.

Additional Comment:



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 25, 1982

MEMORANDUM

TO: Representative Tony Vaska

FROM: Leslie Longenbaugh, Research Staff ^{LL}

RE: Legislative History of ch 151 SLA 1978
Research Request Number 82-37
Additional Information

In going through my files this afternoon I discovered the enclosed copies of telegrams and other correspondence relating to HB 960 (1978). These pieces of correspondence came from a file marked "HB 960" given by Senator Kay Poland, Chair in 1978 of the Senate Resources Committee, to the Legislative Library. Presumably, they were sent by their authors to her office during her committee's consideration of HB 960 in June 1978.

Although such letters and telegrams are not precisely testimony, they do constitute the communication of a position on the bill and so may be of interest to you. I apologize for having overlooked these materials when I sent my memorandum of February 16. Please let me know if I can be of further assistance.

LL/bf

Attachments: Memorandum from Ken Fanning, REAL Alaska Coalition
Position paper from Sidney Huntington, REAL Alaska
Coalition
Three letters from Commissioner Skoog, State Dep't. of
Fish and Game
Five telegrams concerning HB 960, sent in June 1978

The REAL Alaska Coalition

Regional Offices
Box 4 1977
Anchorage, Alaska 99503
(907) 278 4379

P.O. Box 28229
Fairbanks, Alaska 99703
(907) 479 4193
(907) 473 6602

Box 3072 R J
Juneau, Alaska 99801
(907) 586 6111

DATE: May 25, 1978

TO: All Alaskan State Representatives
and Senators

FROM: The REAL Alaska Coalition
Board of Directors

Member Groups

- Alaska Chapter Safari Club International (Anchorage)
- Alaska Fur Trappers Association (Tot)
- Alaska Gun Collectors (Anchorage)
- Alaska Professional Hunters Association (Anchorage)
- Alaska Rifle Club (Anchorage)
- Alaska Sports & Wildlife Club (Ketchikan)
- Alaska State Rifle & Pistol Association (Anchorage)
- Alaska Waterfowl Association (Anchorage)
- Baranof Rifle & Rifle Club (Sitka)
- Chena River Sports Club (Fairbanks)
- Chitina Dismanters (Fairbanks)
- Coalition of Interior Alaska Outdoorsmen (Fairbanks)
- Eagle River Sportsmen Preservation Association
- Essement Defense Fund (Anchorage)
- Interior Alaska Trappers Association (Fairbanks)
- Interior Wildlife Association of Alaska (Fairbanks)
- Isaac Walton League (Anchorage)
- Juneau Rifle & Pistol Association
- Kodiak Rifle & Pistol Association (Palmer)
- Moose Pass Sportsmen Association
- Nome Sportsmen Club
- Old Sitka Trap Club
- Petersburg Rod & Gun Club
- Sitka Sportsmen Association
- Sno Shoe Gun Club (Kenai)
- TVS Rifle & Pistol Club (Fairbanks)
- Tanana Valley Sportsmen Association (Fairbanks)
- Territorial Sportsmen (Juneau)
- Totem Shooters (Eagle River)
- Upper Kuskokwim Sportsmen Association (McGrath)

We would like to take this opportunity to introduce ourselves, and to share with you some of our viewpoints in regards to our fish and game resources and the majority of sportsmen's/conservation organizations in Alaska.

We would appreciate it if you could personally keep us advised of legislation relating to fish and game resources, management, and any of our member groups.

We realize it is late in the session. We apologize for not having organized sooner, but we are together now, and have an efficient pipeline of communication to our thirty-six (36) member organizations throughout the State. Although spontaneous communication is possible, we do make weekly mailings which should, in most circumstances, handle any opinions or responses to questions you may have of us.

We urge you to review the results of Statewide hearings conducted by the Department of Fish and Game, and the enclosed testimony by Sidney Huntington (given in Galena in April, 1978, and before the Senate Energy and Resources Committee in Washington, D.C., on May 23, 1978), prior to any decision on legislation pending in the State legislature relating to either D-2 legislation or fish and game management.

We have a full-time office in Fairbanks, and coordinating points in Anchorage and Juneau. Our hours are 9:00 to 5:00, Monday through Friday; and our address is P.O. Box 73478, Fairbanks, Alaska 99707. Our phone number is 479-3367.

If you would care to further discuss these or other issues, please contact us at any time.

Thank you very much.

Sincerely,

Ken Fanning
Director, (1 of 4)

Encl.

The REAL Alaska Coalition

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 Box 4-1932
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 (907) 274-4359

P. O. Box 80929
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 (907) 479-4383
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Member Groups

Alaska Chapter Safari Club
 International (Anchorage)
 Alaska Fur Trappers Association
 (Tok)
 Alaska Gun Collectors (Anchorage)
 Alaska Professional Hunters
 Association (Anchorage)
 Alaska Rifle Club (Anchorage)
 Alaska Sports & Wildlife Club
 (Ketchikan)
 Alaska State Rifle & Pistol
 Association (Anchorage)
 Alaska Waterfowl Association
 (Anchorage)
 Baranof Pistol & Rifle Club (Sitka)
 Chena River Sports Club
 (Fairbanks)
 Chitina Digniters (Fairbanks)
 Coalition of Interior Alaska
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 Tanana Valley Sportsmen
 Association (Fairbanks)
 Territorial Sportsmen (Juneau)
 Totem Shooters (Eagle River)
 Upper Kuskokwim Sportsmen
 Association (McGrath)

Sidney Huntington, an Athabascan Indian, struck out on his own trapline, by himself, at age twelve. He earned his own living even at that age, and is completely self-taught. His formal education stopped at the third grade.

From that beginning, Sidney has lived from the land, and grown in every aspect of human development. Today, after more than sixty years of self-teaching and application, he and his wife have a grown family of twelve sons and daughters (one son won the world's longest dog sled race, the Iditarod, a few years ago; another is on the Alaska Board of Fish; one is President of Doyon, Ltd., the largest land-holding corporation in the world); a daughter is attending the University of Alaska, and Sidney runs a small, but thriving mercantile company in his home in Galena. He is still famous for his hand-crafted wooden river boats which ply the Yukon and helps hundreds of natives make a living from the fishery resource. He offers a fish-buying service for the middle Yukon.

For thirty-five years he earned a living from the land and from fish and game resources, hunting, fishing, and trapping. All of his life he has been intimately involved with individual self-sufficiency and local uses and users of fish and game. He knows the people and he knows the resources.

Just as he has shown a deep concern for proper education of future generations of Alaskans by devoting some eighteen years of service on various school boards; he likewise shows a deep concern for the fish and wildlife resources for all Alaska, has served first on the Joint Boards of Fish and Game in 1957 and since that time on the Alaska State Board of Game.

Jim Rearden, a well-respected outdoor writer, most knowledgeable game manager, current and past member of the Alaska Board of Game pays Sidney a most worthy compliment, "I have watched and been actively involved with fish & game management policies in Alaska since statehood, both as a department employee, and for the past twelve years, as a board member. Without qualification or reservation, I can say Sidney Huntington is by far the best Native representative we have ever had on either board for nineteen years, since inception as a State." Jim goes on to explain, "to him, the resources are of primary importance, and he is equally concerned about all of Alaska."

Sidney speaks with frankness and a far-sighted wisdom which Americans would do well to heed.

My name is Sidney Huntington. My address is P.O. Box 49, Galena, AK 99741. I've lived in Alaska for 60 years. For 35 of those years, I made my living by trapping and hunting. Presently, I own and operate a small retail business in Galena. During the summer I do commercial fishing and also buy and sell fish commercially. I am presently serving on the Game Board of Alaska. I also have served as a member of different school boards for the past 18 years. Right now I belong to the Galena City School Board.

I find myself in a rather difficult position developing testimony to what I consider counteracting our Federal Government because of some very undesirable conditions and situations they seem to want us to live by and with in the future. Conditions promoted by politicians, mostly from the Lower 48. Things such as the D-2 Bill or what have you - all brought upon us by a compromised Land Claims Settlement Bill. The results of a mass of rotten politicians maneuvering against the voting citizens of Alaska. *Since The Bill Passed*

Alaska is large and in the state there are many different conditions. At times it calls for different methods of handling situations at hand in each separate area. For instance, the Eskimo living in the Point Barrow area hasn't the slightest idea how the Eskimo in the Chevak area lives.

You have the Indians in the Interior who used early day methods and had a more primitive live that can in no way compare with either the Eskimo of the South or on the Chän. Go to the sub-areas of Anchorage or any other larger city, no one way of life is exactly the same as another. Only that he or she is alive. Yet Mr. Udal's or whoever's bill, we may have to live by, applies to all who lives on or off this land. Sounds like some quack doctor prescription - what's good for one is good for all until you are all dead.

To put subsistence into practice before attempting to define it or say how you are going to use it, where you are going to use it, and who is going to use it will make it much harder to define. Everybody needs it now and then.

There are possibly areas where you may not have much trouble applying more subsistence if it was the people's desire to eliminate what little they now have. It might do right well along coastal areas. I've never lived there, though I am sure no resource can stand up anywhere under pressures that this fast moving new way of life man has developed. It destroys the habitat and eliminates the resources. Keeping up with the Joneses takes more dollars than it use to. How you acquire those dollars, who is to care? You have the right given you by subsistence to use that God given resource until it is no more. Blame the Department of Fish and Game when it is gone. It has got to be their fault.

I can in no way see the complete management of the resources and habitats by local control, by however many regions you want. I can see it on an advisory capacity regionally or on an area wide basis made up of people with a high concern for the resources and not for themselves. The people would be trained by the Department of Fish and Game to function as a board, to operate in the most productive manner and to get the most out of the habitat and fish and game resources. These resources are products that are renewable, almost yearly sometimes. They have been used as food and have been the very livelihood of people over many years in the past. With proper management and much effort, these resources would and should feed many more, for years to come.

One of the biggest factors against these very game resources is in most areas. The people themselves, living in their own areas, are over-hunting, hunting out of season, and killing unnecessarily, at times. These factors and many more boil down to destruction of our resources

Looking back over the years, I see two outstanding factors that almost eliminated two species of game. One is the geese on the Huslia and Dalby Rivers. The numbers of those geese are still not yet up to its normal level or what it used to be. We used to hunt those geese about the 20th of July when the older

geese or the goslin could not yet fly. We killed hundreds of them with clubs and ground-sluiced them with shotguns. In a very few years, there were no more. What brought this on? The outboard motor did. When an outboard motor you could cover hundreds of miles over night and see hundreds of geese. The old Indians used only birch bark canoes, only going a short distance getting just a few geese from one flock. They did not hurt the resource.

The beaver is the other animal which was almost eliminated. I remember so clearly, in the early 1900's, beaver pelts were selling at high prices, about \$6.00 each. Heavy shooting with rifles was used to take the beaver, both in the fall and the spring. The beaver was almost eliminated by 1922. At that time the law stepped in - I mean LAW - The season for harvesting beaver was closed - Period. By 1926, it reopened only to have it closed again. The take was heavy as the price was up to \$40.00 each. They opened the season again in 1929 for trapping only. Again, the expert subsistence user got his 22 rifle out and began crack shooting the beaver in the eye or the mouth leaving no bullitt mark anywhere. A high take out on the Innoko River was 140 beaver for a short spring hunt. The local Game Warden at that time was Sam White whom many people highly respected. He put into effect the now standing season, March 31 - with all beaver being tagged and sealed within 30 days. He went from camp to camp or village and taught anyone interested how to trap beaver. That set is still being used today. I do say the population of beaver is good today because, it was caught in time to make a recovery. So, I say again, be careful with subsistence. The above people were much more dependent on subsistence at that time than we are so today, but greed got the best of them. I know because, I was one of them.

To say local management and control would be sure death to our available resources. Greed alone is cutting them short. With all the high powered mechanized equipment that is readily available, the resources have nocchance. When the good Lord created Alaska, he did it so as to provide for a certain number of people who could exist on the resources this land could provide, I am sure.

4
With modern methods and means, a good portion of the resources
: been reduced due to the high priority given the dollar.

most of the gold gone, nearly all of the salmon gone at one
it, the timber going, only one noticeable item seems to grow
number each year. That is the people, demanding more from
fast depleting resources. All demanding the same right to
all of the fish, all of the game, all of the time.

With the people here now, and more coming all the time, our
h and game is not going to stand the pressure. To top it
, we even let any foreigner from other countries load up with
s and ammo to roam at will, to destruct our game and possibly
: habitat. No questions asked.

The members of the Game board are unable at times to cope
th do-gooders in the Lower 48 and in Alaska. We have our hands
ed by Wolf lovers with warped minds- most likely warped by
annunistic teachings to disrupt our way of life.

The harvest of moose is heavy and getting heavier each year
adding more hunters from all directions - with the wolf taking
very healthy share. The do-gooders have done their best to
srupt our efforts to manage predator control. This control
a proven tool. To manage and maintain a good healthy number
moose and other game by thinning out a few wolves which is
very valuable fur bearing animal. Not a big game species,
unless you want your dog classed as big game also.

The Federal government D-2 land or what ever concept is
deoted, the management of our fish and game should be done by
he State of Alaska. Preferably by a game board or whatever, to
nclude predator control on all land in Alaska, not to eliminate
ut control to maintain the resources with high priority given
o any part of the game resource showing signs of weakening.

I feel it is very unconstitutional to use the word subsistence
to define the way of life of one person over another. Being so
our government says we do just that, it seems that we are being
forced to discriminate against each other both here in Alaska and
other citizens who make up the U.S. A very undesirable condition.

Remember, over-practice of subsistence in some areas, when
made into law, eliminates certain species in that area because

it will be over exercised and will mean ruination to most other resources and habitats also.

Those that promoted the concept of subsistence so strongly are not going to shoulder the blame, but will put the blame directly on the Department of Fish & Game whether it is in operation or not. I feel sure that the Dept. of Fish & Game is being forced to accept whatever concept is adopted - That concept could be rotten.

Who is eligible for subsistence? I am sure there is no way anyone could define it so it will be honest and fair to everyone in an area or region. If there were no one getting food stamps or on welfare, it would be somewhat easier to determine who is eligible for subsistence.

Our older people are a thousand times better off than they were in say 1925, which I am sure they deserve.

Is a man, 35 years old, with a family of ten and has a small income more eligible than a man, 50 years old, with a family of three? If a man lived in Alaska for 60 years and had a healthy income but used subsistence type food all of his life, is he cut off from subsistence? Where does the well-to-do or somewhat wealthy woman that has supplied food for her family all her life from the local resources stand?

There are many more ^{many of the same} circumstances to confront us. Each one is just as discriminative as any other you might want to bring up. I see no fair way or means to really honestly define subsistence for one citizen over another. It is a task like it would be to tell one of my children that he should get more than the other.

Our fish and game should be managed by the State of Alaska Game board and State what have you. There should be well trained advisory boards on a regional basis. They will be on an advisory capacity only. The training to be done by qualified staff or personell.

More active Field Law Enforcement officers are needed to enforce the laws. Foreigners from other countries should not be allowed to hunt without a guide to roam free our land and to destroy our game. Our game can not be killed to leave the meat rot in the field.

If, under any adopted subsistence regulation, it is found that our fish and game resources will not maintain a productive level because of over hunting by any hunters, subsistence or otherwise, ~~issuing~~ ^{issuing} subsistence permits could be issued or else all hunting stopped. This would provide the ^{desireable} amount of subsistence needed. The subsistence regulation that is adopted will determine how much subsistence is needed. *W. Hoff*

I do not think any law has been made that says the State of Alaska or the Department of Fish & Game deprives anyone the use of the resource as a subsistence need. There are regulations that say you must do things in season. All seasons should be recognized if we are going to preserve our resources. Even if the subsistence law was passed, you still should have to abide with the law. I don't see any gain in not doing so. To break the laws would promote hardship on the so-called subsistence user in the future. The season for harvesting the animal resource, that is getting fewer in number would have to be closed, until their population regained to a desired level. Don't kill just because you may have the right as a subsistence user to do so.

I can't foresee our Federal Government and the people who help run our United States be so small minded as to want us citizens of the U.S. because we live in Alaska to accept such undesirable legislation. I am sure in many instances that it could be fatal to some if not all our fish and game resources.

Thank you for letting me express what I feel.

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

SUPPORT BUILDING
JUNEAU 99801

June 7, 1978

The Honorable Kay Poland
Senate Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Poland:


It has just come to my attention that there would be one other discrepancy in the current Title 16 statutes should the present CSIB 960 pass in the legislature. A change would be necessary in AS 16.05.940 Definitions relative to definition number (17) "subsistence fishing." Presently this definition reads as follows:

(17) "subsistence fishing" means the taking, fishing for, or possession of fish, shellfish, or other fishery resources for personal use and not for sale [OR BARTER] with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

It would be necessary to eliminate "or barter" from this definition in order to comply with the language in CSIB 960. Actually it would be well to eliminate these words from that definition regardless of whether the bill passes or not, because it has caused numerous problems with our enforcement people in many areas of Western Alaska where barter has been a traditional activity. If this latter action were taken, then the definition proposed for "barter" should be added to the section.

Sorry for not having addressed this problem either in my testimony or in my June 6 letter. Thank you for your consideration.

Sincerely,


Ronald O. Skerfving
Commissioner

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

SUPPORT BUILDINGS
JUNEAU 99901

June 6, 1978

The Honorable Kay Poland
Senate Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Poland:

I would like to comment further upon the language in CSMB 960 (Finance) am, relative to certain sections upon which there seems to be some controversy. My comments below follow the section numbers as referred to in the Bill.

Section 2. AS 16.05.090. I would like to restate the Department's position that the duties proposed for a "subsistence group" within the Department of Fish and Game could be better served by having that "group" designated as a "Section" in the Commissioner's Office. In that position the Section would carry greater authority in dealing with the other Divisions--Sport Fish, Commercial Fisheries, and Game--in providing the necessary coordination between the staff biologists of these Divisions and the "subsistence" staff in providing for adequate regulatory proposals to the Boards.

Section 8. AS 16.05.257(e). We still are concerned that the proposed wording used presently in the Bill will be too demanding on our staff biologists to supply all of the requested information for every such request. I had recommended in my testimony yesterday that this new language be deleted and that the existing language in Title 16 remain. The eight kinds of information identified as required would create a great burden upon Department staff. In substitute I recommend instead that the following language preface the existing language in AS 16.05.257(e):

The department shall investigate every petition or request made under (a)(2), (3) or (4) of this section and provide the biological evidence needed to evaluate each such petition or request. No subsistence area may be created under this section if the Board of Game determines that biological evidence indicates that the creation

June 6, 1978

of such an area is likely to adversely affect a resource in that it would fall below the level of sustained yield determined to be adequate.

Section 15. AS 16.05.940(26). "Subsistence uses." I would recommend that if "subsistence uses" is to be defined that it might be best to follow the definition that currently is in the (d)(2) legislation now before Congress, as it seems likely that this definition will survive in whatever legislation finally emerges. That definition is as follows:

(26) "Subsistence uses" means the noncommercial, customary and traditional utilization within the State of wild, renewable resources for--

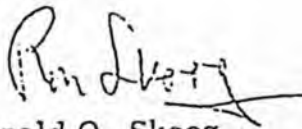
- (1) direct personal or family use for food, shelter, fuel, clothing, tools, or transportation;
- (2) the making and selling of handicraft articles (including clothing), but only out of nonedible byproducts of fish and wildlife taken for such personal or family use; or
- (3) customary trade, barter, or sharing among subsistence users for personal or family use.

Section 15. AS 16.05.940(27): I reiterate my statement that the definition of "barter" should try to exclude the commercial aspects of any exchange. In this respect I think that the definition as contained in Senator Hohman's SB 506 (shown below) is quite appropriate. It eliminates the commercial problem while recognizing the "traditional" barter or trade being carried out by rural residents.

"Barter" means to exchange, trade for, or otherwise give and receive subsistence-taken fish or game or their parts in exchange for other subsistence-taken fish or game or their parts.

We have attached a revised fiscal note to cover the suggested changes to AS 16.05.300.

Sincerely,



Ronald O. Skoog
Commissioner

Enclosure

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

SUPPORT BUILDING
JUNEAU 99801

June 10, 1978

The Honorable Kay Poland
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Poland:

Yesterday you requested the Department to poll the Board of Game to determine their views regarding CSHB 960 (Finance) as written regarding the "subsistence issue" and the establishment of a "Division of Subsistence" in the Department by legislative mandate. Insofar as was possible we contacted the Board members yesterday afternoon and evening with the results as indicated below. Six of the seven members were reached--Jim Rearden, Clint Buckmaster, Charles Evans, Darrell Farmen, Pete Nelson, and Sam Harbo; Sidney Huntington was not available.

- (1) All six were opposed to the legislation as written; I feel confident in saying that I believe Sidney Huntington also would be opposed.
- (2) Four, and to that I would add Huntington to make five, were opposed to any such legislation being passed regardless of language; two--Chuck Evans and Clint Buckmaster--felt they could support CSHB 960 if the Department's suggested amendments were adopted.

In addition, we attempted to poll the Board of Fisheries as well, but were less successful. Only four of the seven were reached--Nick Szabo, Gordon Jensen, Herman Schroeder, and Calvin Fair. All were opposed to CSHB 960 as written. Szabo was opposed to any legislation being passed. Jensen, Schroeder, and Fair felt they could support the bill if the Department's suggested amendments were adopted.

I will stick my neck out and say that I think all members of the two Boards believe that there is little need for this kind of legislation and that the subsistence question can be handled quite adequately under a modified

June 10, 1978

regulatory system (which we are working on now). I believe too that all would object to the Legislature establishing any organizational unit within the Department by State law, as has been done already with regard to the Fisheries Rehabilitation, Enhancement and Development Division.

The Department would like to propose two additional amendments to CSHB 960. Again, both were overlooked in our previous review and, again, I apologize for that lack. Our proposals are as follows:

- (1) p.5 Sec. 11 (Sec. 10 as per Dept.'s earlier recommendations)
AS 16.05.257(h)(2) lines 26-29.

We suggest the elimination of this section, and instead leave the existing language presently in the Statutes. Present language reads as follows:

(2) "subsistence hunting area" means an area designated by the board as primarily important for subsistence use and in which it is unlikely that subsistence needs will be met if recreational hunting, including hunting for trophy purposes, is permitted or if certain methods and means are continued. (s 1 ch 199 SLA 1975; am s 2 ch 269 SLA 1976)

The language stated in CSHB 960 would be too narrow and I believe not in compliance with the State Constitution because of discrimination in permitting only subsistence hunting in a "subsistence hunting area." The existing Statute language is more flexible in that control of hunting also could be handled via "methods and means," as well as by other regulatory constraints.

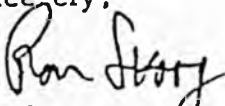
- (2) p.6 Sec. 14. AS 16.05.930(e), lines 17-18.

Language here needs to recognize the responsibility of the Boards to set regulations. I suggest that it be amended to the following:

Line 17-18 "...except that the appropriate Board or the Commissioner by delegation of the appropriate Board may prohibit...."

Thanks again for allowing us to state our views regarding this important piece of legislation.

Sincerely,


Ronald O. Skoog
Commissioner

27007 WL BETHEL ALASKA 90 06-07 12P ADT

PMS CHAIRPERSON KAY POLAND

SENATE RESOURCE COMMITTEE

POUCH V. JUNEAU ALASKA

NUNAMKITLUSISTI AS PART OF THE ASSOCIATION OF VILLAGE
COUNCIL PRESIDENTS WHICH IS REPRESENTATIVE OF 57 VILLAGES
IN THE YUKON KUSKOKWIM DELTA WOULD LIKE TO EXPRESS
ITS SUPPORT OF HB960 AS IT ARRIVES IN THE SENATE RESOURCE
COMMITTEE. WE FEEL THAT ANY AMENDMENTS TO IT WOULD WEAKEN
ITS POWERS. AS A DIVISION WITHIN THE STATE REGULATORY SYSTEM,
THE IMPORTANCE OF SUBSISTENCE AND RESOURCE INVOLVED WOULD
BE ADEQUATELY PROTECTED AND EFFECTIVELY REALIZED FOR THE
CONTINUING EXISTENCE OF THESE IMPORTANT RENEWABLE RESOURCES
TO THE STATE OF ALASKA AND ITS RESIDENTS.

TONY VASKA, NUNAMKITLUSISTI

SENATE RESOURCES

AND	120	Butrovich	525
ft	106	Huber	114
and	205	Colletta	107
lion	109		

A21 4042 13.16 JA01 0025 20.22 05/06/78

PLEASE DELIVER THE FOLLOWING MESSAGE TO THE SENATE RESOURCE COMMITTEE:

URGE THAT YOU NOT VOTE HB960 OUT OF RESOURCES COMMITTEE. BILL IS INCONSTITUTIONAL, UNFAIR AND VIOLATES NOT ONLY PRINCIPLES OF MODERN GAME MANAGEMENT, BUT UPSETS AN EFFECTIVE EXISTING SYSTEM.

FAIRBANKS ADVISORY COUNCIL
P. O. BOX 659
FAIRBANKS, AK 99707
10 PHONE

EOM

LA21 3802 16.57 JA01 0013 17.24 06/05/73

PLEASE DELIVER THE FOLLOWING MESSAGE TO THE SENATE RESOURCES COMMITTEE:

ALASKAN HUNTERS, FISHERMEN AND TRAPPERS HAVE NOT HAD PROPER OPPORTUNITY TO TESTIFY ON HB960. WE RESPECTFULLY REQUEST AN OPPORTUNITY TO SEND A REPRESENTATIVE OR 2 BEFORE YOUR COMMITTEE. VITAL INFORMATION HAS NOT YET BEEN PRESENTED. PLEASE SCHEDULE HEARINGS NEXT WEEK IF POSSIBLE. AS WRITTEN, THE BILL IS INTOLERABLE. THANK YOU.

THE REAL ALASKA COALITION REPRESENTING THE 37 SPORTSMEN CONSERVATION ORGANIZATION THROUGHOUT ALASKA
P. O. BOX 73478
FAIRBANKS, AK 99707

EOM

TELETYPE

ALASKA COMMUNICATIONS, INC
PHONE: 554-6440

02243 ANCHORAGE ALASKA 6000153P ADT

PM SENATOR KAY POLAND

JUN

DEAR SENATOR POLAND, REFERENCE HR960 (SUBSISTENCE
PRIORITY BILL)

WE URGE YOU TO DEFEAT THIS BILL IN THE SENATE.

THE IMPORTANCE OF LEGITIMATE SUBSISTENCE NEEDS HAVE BEEN
ADEQUATELY PROVIDED FOR BY STATUTES AND POLICIES OF
THE FISHERIES AND GAME BOARD.

THIS BILL IS TOTALLY UNNECESSARY, AS IT IS CUMBERSOME,
EXPENSIVE, AND WOULD ESTABLISH AN ADDITIONAL BUREAUCRACY
WHICH FURTHER COMPLICATES THE ALREADY COMPLICATED ISSUE
OF FISH AND GAME MANAGEMENT. IF WE THINK IN TERMS OF
SPENDING VAST SUMS OF MONEY, THE FUNDS SHOULD BE USED IN
FIELD WORK TO ENHANCE FISH AND WILDLIFE POPULATIONS
INSTEAD OF ESTABLISHING ANOTHER ADMINISTRATIVE DIVISION
TO ADDRESS A PROGRAM THAT IS ALREADY BEING ADEQUATELY
ADMINISTRATED.

RAY MCNUIT PRESIDENT ALASKA PROFESSIONAL HUNTERS ASSOC

LA11 3959 17.52 06/07/78 JA01 0004 07.37 06/08/78

TO: PRESIDENT JOHN RADER AND ALL MEMBERS OF THE SENATE

FROM: RAY MC NUTT, PRESIDENT
ALASKA PROFESSIONAL HUNTERS ASSOCIATION
PO BOX 4-1932
ANCHORAG AK 99509

THE FOLLOWING IS A COPY OF A TELEGRAM SENT JUNE 7, 1978, TO SENATOR
POLAND RE HB 960 (SUBSISTENCE PRIORITY BILL):

WE URGE YOU TO DEFEAT THIS BILL IN THE SENATE.

THE IMPORTANCE OF LEGITIMATE SUBSISTENCE NEEDS HAVE BEEN ADEQUATELY
PROVIDED FOR BY STATUTES AND POLICIES OF THE FISHERIES AND GAME BOARDS.

THIS BILL IS TOTALLY UNNECESSARY AS IT IS CUMBERSOME, EXPENSIVE, AND
WOUD ESTABLISH AN ADDITIONAL BUREAUCRACY WHICH FURTHER COMPLICATES THE
ALREADY COMPLICATED ISSUE OF FISH AND GAME MANAGEMENT. IF WE THINK IN
TERMS OF SPENDING VAST SUMS OF MONEY, THE FUNDS SHOULD BE USED IN FIELD
WORK TO ENHANCE FISH AND WILDLIFE POPULATIONS INSTEAD OF ESTABLISHING
ANOTHER ADMINISTRATIVE DIVISION TO ADDRESS A PROGRAM THAT IS ALREADY
BEING ADEQU, ELY ADMINISTERED.

EOM/CCD/



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

May 19, 1982

MEMORANDUM

TO: Representative Bob Bettisworth

FROM: Leslie Longenbaugh, Research Staff^{LL}

RE: History of Subsistence Law
Research Request Number 82-132

Margaret King of your staff asked that we provide information on the history of the 1978 State subsistence law and subsequent bills regarding subsistence. In particular, Ms. King asked for a legislative history of the subsistence law, information on legislators' voting records on the issue since 1978, and a discussion of the 1978 Alaska Supreme Court case that helped to engender the passage of the subsistence law.

Legislative History of Subsistence Law

House Bill 960 was introduced by the House Rules Committee, at the request of the House Special Committee on Subsistence, in May 1978. Before its enactment in June of that year, the bill was considered by the Resources Committees of both houses, by the Finance Committees of both houses, and by its sponsor, the House Special Committee on Subsistence. Below is a detailed history of the passage and amendment of HB 960 through both legislative bodies and to the governor for his signature. Appendix A contains the voting record for the subsistence law in both houses.

History of ch 151 SLA 78

- May 1, 1978 -- HB 960 introduced by House Rules at the request of the House Special Committee on Subsistence; first reading; referred to House Special Committee on Subsistence, House Resources and House Finance
- May 1, 1978 -- Meeting of House Special Committee on Subsistence
- May 2, 1978 -- House Special Committee on Subsistence passed HB 960 with amendments; referred to House Resources
- May 2, 1978 -- Meeting of House Resources Committee
- May 4, 1978 -- House Resources offers its committee substitute for HB 960; CSHB 960 is referred to Finance

Representative Bettisworth
May 19, 1982
Page 2

- May 4, 1978 -- Fiscal note on HB 960 is printed in House Supplement
- May 12, 1978 -- House Finance meeting to consider CSHB 960
- May 12, 1978 -- Letter of intent on HB 960 from House Special Committee on Subsistence is printed in House Journal
- May 15, 1978 -- House Finance meeting to consider CSHB 960
- May 19, 1978 -- House Finance offers its committee substitute for CSHB 960; CSHB 960 is referred to House Rules
- May 26, 1978 -- HB 960 is read for the second time; House adopts CSHB 960 (Fin) in lieu of HB 960; CSHB 960 (Fin) is amended by the House; CSHB 960 (Fin) am is read for the third time; CSHB 960 (Fin) am passes the House on a vote of 28 yeas to 8 nays, with 4 excused
- May 26, 1978 -- CSHB 960 (Fin) am is engrossed, signed by the Speaker and sent to the Senate for consideration
- May 30, 1978 -- First reading in Senate of CSHB 960 (Fin) am; referred to Senate Resources and Finance Committees
- June 5, 1978 -- Senate Resources meeting to consider CSHB 960 (Fin) am
- June 9, 1978 -- Senate Resources meeting to consider CSHB 960 (Fin) am
- June 14, 1978 -- Senate Resources meeting to consider CSHB 960 (Fin) am
- June 16, 1978 -- Senate Resources committee substitute for CSHB 960 (Fin) am is adopted by the Senate; Senate reads SCS CSHB 960 am S for the second time; Senate waives referral to Senate Finance
- June 16, 1978 -- Letter of intent from Senate Resources regarding SCS CSHB 960 am S is printed in the Senate Journal
- June 16, 1978 -- SCS CSHB 960 am S advances to third reading in the Senate; SCS CSHB 960 am S passes the Senate on a vote of 17 yeas to 3 nays; notice of reconsideration
- June 17, 1978 -- Reconsideration of SCS CSHB 960 am S, which passes the Senate on a vote of 14 yeas to 2 nays, with one absent and three excused
- June 17, 1978 -- House concurs in Senate amendment to CSHB 960 (Fin) am, adopting SCS CSHB 960 am S

Representative Battisworth
May 19, 1982
Page 3

June 29, 1978 -- SCS CSHB 960 am S is signed by presiding officers in House and Senate and is sent to the Governor for his signature

July 22, 1978 -- SCS CSHB 960 am S is signed into law, ch 151 SLA 78, by the Governor

Voting Records on Subsistence

Appendix A provides a brief description of each of the eight bills related to subsistence that have come to the House or Senate floor since 1978, and a record of the final vote on each bill.

1978 Court Case

A case brought in 1976 against the State by a sportsman's association brought up the question of the State's legal right to regulate the taking of game on the basis of need. The lower court held that there was no statutory authority for issuing hunting permits using need as the most important criterion. By the time the case was decided by the Supreme Court, in September 1978, the issue of whether subsistence was a valid criterion in regulating fish and game had been settled by the enactment of ch 151 SLA 1978. The following summary of the events leading up to the suit derive from the facts as stated by the Supreme Court decision¹ and, to a lesser extent, from a brief filed in the case by the Alaska Federation of Natives as a friend of the court.

Because the size of the western arctic caribou herd had declined drastically over the preceding five years, the Alaska Department of Fish and Game began in 1976 taking steps to ensure the continuation of the herd. In August of that year, the Department announced an emergency closure for human kills of the caribou, and released proposed recommendations for consideration during a meeting scheduled to be held the next month.

In September, the Board of Game met in Fairbanks to hear statements and recommendations from members of the public and from department staff regarding the proposed regulations. The Board considered the evidence and took the following actions by filing emergency regulations in October 1976:

¹Tanana Valley Sportsmen's Association, Inc., and Mark A. Wartes v. State of Alaska, 583 P.2d 854.

Representative Bettisworth
May 19, 1982
Page 4

- 1) required that the taking of caribou in the affected areas be by permit only;
- 2) set the season at October 1 to March 31;
- 3) required that the permit total not exceed 3,000 bull caribou;
- 4) authorized the distribution of the 3,000 permits in 16 villages, specifying the number to be distributed in each village;
- 5) established a quota system for issuing permits; the quotas would be based upon the recommendations of village councils and corporations, the criteria to be used including population, need, and the availability of other food sources and employment.

The regulations gained permanent status in November 1976, and became effective in December of that year; in their permanent form, the regulations no longer contained reference to issuing permits on the basis of need. The Boards of Fisheries and Game gave their agents oral instructions to require proof of need before issuing the permits.

In December 1976 the Tanana Valley Sportsmen's Association and Mark A. Wartes filed suit against the State, asking that the State be enjoined from issuing any permits for the taking of caribou, and that the court issue an order restraining the State from enforcing the emergency regulations. The complaint charged: that the permits were distributed only to members of native corporations, and only to those who could demonstrate need; that the Department had no authority to issue permits on the basis of need; that the distinction apparently made by the Board between those in need of caribou and those not in need could not be grounded in the definition of "subsistence hunting" that was then found in the statutes; and that the State constitution did not permit such a distinction.

The superior court granted Tanana Valley summary judgment in April 1977, enjoining the State from enforcing the emergency regulation regarding the taking of caribou, and restraining it from issuing permits for this purpose. The State appealed the judgment to the State Supreme Court; the court's decision, which was published in September 1978:

- 1) affirmed the portion of the court's decision that prohibited the issuance of permits based on oral instructions regarding need, because such verbal additions to the regulations were both unauthorized and unenforceable;

Representative Bettisworth
May 19, 1982
Page 5

- 2) reversed the court's injunction against issuing permits for the killing of caribou in the designated game management areas; and not rule on the statutory authority to increase permits based on need or on the constitutional challenge to statutes and regulations.

In 1977, the lower court judge's ruling prompted concern among legislators and others, who sponsored and supported the subsistence legislation that was enacted in 1978. One portion of the 1978 law outlines the criteria to be used by the Boards of Fisheries and Game in allocating restricted resources among subsistence users; these criteria were those originally devised by the Board of Game for the emergency regulation of the caribou.² Thus, it could be said that the Tanana Valley suit acted as an impetus and concrete inspiration to the 1978 law.

We have copies of and legislative histories for each of the subsistence bills discussed in Appendix A, which we would be happy to share with you. If we can provide any further information or assistance, please call on us.

LL/

Attachment: Appendix A

²The criteria are: dependence on the resource; proximity to the resource; and availability of alternative resources.

APPENDIX A

Votes Recorded in Both Houses of
the Alaska Legislature:
Subsistence Legislation

House Bill 960 (ch 151 SLA 1978)

HB 960, enacted by the legislature in 1978, is known as "the subsistence law." The bill, as passed by both houses, established a division of subsistence hunting and fishing within the Department of Fish and Game, and set out criteria for use by the Boards of Fisheries and Game in permitting the taking of fish and game for subsistence use:

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

Both the House and the Senate versions of HB 960 define "subsistence uses" as:

...the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter or sharing for personal or family consumption.

The version of HB 960 that was voted on by the members of the House included a few provisions that were not included in the Senate version. Most notably, the House version would have enlarged the membership of the Boards of Fisheries and Game, and would have established a subsistence committee as a permanent interim committee of the legislature. As is described in more detail in the attached memorandum, HB 960 was sponsored originally by the Rules Committee at the request of the Special Committee on Subsistence. The bill was amended by House and Senate Resources Committees.

CSHB 960 (House vote)

Yeas:	Akers	Freeman	Nakak
	Anderson	Gardiner	Ose
	Beirne	Gruening	Osterback
	Brown	Guy	Phillips
	Buchholdt	McKinnon	Rhode
	Cotten	Malone	Rudd
	Cowper	Meekins	Schaeffer
	Duncan	Miles	Smith
	Eliason	Miller	Snider
			Swanson
Nays:	Bennett	Haugen	Parr
	Carpenter	Kelly	Urion
	Dankworth	Lovseth	
Excused:	Bradley	Chatterton	Hayes
			Lethin

SCSCSHB 960 (Senate vote)

Yeas:	Butrovich	Meland	Sackett
	Colletta	Poland	Sumner
	Ferguson	Rader	Tillion
	Hackney	Ray	Ziegler
	Hohman	Rodey	
Nays:	Huber	Willis	
Absent:	Bradley		
Excused:	Croft	Kerttula	Orsini

Senate Joint Resolution 37 (1978)

Senate Joint Resolution 37, passed by both houses in 1978, requested the U.S. Secretary of Commerce "to allocate adequate funding to a comprehensive long-term research program on the status of bowhead [whales] as well as all other arctic whales." The Secretary was also asked "to cooperate with the State of Alaska and the Alaska Eskimo Whaling Commission in the management of the bowhead whale conservation program, including the enforcement of the bowhead whale harvest quota." Senator Ferguson sponsored the resolution.

SJR 37 (Senate vote)

Yeas:	Bradley	Kertulla	Rodey
	Butrovich	Meland	Sackett
	Colletta	Orsini	Sumner
	Ferguson	Poland	Tillion
	Hackney	Rader	Willis
	Hohman	Ray	Ziegler
	Huber		
Nays:	-0-		
Excused:	Croft		

SJR 37, 1978 (Hcuse vote)

Yeas:	Akers	Freeman	Miller
	Anderson	Gardiner	Nakak
	Beirne	Gruening	Ose
	Bennett	Guy	Osterback
	Bradley	Hayes	Parr
	Buchholdt	Kelly	Phillips
	Carpenter	Lethin	Rhode
	Cotten	Lovseth	Rudd
	Dankworth	McKinnon	Schaeffer
	Duncan	Malone	Smith
	Eliason	Miles	Swanson
			Urion
Nays:	-0-		
Excused:	Brown	Cowper	Meekins
	Chatterton	Haugen	Snider

House Joint Resolution 53 (1977)

House Joint Resolution Number 53, passed by both houses in 1977, requested that the U.S. Department of Commerce "reimburse the actual expenses incurred in traveling to and attending the negotiating sessions of those Alaska fishing industry representatives who have been invited to advise the chief U.S. negotiator." The negotiations in question were those over Pacific salmon interceptions. The resolution was sponsored by Representative Gardiner.

HJR 53 (House vote)

Yeas:	Akers	Eliason	Miles
	Anderson	Freeman	Miller
	Beirne	Gardiner	Ose
	Bennett	Gruening	Osterback
	Bradley	Guy	Parr
	Brown	Haugen	Phillips
	Buchholdt	Hayes	Rhode
	Carpenter	Kelly	Rudd
	Chatterton	Lethin	Smith
	Cotten	Lovseth	Snider
	Cowper	McKinnon	Swanson
	Dankworth	Malone	Urion
	Duncan	Meekins	
Nays:	-0-		
Excused:	Nakak	Schaeffer	-0-

HJR 53 (Senate vote)

Yeas:	Bradley	Huber	Ray
	Colletta	Kerttula	Rodey
	Croft	Meland	Sackett
	Ferguson	Orsini	Sumner
	Hackney	Polard	Tillion
	Hohman	Rader	Willis
			Ziegler
Nays:	-0-		
Absent:	Butrovich		

Senate Bill 197 (ch 56 SLA 1977)

Senate Bill Number 197, when passed by the Senate in 1977, extended the expiration date on ch 99 SLA 1975, a statute that relates to the sale of subsistence-caught fish eggs. The House version added a section that required the Department of Fish and Game to make a recommendation to the legislature concerning the prohibition of the sale of such fish eggs, and called on the Department of Public Safety to help in gathering the information necessary to such a recommendation. SB 197 was sponsored by Senators Hohman and Sackett.

SB 197 (Senate vote)

Yeas:	Bradley	Hohman	Ray
	Butrovich	*Kerttula	Rodey
	Colletta	Meland	Sackett
	Croft	Orsini	Sumner
	Ferguson	Poland	Tillion
	Hackney	Rader	Willis
			Ziegler
Nays:	Huber		

(*Changed his Nay vote to Yea.)

SB 197 am H (House vote)

Yeas:	Akers	Freeman	Miller
	Anderson	Gardiner	Nakak
	Beirne	Gruening	Ose
	Bennett	Guy	Osterback
	Bradley	Haugen	Parr
	Brown	Hayes	Phillips
	Buchholdt	Kelly	Rhode
	Chatterton	Lethin	Rudd
	Cotten	Lovseth	Schaeffer
	Cowper	McKinnon	Smith
	Dankworth	Malone	Snider
	Duncan	Meekins	Swanson
	Eliason	Miles	Urion
Nays:	-0-		
Excused:	Carpenter		

Senate Resolution 4 (1981)

Senate Resolution Number 4, passed by the Senate in 1981, urged the Board of Fisheries "to define subsistence fisheries use in a manner that will minimize the impact on hook and line personal use and commercial fisheries in Cook Inlet" and that the Board "allocate the fish resources in a manner similar to the intent of the 1977 upper Cook Inlet fish resources management plan." The original sponsors of SR 4 were Senators Rodey and Kelly; the Senate Rules Committee amended the resolution before it came to a vote.

CS SR 4 am Recon (Senate vote)

Yeas:	Bennett	Gilman	Parr
	Dankworth	Kelly	Ray
	Fahrenkamp	Kerttula	Rodey
	Ferguson	Mulcahy	Sturgulewski
			Ziegler
Nays:	Eliason	Hohman	
Excused:	Bradley	Fischer	Sackett
	Colletta		
Absent:	Stimson		

House Bill 544 (1980)

House Bill Number 544, which passed the House in 1980, would have classified sport, commercial and subsistence fishing as the only categories of fishing activity that are permitted in the state. The bill would not have affected the right of the Board of Fisheries to change the number of permitted categories of fishing activity. Representative Parr was the original sponsor of HB 544; the House Resources Committee changed the bill before it came before the entire House.

CSHB 544 (House vote)

Yeas:	Anderson	Eliason	Montgomery
	Beirne	Freeman	Munson
	Bettisworth	Fuller	Osterback
	Branson	Gardiner	Parker
	Brown	Halford	Parr
	Buchholdt	Hurlbert	Phillips
	Carney	McKinnon	Rogers
	Chatterton	Malone	Schaeffer
	Cotten	Martin	Smith
	Duncan	Miller	Zharoff
Nays:	Barnes	Hayes	O'Connell
	Guy		
Not Voting:	Haugen	Metcalfe	Moss
	Meekins	Miles	Randolph

Senate Bill 113 (ch 5 SLA 1979)

Senate Bill Number 113, enacted in 1979, related to hunting activities. The Senate version of the bill had to do with wasting the meat of hunted animals; the bill classified additional portions of the animal as meat that may not be wasted. The House version retained the Senate provisions and added restrictions on non-residents' hunting without a guide for large animals for which "big game tags" are required. The bill was sponsored originally by Senators Sackett and Ferguson; the House amendments were made by the Judiciary Committee.

SB 113 (Senate vote)

Yeas:	Bennett	Hackney	Ray
	Colletta	Kelly	Sackett
	Dankworth	Kerttula	Stimson
	Fahrenkamp	Meland	Sturgulewski
	Ferguson	Mulcahy	Sumner
			Tillion
			Ziegler
Nays:	-0-		
Absent:	Bradley	Hohman	Rodey

HCSSB 113 am H (House vote)

Yeas:	Anderson	Fuller	Moss
	Beirne	Gardiner	Munson
	Brown	Hurlbert	Osterback
	Bucholdt	McKinnon	Parker
	Carney	Malone	Parr
	Cotten	Meekins	Phillips
	Duncan	Miles	Rogers
	Freeman	Miller	Schaeffer
			Zharoff
Nays:	Barnes	Eliason	Martin
	Bettisworth	Halford	Metcalfe
	Branson	Haugen	Montgomery
	Chatterton	Hayes	O'Connell
			Randolph
			Smith
Not Voting:	Guy		

House Bill 199 (1979)

House Bill Number 199, passed by the House in 1979, would have made the present subsistence hunting and fishing section within the Department of Fish and Game into a division, with expanded duties and powers. The bill was introduced by the Special Subsistence Committee.

HB 199 (House vote)

Yeas:	Anderson	Fuller	Miller
	Beirne	Gardiner	Moss
	Branson	Guy	Osterback
	Brown	Hurlbert	Parker
	Buchholdt	McKinnon	Phillips
	Cotten	Malone	Rogers
	Duncan	Meekins	Zharoff
	Eliason	Miles	
	Freeman		
Nays:	Barnes	Haugen	Munson
	Bettisworth	Hayes	O'Connell
	Carney	Martin	Parr
	Chatterton	Metcalfe	Randolph
	Halford	Mostgomery	Smith
Not Voting:	Schaeffer		



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

May 21, 1982

MEMORANDUM

TO: Representative Bob ¹
L_{gh}. Research
FROM: Leslie Longenbaugh, Research Staff
RE: History of Subsistence Law
Research Request Number 82-132

Enclosed are copies of three research memoranda prepared by this Agency, all containing information regarding issues of subsistence hunting and fishing in Alaska; I neglected to provide these with my memorandum to you of May 19. If you have any questions, or would like further research on any of the issues presented in these papers, please call.

LL/

Attachments: Research Request Number 81-14
Research Request Number 82-37
Research Request Number 82-100

JILL SHEFFIELD, GOVERNOR

REPLY TO:

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 24, 1985

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Honorable John L. Sund
House of Representatives
Pouch V
Juneau, Alaska 99811

Re: Equal protection and the
definition of subsistence
uses in CSN3 238 (judiciary)
AG Files 366-375-85 and
377-176-85

Dear Representative Sund:

You have asked for an analysis under equal protection principles of the definition of subsistence uses contained in CSN3 238 (judiciary), an act relating to the taking of fish and game for subsistence and personal use. The classification of those eligible to participate in subsistence hunting and fishing under the bill is supported by information about the different ways Alaskans use fish and game, and would be defensible against an equal protection challenge. (See the attached April 23, 1985, memorandum to me from Don W. Collinsworth, Commissioner of Fish and Game.)

The bill defines "subsistence uses" as the "customary and traditional noncommercial uses of wild, renewable resources by a resident domiciled in a rural area of the state" for certain specified purposes. Further, the bill defines "rural area" as

a community or area of the state in which the taking of fish or wildlife for personal or family consumption is a significant characteristic of the economy of the community or area....

These definitions, then, establish a class of people eligible to participate in subsistence hunting and fishing, which under AS 16.05.251(b) and 255(b) must be authorized by the Boards of Fisheries and Game unless sustained yield would be jeopardized, and must be given a priority if restrictions are required.

The state equal protection test generally has been discussed in connection with article I, section 1 of the Alaska

Constitution, which provides in part that "all persons are equal and are entitled to equal rights." In addition, article VIII, section 17, is in essence an equal protection guarantee with regard to natural resources:

Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation.

The equal protection guarantee is designed to ensure that those situated similarly with regard to the subject matter and purpose of a law will be treated equally under that law. Ketchikan Gateway Borough, Alaska v. Breed, 639 P.2d 995 (Alaska 1981). A classification must bear "a fair and substantial relationship to a legitimate governmental objective." Commercial Fisheries Entry Commission v. Anchadsk, 606 P.2d 1255, 1264 (Alaska 1980). Finally, equal protection does not demand absolute perfection in the classification system. Id. at 1267. As the court noted in Rose v. Commercial Fisheries Entry Commission, 647 P.2d 154, 160 (Alaska 1982):

The focus of our inquiry under Alaska equal protection analysis is whether the legislative classification is a reasonable means to accomplish a legitimate state purpose.

The Alaska Supreme Court has developed a three part test in analyzing whether legislation offends the equal protection clause of the Alaska Constitution. Alaska Pacific Assurance Co. v. Brown, 687 P.2d 264, 269 - 270 (Alaska 1984). The first inquiry involves what weight should be afforded the constitutional interest impaired by the challenged enactment. Depending on the primacy of the interest involved, the state will have a greater or lesser burden in justifying its legislation. Next, the court looks at the purposes served by the challenged statute. Again, depending on the level of review determined, legitimate objectives may suffice, or compelling state interest may need to be demonstrated. Finally, and closely entwined with the preceding examination, the court evaluates the particular means employed to further the purported goals. Depending on the level of review, a substantial relationship may be constitutionally adequate, or a closer fit between means and ends may be required.

Turning to the first step in the equal protection analysis, the Alaska Supreme Court has noted that commercial fishing does not involve a suspect classification nor a

Hon. John L. Sunu
House of Representatives
File No. 366-373-85 & 377-176-85

April 24, 1985
Page 3

fundamental right so as to require the application of the compelling state interest test. Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d 1255, 1262 (Alaska 1980). Therefore it would seem that the objectives of this bill, also relating to harvesting of resources, must be examined to see if they are legitimate, and the means employed to further those objectives must bear a substantial relationship to the ends.

Defining "subsistence uses" and "rural area" bears a fair and substantial relationship to a legitimate governmental objective, as required by the equal protection test. Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d 1255, 1264 (Alaska 1980). The findings in section 1 of the bill indicate that its purpose is to protect "the taking of fish stocks and game populations for personal and family consumption and related uses" which the legislature finds is

essential to the health, safety, and general welfare of Alaskans domiciled in rural areas or rural communities in which the taking of fish and game for such uses is a significant part of the economy of the community or area....

(Emphasis added.) This is certainly a legitimate governmental objective. State v. Tanana Valley Sportsmen's Association, Inc., 583 P.2d 854, 859-860 n.18 (Alaska 1978), acknowledged the critical importance in Alaska of preserving and protecting subsistence uses, and in Kenai Peninsula Fisherman's Cooperative Association v. State, 628 P.2d 397, 903 (Alaska 1981), the court noted that the state subsistence statutes addressed that important issue on a statewide basis.

After receiving your request for an equal protection analysis, I asked the Alaska Department of Fish and Game for an evaluation of the definition of "rural area" contained in the bill and an assessment of whether the data available to the department indicates that fish and game have a different role in the lives of people in rural areas as defined by the bill, compared to the role occupied in the lives of other Alaskans.

The attached April 23, 1985, memorandum to me from Don W. Collinsworth, Commissioner of Fish and Game, indicates that the data available support the definitions and the classifications which the bill would establish. It compares the roles fish and game play in rural areas, as defined by the bill, to the function of those resources in non-rural areas, and notes a number of general differences.

The memorandum outlines those variances with regard to:

The social organization of the economy of the area.

Economic differentiation and specialization.

Wage employment.

Cash income.

Cost of goods and services.

Variety of fish and wildlife species used.

The seasonal cycle of economic activity.

Participation in hunting and fishing or using wild resources.

Harvest levels.

Values associated with the use of fish and game.

Where hunting and fishing occur.

Sharing and exchange of fish and game.

After detailing those general comparisons, the memorandum concludes that people living in rural areas and rural communities as defined in the bill "have in general a very different relationship to fish and game resources than people living in other parts of Alaska." */

*/ One of the sources of information evaluated by the department is Technical Paper No. 61 of the Alaska Department of Fish and Game, Division of Subsistence, Technical Paper Series, Resource Use and Socioeconomic Systems: Case Studies of Fishing and Hunting in Alaskan Communities, compiled by Dr. Robert J. Wolke and Dr. Linda J. Elianna in March 1983. That paper examined case studies of sixteen communities, and then compared, contrasted, and analyzed the information derived from each study to reach certain conclusions about the socioeconomic systems present. What emerges is an understanding of the importance of the socioeconomic system of an area to all the individuals living there.

Hon. John L. Sund
House of Representatives
File No. 366-375-85 & 377-176-85

April 24, 1985
Page 5

The Alaska Supreme Court has acknowledged the vast differences which exist between rural communities or areas and other parts of Alaska. In Alvarado v. State, 486 P.2d 891, 394 (Alaska 1971), the court discussed these differences in terms of the usual conveniences available, the degree of modern facilities such as running water, the number of roads, available transportation, the ease and frequency of access, the level of industry, the type and regularity of employment, the importance of cash income to the community, and the degree of interaction and dependence among residents.

It has been suggested that there may be some individuals who do not live in rural areas and rural communities which

and the relationship of the system to fish and wildlife resources. The report demonstrates that communities and areas with subsistence-based socioeconomic systems show a much higher degree of reliance on fish and game resources than do other socioeconomic systems, based predominantly on manufacturing, trade, government, finance, or defense, for example. The paper concludes:

Alaska is characterized by a diversity of socioeconomic systems and patterns of resource use. Our understanding of these contemporary systems is just beginning. Research like these case studies contributes information on the role of fishing and hunting in the diverse socioeconomic systems of the State. It seems clear that the economic and social stability of many communities depend upon access to and utilization of renewable fish and wildlife resources. Disruptions of the relationships between the community and the resource base may affect the viability of these ways of life.

Id. at 274.