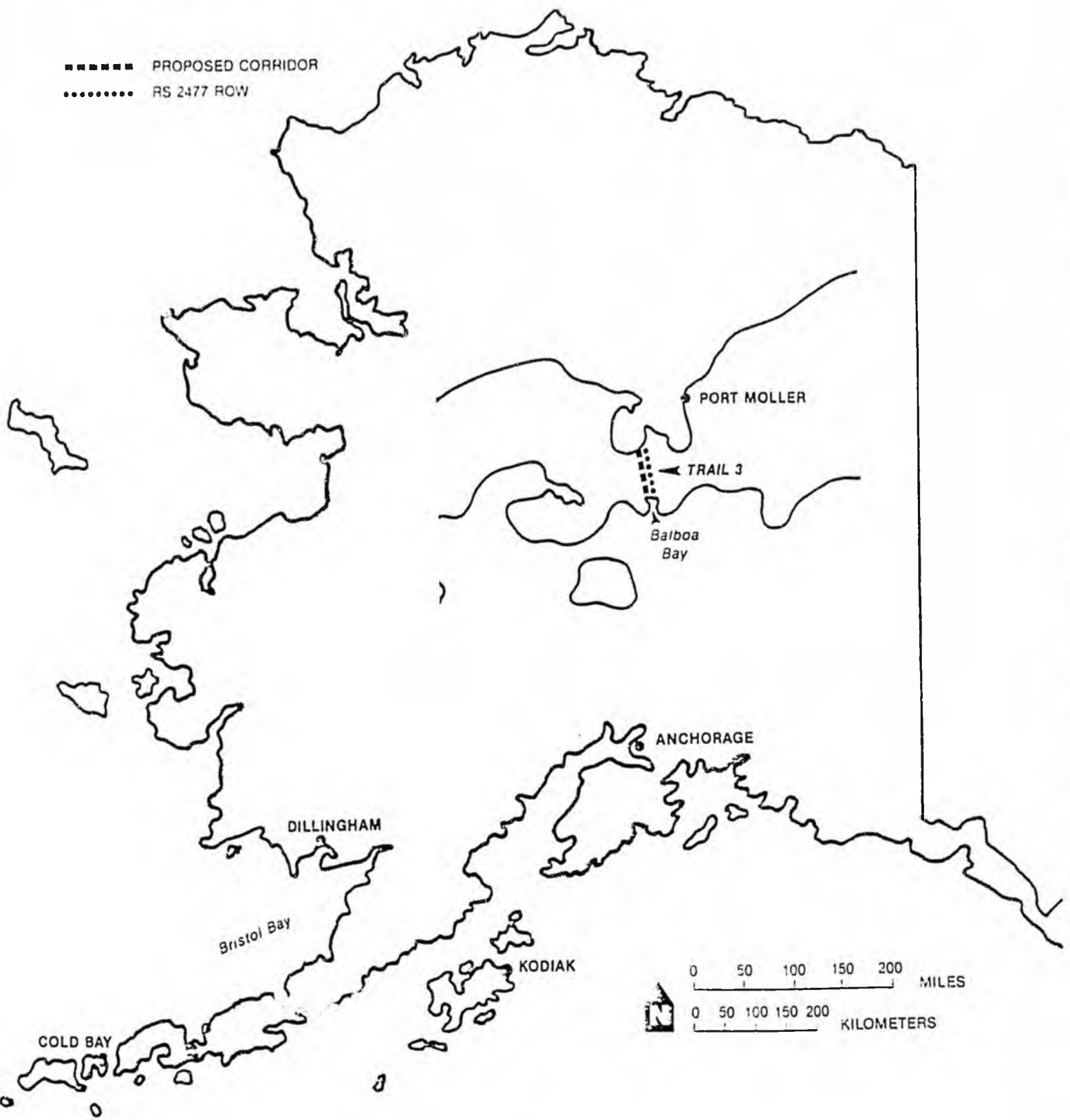


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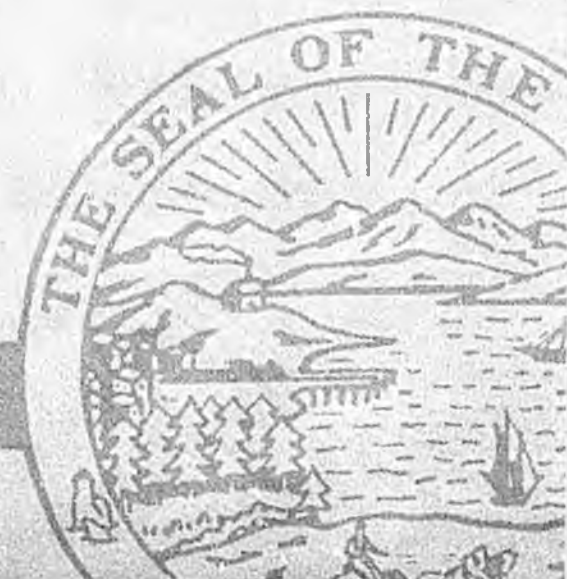
# **Science and Technology Foundation**

# Alaska Science and Technology Foundation

*"The purpose of the foundation is to promote and enhance through basic and applied research: Economic development and technological innovation in Alaska; public health; telecommunication; and sustained growth and development of Alaskan scientific and engineering capabilities."*

January 31, 1989

**Annual Report**



SCS CSHB 390 (Fin)

**T**he Alaska Science and Technology Foundation is established as a public corporation in the Department of Revenue.

"The purpose of the foundation is to promote and enhance through basic and applied research: Economic development and technological innovation in Alaska; public health; telecommunication; and sustained growth and development of Alaskan scientific and engineering capabilities."

Legislation signed by the Governor:  
May 13, 1988

STEVE COWPER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

A MESSAGE FROM GOVERNOR COWPER

The Alaska Science and Technology Foundation demonstrates the commitment of this Administration to basic and applied research. Last May, I signed into law the bill creating an endowment which will live beyond politics. When fully funded the Foundation will have the ability to award grants to assist in major technological breakthroughs as well as ideas of the "basement inventor".

The successful states of this nation combine the talents of their people with the opportunities of the times. Alaska has natural resources, great potential markets, and a creative, determined population. The Alaska Science and Technology Foundation will serve us all by bringing these elements together.

A handwritten signature in cursive script, reading "Steve Cowper".

Steve Cowper  
Governor



# ALASKA SCIENCE & TECHNOLOGY FOUNDATION

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January 31, 1989

To the Governor, the Legislature and the people of Alaska:

On behalf of the Board of Directors of the Alaska Science and Technology Foundation, we are pleased to submit the first annual report.

Since being appointed in September, the Board has met three times, nearly completing the start-up activities required to implement the law which created the Foundation.

There has already been a great deal of interest in the Foundation in terms of its role as a tool for economic development and as a vehicle for funding specific research proposals. In the next few weeks, the Foundation's internal structure will be in place and the Board will begin to consider a broad range of projects.

As indicated by the language in the legislation, there are numerous areas in which the Foundation will have the opportunity to make a difference. Important among these is the challenge of finding and assisting the ideas that will contribute to the diversification of our state's economy.

Sincerely,



Edward R. Clinton  
Chairman



Founded 1988

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P.O. Box 230507, Anchorage, Alaska 99523  
Telephone: 907/562-3699 Fax: 907/561-6174

## Progress To Date

In the final days of the 1988 legislative session, the Alaska Science and Technology Foundation was voted into law by the Legislature and signed by Governor Steve Cowper.

The Governor announced his appointments to the Board of Directors in September. The following month, the Board met in Anchorage. At that time, the Governor spoke of his vision for the Foundation, that it "become a means of creating a continuous flow of new, practical knowledge about Alaska. That information will be dependable and broadly accessible by the public . . . We have made a long-term commitment to the creation of a scientific community within the state."

At the October 11-12 meeting, the Board elected Anchorage entrepreneur and engineer Ed Clinton as Chairman, Juneau anthropologist Lynn Wallen as vice chairman, biologist Frank Williamson of Fairbanks as secretary, and businessman and Native leader Perry Eaton, originally from Kodiak, as treasurer. Bylaws were adopted. Several standing committees were established including a Solicitations Committee to design the process for handling research proposals; a Peer Review Committee to design the procedure for proposal peer review and to locate qualified reviewers; and a Public Information Committee to encourage input and public participation in the Foundation's activities.

The Board held its second meeting on November 17 and 18 in Fairbanks. At that time the Budget Committee report regarding FY 90 was discussed and adopted by the Board. The Board approved the relevant documents prepared by the Search Committee for the recruitment of the Executive Director. Governor Cowper had

urged the Board to be deliberate and thorough in its selection process in order to find someone of outstanding ability. A nationwide search was launched in early January. The Board anticipates that it will find and hire an individual for this position by early May.

The January 12-13 board meeting took place in Kodiak. The Board met with leaders of the fishing, fish processing and fish technology industries to hear first-hand how the Foundation might address their needs. A session designed for public testimony resulted in a standing-room-only crowd. The participants spoke of many issues, including the urgent need for assistance with safety and training, and new developments in fishing gear design.

Even before the Board was appointed last fall, proposals for research projects began to arrive. At the Kodiak meeting, the Board adopted procedures for the preparation and review of proposals in order to insure professional handling and equitable treatment of applications.

At all three meetings, the Board reflected enthusiasm for the mandate it has been given by the Legislature and the Governor. The interaction of the Board members, who represent many different backgrounds and academic disciplines, has led to spirited and constructive debate and discussion.

At a speech to the Kodiak Business and Industry Council, Chairman Ed Clinton summed up the sense of mission held by the Board members of the young Foundation: "We have a working Board, comprised of very talented, experienced individuals. They are real participants. They are busy people but have the focus and dedication needed to make the goals of the Foundation real and attainable."

## Board of Directors



### **Edward R. Clinton, Chairman**

*Founder, Dowland-Bach and Alaska Valve and Fitting Company*

Ed Clinton is an inventor and innovator and has twenty-three years experience as a small business owner in Alaska. He was attracted to Alaska in the mid-1960s to participate in the developing Kenai oil fields. As a metallurgist and mechanical engineer, he became fascinated with the technical problems of cold weather performance of oil field systems. In 1965, he founded Alaska Valve and Fitting Company, which distributes high tech metal fittings for pressurized fluid systems.

As Prudhoe Bay came on line, Clinton became intrigued with the continuous failure of the lower 48 equipment when exposed to the extremes of the Arctic. As a result, he patented the first successful "arctic duty" wellhead safety system, designed to prevent catastrophic surface failure of completed oil and gas wells. Dowland-Bach Corporation manufactures these systems and is actively involved in additional research and development.

Small Businessman of the Year for Alaska in 1981, Clinton served on the Small Business Advisory Council from 1982-1986. He is the holder of two U.S. patents with two others pending. He received his engineering degree from the University of Pittsburgh.



### **Perry R. Eaton, Treasurer**

*President and CEO, Community Enterprise Development Corporation*

Raised in Kodiak, Perry Eaton has a lifetime relationship with commercial fishing, rural Alaska, Native issues and business. As the President of CEDC, he has successfully guided the full range of activities of this non-profit corporation which is designed to strengthen Alaska's rural economies. CEDC and its for-profit arm, Alaska Rural Investments (ARI), have holdings which include the Alaska Commercial Company, Frontier Expeditors and Alaska Village Tours, Inc. ARI is the eighth largest Alaskan owned company in the state.

Eaton's earlier professional experience has included positions as Assistant Vice President of First National Bank of Anchorage, Vice President of First National Bank of Anchorage, Vice President of United Bank Alaska, Executive Vice President of the Alaska Native Foundation and summer work as a Kodiak purse seiner.

His service on national boards includes the National Consumer Cooperative Development Corporation, the National Rural Development and Finance Corporation, and the National Cooperative Bank. Previous board positions have included Koniag, Inc., Alaska Housing Finance Corporation, Commonwealth North, and the Alaska Historical Commission.

Mr. Eaton studied business at Seattle Community College.



### **Gary R. Freitag**

*Research and Evaluation Manager, Southern Southeast Regional Aquaculture Association, Inc., Ketchikan*

Gary Freitag is well acquainted with Alaska's maritime issues centering on salmon enhancement, estuarine chemistry and mechanics, sedimentation and statewide fisheries planning. Through extensive data analysis of salmon returns in Southeast Alaska, he is a true expert on conditions which impact " fry" population health and numbers.

As a chemist, he worked with a research team to develop a more efficient polymer for pollution control and secondary oil recovery. Another of his research projects led to the development of a patented, light-curing polyester resin for fiberglass pipe, used in a variety of applications.

Freitag's professional assignments have included working as a member of the Chinook Technical Team of the Pacific Salmon Commission working on the U.S./Canada salmon treaty negotiations. He also served on the fish monitoring team for the U.S. Borax mine at Quartz Hill and the Alaska State Fish and Game Technical Planning team on king salmon.

He holds a B.S. degree in Chemistry from the Philadelphia College of Textiles and Science, and an M.S. in Oceanography from Old Dominion University's Institute of Oceanography.



## James Kenworthy

*Manager, Research and Technological Programs, Michigan Strategic Fund*

Dr. Kenworthy brings to the Alaska Science and Technology Foundation first-hand experience of how the State of Michigan is improving its economy through research and technological development.

His current duties include staffing the Research Excellence Fund, which dedicates \$27 million per year for research in industrial technology, biotech, and materials research at Michigan's public universities. He also manages the Centers for Excellence Program at three non-profit technology centers in Michigan. In addition, he has helped establish in Michigan such industry/university research and development consortiums as the Michigan Materials Processing Institute and helped locate in the state the National Center for Manufacturing Science and NSFNET, the backbone network connecting the nation's public super computers and regional networks.

He has worked with the National Science Foundation on the issue of how states and the federal government should undertake research-based economic development.

Dr. Kenworthy holds a B.A. from Amherst College and an M.A. and Ph.D. from the University of Michigan.



## George Kozmetsky

*Executive Associate for Economic Affairs, The University of Texas System*

Dr. Kozmetsky is a co-founder, a Director, and a former Executive Vice President of Teledyne, Inc. His business acumen spans service, manufacturing and technology-based industries and he is an acknowledged expert in high technology and venture capital.

His responsibilities at the University of Texas at Austin include serving as Director of IC<sup>2</sup> Institute, an academic research unit specializing in economic development. In addition he is a full professor in the Management and Computer Science Departments as well as the Department of Medicine of The University of Texas Health Science Center in San Antonio.

Dr. Kozmetsky's professional affiliations include the American Association for the Advancement of Science (fellow), The Institute of Management Sciences (charter member and past president), The American Society for Macro Engineering (chancellor), the Large Scale Programs Institute (president), the National Science Foundation (special reviewer), and the British Interplanetary Society.

A native of Seattle, he holds a B.A. and an M.B.A. from the University of Washington and a Ph.D. in Commercial Science from Harvard University.



## Anne P. Lanier

*Director, Arctic Investigations Laboratory, Centers for Disease Control, Anchorage*

As the Director of the Anchorage Field Station of the Centers for Disease Control, based in Atlanta, Georgia, Dr. Lanier is the team leader of a federal arctic research facility which has a forty year history of addressing health problems of Alaska and other circumpolar populations. Prior to assuming the directorship, she served as Deputy Director and medical epidemiologist.

Additional medical assignments have included staff physician at the Alaska Native Medical Center in Anchorage and epidemiologist at the Mayo Clinic in Rochester, Minnesota.

Her professional affiliations include the American College of Epidemiology (fellow); the American Society of Circumpolar Health (board member); the Society for Epidemiological Research; and the Alaska Public Health Association.

Board certified in preventive medicine and general public health, Dr. Lanier has published over fifty articles on health problems reflecting her interest in Alaska's public health and disease prevention and control.

Dr. Lanier received a B.A. from Lawrence University, her M.D. from Washington University School of Medicine and an M.P.H. from the University of Minnesota, School of Public Health.



## **Robert E. LeResche**

*Executive Director Alaska Power Authority*

Bob LeResche is the Executive Director of the Alaska Power Authority.

Prior to his appointment to this position by Governor Steve Cowper, he was the owner and principal of LeResche & Company, an investment banking and management firm specializing in natural resource transactions involving natural gas, coal, fisheries, mining and timber.

In 1977 he was appointed Alaska Commissioner of Natural Resources by Governor Jay Hammond and served in that capacity until 1981. During his tenure, he devoted special attention to establishing closer trade relations between Alaska and the nations of the Pacific Rim.

Other positions he has held include Vice President for corporate development of Sealaska Corporation, Director of state division of Policy Development and Planning, Chief of the Habitat Division and research biologist for the Alaska Department of Fish and Game, and adjunct Associate Professor at the University of Alaska.

Dr. LeResche has a B.A. from Dartmouth College, an M.S. from the University of Alaska Fairbanks and a Ph.D. from Johns Hopkins University.



## **Lynn Ager Wallen, Vice Chairman**

*Consultant, Alaska Cultural Research Service, Juneau*

Lynn Wallen has a background in both government and cultural anthropology. Her non-governmental career has been concentrated on the cultural values of Alaska's Southeastern and Southwestern Native peoples. She has been on the anthropology faculty of five universities including the University of Alaska and Georgetown University. She is a peer reviewer for the National Science Foundation on proposals related to Arctic and Antarctic social and behavioral science research. She is the author of numerous articles in books and professional journals. Dr. Wallen is the former curator of Collections of the Alaska State Museum in Juneau.

In Washington, D.C., she served as a Legislative Assistant to Congressman Don Young where she worked on energy, tax and economic issues. She returned to Alaska to take the position of Director of the Legislative Intern Program for the Legislative Council and later became the Special Assistant to the Executive Director of the Legislative Affairs Agency in Juneau.

Dr. Wallen's undergraduate studies were at the American College in Paris and George Washington University where she received her B.A. She holds an M.A. from the University of Alaska Fairbanks, and a Ph.D. from Ohio State University.



## **Francis S.L. Williamson, Secretary**

*Director, Institute of Arctic Biology, University of Alaska Fairbanks*

As Director of the Institute of Arctic Biology at the University of Alaska Fairbanks, Dr. Williamson has a major leadership responsibility in research dealing with terrestrial and freshwater biological systems of the north. Prior to assuming this position in 1986, he was the Chief Scientist at the Division of Polar Programs at the National Science Foundation in Washington, D.C. Dr. Williamson is the current President of the Arctic Division of the American Association for the Advancement of Science. He serves on the Executive Council of the University of Alaska Fairbanks.

Dr. Williamson came to Alaska in 1955 as a biologist with the Arctic Health Research Center, U.S. Public Health Service. Also in Alaska, he served as a consultant with the Atomic Energy Commission's Plowshare Program at Cape Thompson, as a consultant for the Battelle Memorial Institute conducting bioenvironmental studies on Amchitka Island, and for the Department of the Interior during selection of national interest lands within the State.

In 1975, Dr. Williamson was named Commissioner of Health and Social Services by Governor Jay Hammond.

Dr. Williamson received his B.S. degree from San Diego State University, his M.A. from the University of California at Berkeley and his Sc.D. at Johns Hopkins University.

## Financial Statement As Of December 31, 1988

The passage of SCS CSFB 390 (Fin), creating the Alaska Science and Technology Foundation, was implemented by an initial Capital Appropriation of \$6 million to be used for grants.

"Under certain conditions, the legislation authorizes the Governor to make additional deposits to the Foundation Endowment, "not to exceed \$34 million" per year. The maximum level of the Endowment is \$100 million. To date, no deposits have been made pursuant to this authorization.

An operations appropriation of \$270,886 was made for FY 89 to fund the Foundation until June 1, 1989. The Governor has requested a 12 month operations budget of \$305,401 for FY 90.

Expenditures through December 31, 1988 were \$38,893.95. This reflects the organizational phase of the Board, its first two meetings and early staffing in Juneau and Anchorage.

The balance in the FY 89 operating account is \$231,992.05. The Capital appropriations account balance is \$6 million.



Perry R. Eaton  
Treasurer  
January 31, 1989

## Questions and Answers

**Q.** What is the purpose of the Alaska Science and Technology Foundation (ASTF)?

**A.** The Foundation was created to make public funds available for long-term investment in economic development and technological innovation within the State. Through the awarding of grants for basic and applied research, the Foundation will act as a catalyst to help build our science and engineering capabilities, to improve the public health and well-being, and diversify the state's economy.

**Q.** What types of projects is the Foundation seeking?

**A.** Proposals are encouraged for all projects which will assist in meeting the above goals. In addition, there are specific areas in which proposals are being sought. Some of the topic areas are: Fisheries, coal technology, forest products technology, rural energy systems, telecommunications, and public health and safety. A complete RFP list will be available at Foundation headquarters after mid-February. This indicates topics of particular interest. The Board will consider unsolicited proposals as well.

**Q.** What funds are available for grants?

**A.** The 1988 Capital appropriation of \$6 million is currently available. At its full maturity, the ASTF Endowment will have \$100 million. The interest the Endowment earns will be used to fund grants.

**Q.** What will be the amount of grant awards?

**A.** At least half of the grants will be made in amounts less than \$100,000. An upper limit has not been established at this time.

**Q.** What is the process for submitting a proposal to the Foundation?

**A.**

- Submit "pre-proposal" on forms provided by ASTF.
- Review by Board for decision of interest.
- Invitation to submit full proposal (25 pages maximum).
- Peer review of proposal and recommendations.
- Decision by Board.
- Grant contract written and signed.

**Q.** What is the Foundation's confidentiality policy?

**A.** It is the policy of the Board to maintain confidentiality of idea development and trade secrets to the greatest extent possible under the law.

**Q.** Is there a specific date for proposal submission?

**A.** On April 1, 1989, the first group of proposals will begin the review process. Later dates will be announced for summer and fall.

**Q.** What time interval is generally involved in this process?

**A.** Approximately three to six months.

**Q.** Once the grant is awarded, what is the involvement of the Foundation?

**A.** Grants are awarded for a finite period. Benchmarks established in the contract will be the key to continued incremental funding, when documentation is received and approved. Once research is completed, the Foundation will assist in obtaining business expertise to bring about actual production when appropriate.

**Q.** Who manages the Foundation?

**A.** A nine member Board of Directors determines policy and reviews proposals. An Executive Director and small staff will handle operations and administration.

If you have any other questions or would like to receive the proposal forms, please contact Foundation headquarters.



*Chairman Ed Clinton listens to concerns of a leader in the Kodiak commercial fishing industry.*

# Alaska Science and Technology Foundation

P.O. Box 230507  
Anchorage, Alaska 99523  
Telephone 907/562-3699  
Fax: 907/561-6174



FOUNDED IN 1988



**Alaska Science and Technology Foundation**  
**GENERAL SOLICITATION**

**Background**

The Alaska Science and Technology Foundation was created by statute in 1988 during the second session of the 15th Alaska Legislature. The bill creating the ASTF, sponsored by Governor Steve Cowper, was introduced as HB 390 in the House of Representatives in January, 1988 and received the broad support of the Alaska Legislature in its passage. Governor Cowper signed the bill into law in Fairbanks, Alaska in June of 1988.

The statute creates the Foundation "to promote and enhance, through basic and applied research: economic development and technological innovation in Alaska; public health, telecommunications, and sustained growth and development of Alaska science and engineering capabilities".<sup>1</sup> The Foundation, through policy and procedures developed by the nine-member Board of Directors, solicits and awards grants on a competitive basis. This solicitation presents the criteria by which competitive project proposals will be assessed. The law provides that the Foundation will give priority to projects proposed by Alaskan's which otherwise meet Foundation solicitation criteria. Special provisions mandate that "not less than fifty percent of the endowment income that is distributed as grants by the Foundation in a fiscal year must be for grants of \$100,000 or less, exclusive of other funding."<sup>2</sup>

The ASTF Board of Directors perceive the need for engaging in longer-term development strategies that encourage a stable and sustainable economy, bring new business to the state, improve the health and safety of Alaska's citizens, and develop Alaska's technological capabilities. Through this and future solicitations, the Foundation endeavors to encourage innovation and the pursuit of excellence in fields where Alaskans have gained, or, given the opportunity, can gain the experience and knowledge necessary for achieving and maintaining competitive advantage.

**Purpose**

The legislative history established the purpose of the Foundation. The mission and purpose of the Foundation is to make long term investments to improve the economic and health status of Alaska and its residents. The one means named in the legislation to achieve this purpose is to increase the capability for basic and applied research of the state's scientific and engineering infrastructure. The two windows to Foundation resources -- the Alaska Research Projects and the Alaska Development Projects -- are aimed at two critical but different parts of the innovation process.

1. 1988 SLA CH. 37.17.010
2. 1988 SLA CH. 37.17.090(d)

While the Foundation is committed to using its resources to make the strategic investment decisions that will have the greatest impact on the future economic and public well being of Alaska's residents in a long-term (ten year) time period, the Foundation is interested in funding particular projects that promise practical, measurable results in the near- to mid-term (2-5 year) time period necessary in order to ensure a longer term impact on the state.

### The Role of the Foundation

In seeking to achieve this public purpose, the Foundation also believes that the way it conducts its business with the people of Alaska and the relationship established between the Foundation and the public could be at least as important as the specific results of its expenditures.

The Foundation seeks to award and administer its resources in a way that insures public accountability for its investment by selecting and evaluating projects to fund based on outcomes and results, not inputs or intentions. Since recipients are responsible for achieving those specific practical results necessary to benefit Alaska, the Foundation does not intend to manage or micro-manage how the projects are carried out. The Foundation intends to operate in as non-bureaucratic a manner as possible. The Foundation recognizes the need to be clear about the public purpose of the Foundation, the way in which projects will be selected and evaluated, and the need to ensure the defined results promised by proposers while leaving to Foundation recipients the initiative of proposing how those results will be achieved and disseminated, and what adjustments over time may be required to achieve those outcomes. The Foundation seeks to use and administer its public resources in order not to create a long term dependency on the Foundation for its resources and guidance, but rather to increase the ability and independence of its recipients to continue to undertake activities without the need for state resources.

In sum, the Foundation views itself as a catalyst or seed capitalist of activities. The relationship between the Foundation and the recipients of its funds will therefore not be a traditional grantor-grantee relationship but rather one where the Foundation seeks in project managers and their organizations fellow investors and risk takers in projects. As a non-managing partner, the Foundation does not expect to interfere in the management of projects as long as projects are achieving the timely results identified by the proposer in his application for Foundation funds. The Foundation will not interfere in the management of projects that are on time and achieving defined benchmarks in order to insure the independence necessary to evaluate the results of projects and maintain the accountability necessary for the expenditure of public funds. If projects are falling behind schedule and not meeting benchmarks defined in the original application, the Foundation reserves the right to take any action necessary to preserve public funds.

In order to initiate the type of partnership described above, the Foundation requests potential proposers to submit a brief preproposal application as a means to discuss the proposed project before an entire application is written. The Foundation will also undertake to hold a series of workshops around the state to answer questions on this solicitation or the grant award process. As a steward of public resources, the Foundation must reserve the full discretion to fund projects it deems worthy and to administer the funds in a way to achieve the program goals.

### Foundation Resources

With its current limited resources, the Foundation establishes at this time one program for accessing its resources. Within the broad program, the Foundation recognizes two broad and potentially overlapping types of project "windows" that occur at different stages of the innovation process: Alaska Research Projects and Alaska Development Projects. All projects must have one project manager responsible for the project and a clear description of the relationship between the project manager and the organization, if any, to which he is attached.

### Selection Criteria/Foundation Goals

The selection criteria will match the following goals for the use of Foundation resources.

The Foundation seeks to have the greatest possible impact on the Alaska's future economy and public health. Therefore successful applications will have the following characteristics:

#### **1. Projects will leverage existing resources.**

A project should demonstrate that the proposer and, if applicable, the organization of the proposer, are co-invested in the success of the project and share in the benefits and liabilities. Projects that contribute cash, time of the individuals involved, and in-kind contributions directly to the project will be more likely to be funded. Hard match will be counted more than softer in-kind contributions. However, the absence of cash by proposers with limited means does not eliminate their application from consideration. Conversely, obtaining outside matching funds does not guarantee funding by the Foundation.

Overhead or indirect charges will not be paid on foundation grants. Only those expenses that can be directly related to the costs of the project are eligible expenses. Since the Foundation seeks to add to the level of research and development in Alaska and its relevance to the state, projects that ask the Foundation to take over the financing of existing activities will not be eligible.

- 2. Projects will be "vertically integrated" to demonstrate an ability to move research and development to the next stage of development.**

Proposals must identify their eventual market and users and demonstrate an ability to move the project toward its practical application in Alaska. The personal involvement and real support of end users or eventual beneficiaries in the research will be a clear measure of how projects are evaluated on this criteria.

Because of the Foundation's mandate to focus on the practical impact of projects on Alaska, projects must be defined and organized to demonstrate that the effort is problem- or market- or need-driven rather than research or science driven.

In some cases a proposer or a proposer's organization will not be the best vehicle to take research and development to its next stage of development. Project applications should therefore identify the vehicle -- industry group, business, community -- that will be needed to commercialize or deploy the project results and their willingness and ability to undertake the next needed step in this process.

To encourage follow-through on final project activities, project managers will be asked to submit a brief report and to execute the dissemination plan for results before receiving a final disbursement of 15% of the project's funds. In addition, up to a 10% bonus may be paid at the sole discretion of the Foundation to the project manager if it is demonstrated that the deployment plan has exceeded expectations and promises a greater impact than originally envisioned.

- 3. Projects will demonstrate first class thinking and the ability to undertake first class work.**

The Foundation is not biased towards projects that are high- or low-tech; rather the Foundation is interested in the most applicable technology that promises the greatest benefit for Alaska. The Foundation has no preconceived idea about the educational background, physical location, or ethnic origin of anyone needed to successfully propose and carry out a project. Rather applications will be evaluated on the basis of the ability demonstrated by the proposer to undertake the project, the clarity and quality of presentation and organization in the project, and the presence of the resources needed to carry out the project. While applications for \$5,000 or more will be subject to peer review to determine their quality and promise, all applications must clearly communicate to a lay audience what is being proposed, why it should be funded, why the proposer can be expected to succeed, how the results will be disseminated, and what specific outcomes will benefit the state. Successful proposals will be as clear, specific, and brief as possible.

**4. Projects will identify clear, measurable benchmarks.**

Projects must identify quarterly benchmarks for the period of the grant. Projects must also identify a definite end point as the maximum time limit for the completion of the project, after which no further disbursements will be made by the Foundation. Foundation funds will be disbursed on a quarterly basis dependent on the satisfactory completion of identified benchmarks and the overall progress of the project.

Good proposals will identify in the application the important and necessary technical and market (economic development, public health, or telecommunications) milestones that need to be achieved for the project to remain on target and on schedule. Benchmarks should not be a matter of interpretation but rather a simple undisputed measure of progress. Quarterly reports will be a brief report on those benchmarks with any necessary explanation for why targets have or haven't been met.

**5. Projects will clearly demonstrate why the Foundation, and not another organization, should fund the project.**

All applications should contain an analysis demonstrating why the proposed research and development activity is not being undertaken by others, how this project relates to any existing earlier work, and why the work is not eligible for other funds. The limited resources of the Foundation as well as the strategic role the Foundation seeks to play does not permit the Foundation to fund projects that should have been funded by other investors or resources but for reasons of quality were not. The Foundation does not seek to replace or subsidize these market decisions. However, the Foundation recognizes that in a number of cases, good projects were passed over by others because of the sometimes conservative nature of basic research decisions by the federal peer review system, because national funding agencies are sometimes less interested in projects that will have a primary focus on Alaska problems and needs, because the project was considered too applications-oriented by a federal research agency, or because it was considered by business investors to be at too early a stage to justify the risk of private business financing.

The Foundation seeks to develop the expertise needed to point proposers to other sources of public or private capital for projects that should be attracting non-Foundation funds.

- 6. Projects must demonstrate either a definite conclusion or, if ongoing, the likely prospect of follow-on investors or other resource support.**

The Foundation has as its goals the completion or self-sufficiency of all funded activities. Good projects will be conceived as either a one-time project with benefits which will be realized at its successful completion or as projects that are likely to attract non-state government follow-on investors or resources at the completion of the grant period. Follow-on investors or funders can be other research funding or private sector financing. The Foundation will not fund projects which function as long term programs that are likely to depend on further Foundation resources for their continued existence. Renewals will not be granted.

- 7. Projects must primarily benefit Alaska. Projects must not be detrimental to community health; projects must both assist community development and involve the community, affected end-users, and beneficiaries in project design and development.**

Every project will exist in a particular community but will seek a wider impact. Whether a project is aimed primarily at economic development, public health, or telecommunications, it must involve the resident community and eventual end-users in a constructive way in the project. Good projects will seek to involve the affected community and end-users in more than an advisory capacity but instead will proactively create structures and opportunities for affected communities, end users, and potential beneficiaries to participate in the planning, monitoring, and dissemination of project activities.

Because the Foundation's resources are earmarked state revenues, the primary beneficiary of the project must be the current and future residents of the state. Projects that aim to solve problems that are largely national or international without having a particularly strong impact on Alaska should be funded from federal, foundation (non-ASTF), or other resources. Grant agreements and contracts will be made with non-Alaska individuals and organizations only if no reasonably-priced Alaska project manager and organization exists and the problem to be addressed is sufficiently urgent to the state that it must fund the highest quality effort wherever located.

3. **Projects in the Development category must benefit the state's economic base. Within the Research category, preference will be given to projects that demonstrably enhance the scientific and engineering capabilities of the state.**

A state's economic base consists of the products and services it produces that are largely priced and consumed on a national or international market. Natural resources, manufacturing, and agriculture compose most of Alaska's economic base. The state's economic base supports the larger service economy of commercial, retail, finance, and government services. Projects that are primarily aimed at economic development must promise to expand the state's economic base either by increasing exports or substituting imports through an Alaskan provider of a good or service that is currently being purchased out of state.

Because of its mission to aid the state's future economy, Foundation resources cannot be used to provide an edge for the development of one potential service business against a future or existing provider because neither activity expands the overall economic base of the state. As an example, tourism brings money into the state and so is part of the state's economic base. But some tourism related facilities (such as restaurants, hotels, airlines) are also used by the resident population and thus are considered part of Alaska's service economy. Tourism related projects will be examined to insure that they are bringing larger benefits to the less developed areas of the state rather than requesting subsidies for the existing infrastructure.

Since a majority of state revenues are collected from corporations largely headquartered and owned out of state, research on the base economy will be considered eligible if it helps the state's citizens and its government become more informed about the effect of its policies and actions on private sector activities in the economic base. However, like other research projects, such social science research projects must also demonstrate that there are other interested investors and users in the project. In addition, Foundation resources will not fund economic development projects that substitute for or subsidize existing state government or educational activities.

By statute, one of the legislated purposes of the Foundation is to promote the "sustained growth and development of Alaskan scientific and engineering capabilities." When project proposals are evaluated, preference will be given to those that are most likely to meet this purpose.

**9. Projects must be in harmony with the values of the resident community and the state.**

It is the Foundation's intent to promote high quality research and development projects that are consistent with the values of the Alaskan people and that improve their quality of life. To that end, projects must be in harmony with the values of the communities in which the projects will be carried out or communities the projects will effect. Community attitudes regarding their natural surroundings and the tenor of local lifestyles must be considered. When feasible, applications should include a letter of support from the community in which the project will be carried out or which will be significantly affected by the project. Only projects which comply with federal, state, and local environmental laws and regulatory procedures will be eligible for funding. Foundation funding will not be considered a substitute for normal permitting or licensing procedures.

**10. Projects should not be detrimental to animal health and life.**

The Foundation favors research that does not cause illness, injury, or death to mammals and birds in laboratories or in the wild. Research projects using animal subjects must explain why alternative, non-animal protocols were not chosen. Laboratories must be accredited by AAALAC ( American Association for the Accreditation of Laboratory Animal Care). Animals acquired from pounds or from dealers that supply pound animals shall not be used by researchers or laboratories funded by the Foundation.

# ALASKA SCIENCE & TECHNOLOGY FOUNDATION

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February 17, 1989

FEB 22 1989

The Honorable Bettye Fahrenkamp  
Alaska State Senate  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

On behalf of the Board of Directors, thank you for the opportunity to address the Joint Resources Committee this past Tuesday.

We were very pleased to introduce the members as well as share the vision and potential of the Foundation with your committee.

We look forward to future exchanges of ideas and information. Please do not hesitate to call if we can answer any future questions.

Sincerely,



Ed Clinton  
Chairman

CR/eam



Founded 1988

Alaska Science and Technology Foundation Board of Director  
Briefing of the House and Senate Resources Committees  
2:00p.m., February 14, 1989; Capital Room 124

*Speakers and Topics*

(Proposed Format)

	<u>Topic</u>	<u>Board Member</u>
1.	Opening Remarks, Introductions	Ed Clinton, Chairman, ASTF Board of Directors
2.	An Overview of Other State's Technology-Based Development Programs...Mistakes and Successes; Principles Applied in Developing the ASTF Program.	Dr. James Kenworthy, Chair, ASTF Solicitations Committee; Director of Research, Michigan Strategic Fund
3.	Overview of the Proposal Review and Project Award Process; the Future of Technology Based Economic Development.	Dr. George Kozmetsky, Chair, ASTF Advisory Search Committee; Executive Associate for Economic Affairs, Univ. of Texas; co-founder, Teledyne Corporation
4.	Developing the Foundation's initial Request for Proposals...Progress to Date...Request for Legislative Input	Bob LeResche, Chair, ASTF Compliance Committee; Executive Director, Alaska Power Authority
5.	Other Board Member Comments	
6.	Questions to the Board from Committee Members	

Board members making presentations will limit their comments to 5 to 10 minutes each.

*The members of the Alaska Science and Technology  
Foundation Board of Directors are:*

**Mr. Edward R. Clinton, Interim Chairman**  
*President, Founder, Dowland-Bach Corp.*  
*Anchorage (Public Member)*

**Mr. Perry Eaton**  
*President, CEO, Community Enterprise  
Development Corporation*  
*Anchorage (Public Member)*

**Mr. Gary Freltag**  
*CEO, Southern Southeast Regional  
Aquaculture Association*  
*Ketchikan (Public Member)*

**Dr. Anne Lanier**  
*Director, Arctic Investigations Laboratory  
Center for Infectious Diseases*  
*Anchorage (Scientific Member)*

**Dr. Robert E. Leresche**  
*Director, Alaska Power Authority*  
*Juneau (State Agency Member)*

**Dr. James Kenworthy**  
*Director, Research and Technology Programs  
Michigan Strategic Fund*  
*Lansing, Michigan (Out-of-State Member)*

**Dr. George Kozmetsky**  
*Executive Associate for Economic Affairs  
University of Texas System*  
*Founder, Teledyne Corporation*  
*Austin, Texas (Out-of-State Member)*

**Dr. Lynn A. Walken**  
*Arthropologist*  
*Juneau (Scientific Member)*

**Dr. Francis S. L. Williamson**  
*Director, Institute of Arctic Biology  
University of Alaska*  
*Fairbanks (University Scientific Member)*

Alaska Science and Technology Foundation

**RESEARCH AND DEVELOPMENT GRANTS**  
**PROJECTS**

GENERAL INSTRUCTIONS FOR APPLICATION

As stated in the Foundation's "General Solicitation", there are two "windows" available to proposers for competitive funding of projects. The Alaska Research Projects window seeks to encourage pre-commercial projects which can reasonably be expected to result in a product, process, or service that directly relates to the employment or health status of Alaska residents and the development of Alaska resources. The Alaska Development Projects window is designed to encourage projects that result in new products, processes, or services,<sup>1</sup> employment of Alaska residents and development of Alaska resources.

The enclosed forms will be used to apply for both Alaska Research Projects and Alaska Development Projects funding. This package includes two different sets of forms: (1) *Pre-Proposal* application forms and (2) *Proposal* application forms. The Foundation requires proposers to submit a *Pre-Proposal* application for each project. This will assist us in reviewing your project's program eligibility, in providing you help while completing the longer, more detailed *Proposal* application forms, and in maintaining an accurate record of potential projects.

State statutes specify how certain information may be kept confidential. To encourage applicants to the Foundation for project funding, under AS 37.17.090 (f), information submitted in *Pre-Proposals* and *Proposals* to the Foundation will be excepted from public disclosure if the applicant so requests. Applicants should mark "confidential" all materials or data they will request not to be disclosed and sign the "Confidentiality Requested" statement included in this packet. (Please refer to page I-6 of these instructions.) The Foundation asks proposers to make every effort to minimize the amount of material or data so designated. Please also note that all information submitted on the cover pages of *Pre-Proposals* and *Proposals* is considered public information.

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<sup>1</sup> Note that not all service-related projects are eligible for funding. Please refer to the "General Solicitation", page 7, paragraph 2, as a guide for determining service project eligibility.

## Pre-Proposal Forms

The *Pre-Proposal* form has three pages:

### 1. Project Summary

The Project Summary provides the Foundation basic information identifying: (A) the project title, (B) the project manager and his/her working relationship to a business, educational, or other organization, (if any), (C) the project's co-investor(s), and (D) the title of project being proposed.

### 2. Project Overview

The Project Overview section asks proposers to describe in general terms the basic focus of the proposed project and what is expected to result from its completion.

### 3. Project Detail

The third page asks proposers to *briefly* answer some specific questions regarding:

- o *WHAT* product, process, or service will result from the project;
- o *HOW* the project will achieve these results, how progress towards these results will be measured, how the project relates to current and previous work in the appropriate field and how the proposed work is unique, and how results from the project will be disseminated;
- o *WHERE* the project will take place, where the benefits will be received, and where do affected communities fit into the project;
- o *WHY* the project will benefit Alaska and why the Foundation should fund the proposal.

**Proposers should make every attempt to limit responses to the space provided under each heading in writing both Pre-Proposals and Proposals.**

## PROPOSAL FORMS

The Proposal application is organized around the questions of "Who", "What", "Why", "How", "When", and "Where". The purpose of this format is to encourage you to assess and present your project in a systematic way and answer each question in a manner that addresses each of the Foundation's project "Selection Criteria/Overall Goals" statements.

The Proposal forms consist of:

### 1. Project Summary (Page 1)

The Project Summary provides basic information identifying: (A) the project name, (B) the type of project being proposed, (C) the project manager and his/her working relationship to a business, educational, or other organization, (if any), and (D) the project's co-investor(s). The project name should be brief and understandable to a non-scientist. If it is unclear, we will request a revision.

### 2. Project Detail (Pages 2-7)

The Project Detail pages ask the questions of "Who", "What", etc. Your answers should provide a clear statement of your project goals and objectives and your plan for realizing these as a partner of the ASTF. Answers should be straightforward, concise, and complete.

The WHAT section of the Project Detail asks for a description of the product, process, or service that will result from the project. This goal description should be supported with a sequential listing of benchmarks to be reached in the course of the work, including the questions to be answered.

The HOW of the proposal is intended to capture scientific/technical information for use by reviewers. You should show that (1) the proposal is based on accepted scientific principles, (2) the project's success does not depend on technologies not yet developed, (3) project staff is fully qualified and able to successfully execute the project, and (4) the proposed budget, facilities, and equipment are appropriate and adequate to the work proposed.

A schedule of events related to the project is requested in the WHEN section. This schedule should include the objectives to be reached as major milestones, highlighting any critical events. Flowcharting or other graphical rendering of quarter-by-quarter events is recommended. The schedule will be used to assess whether enough time is allotted for project success and to measure progress if the project is funded.

## Proposal Forms (continued)

2. You should also clearly specify the benefits to result from the project. As an example, benefit measures could include dollars saved, population served, production or systems efficiencies realized, etc.

You should include copies of letters of endorsement from community groups and from project co-sponsors. Copies of any necessary permits should also be attached.

3. Project Budget (Pages 8-11)

These forms are designed to lead you through the process of determining what your project will cost while identifying the sources of funding and the amounts received from each source. In addition, all proposals must include a completed quarterly cash flow projection.

As stated in the "General Solicitation", the Foundation normally requires projects to include partnership investments on the part of the proposer and/or co-investor(s). In-kind matches, contributions of time, and of facilities and equipment may all be counted towards a match though cash matches will be more important in the overall evaluation of certain projects.

4. Business Plan

The Business Plan section applies to proposals designated as Alaska Development Projects (ADP). Enclosed with this general solicitation packet is a copy of the Alaska Department of Commerce and Economic Development publication, "Business Planning Guide." This document will guide you in developing the necessary financial, marketing, and production plans needed for commercialization of your products. You should use the business plan process outlined in the "Business Planning Guide" to submit your business plan to the Foundation for your project. You can receive assistance in developing a business plan through the Department of Commerce and Economic Development, Division of Business Development, (907) 465-2017 and through the Small Business Development Centers operated in communities throughout Alaska. A list of SBDCs and related contact information is attached as Appendix A of these instructions.

## PROJECT SOLICITATION AND REVIEW

The Foundation considers the "General Solicitation" to be notice of a standing ASTF commitment to accept and consider all proposals for project funding which conform to the stated criteria, whether specifically solicited or not. Formal "Request for Proposals" (RFPs) will be periodically solicited for specific areas of research and development that the Foundation believes are potentially important to the economic, health, and/or telecommunications interests of the State. The Foundation reserves the right to fund proposals in any area of inquiry, whether or not the areas are specifically mentioned in an RFP. All proposals must be submitted in the form designated and include the information requested in the *Pre-Proposal* and *Proposal* forms.

### Unsolicited Proposals

When unsolicited proposals are received, we will acknowledge receipt by letter and send you a solicitations packet that includes:

1. ASTF's "General Solicitation" document outlining the Foundation's program philosophy and stating the basic criteria by which all proposals will be evaluated.
2. "Pre-Proposal/Project Summary" forms and instructions.
3. "ASTF Project Proposal" forms and instructions.
4. General program guidelines, including statements of policy governing proposal solicitations and the review process, confidentiality in the proposal solicitation and review process, examples of the types of proposals that would not qualify for ASTF funding, and other general information.

You may contact the Foundation for answers to questions regarding the information requested in the *Pre-Proposal* and *Proposal* forms and for general information regarding the proposal review and funding process. The Foundation has the following interim staff available for fielding inquiries:

Board of Directors  
Alaska Science and Technology  
Foundation  
P.O. Box 230507  
Anchorage, Alaska 99523  
(907) 562-3699

## Confidentiality

As previously stated, under law, the Foundation's Board of Directors may honor requests for making confidential certain sections of proposals. Such requests are to be made by proposers in writing and must include justification for the request. ASTF staff will hold proposals requesting confidentiality in a secured file. Requests for confidentiality will be considered on a case-by-case basis at regular meetings of the Board. All information having confidential status will remain so designated during the entire proposal review/selection/funding process. All ASTF proposal reviewers are bound by a confidentiality agreement. (Sample copy available on request.)

**Proposals that do not include the written request for confidentiality yet include materials designated as confidential will be returned to the proposer. The Foundation accepts no responsibility for the security of proposer materials submitted to the Foundation that have not complied with ASTF confidentiality guidelines.**

Disclaimer

Completion and submission of a *Pre-Proposal* and/or a *Proposal* should in no way be interpreted as obligating the Foundation to funding and/or establishing a priority position for funding of any proposed project, e.g., the receipt of a *Pre-Proposal* and/or *Proposal* by the Foundation does not create a contractual relationship between the Foundation and the proposer and the Foundation accepts no duty of care beyond that which is consistent with the guidelines and instructions within the "General Solicitation", the "General Instructions for Application", and the *Pre-Proposal* and *Proposal* application forms. In addition, Foundation staff will not comment on the prospects for funding of any proposed project.

The Foundation will accept and acknowledge receipt of all *Pre-Proposal* and/or *Proposals* that conform to the above-mentioned guidelines and instructions. The Foundation will provide assistance to individuals who request explanation or clarification of questions related to either *Pre-Proposal* or *Proposal* forms or statements made in the published guidelines, instructions, and Requests for Proposals. The Foundation will provide information to proposers regarding the status of their proposal with regard to the review process.

I have read and understand the above disclaimer.

Signed: \_\_\_\_\_  
(Project Manager)

Date: \_\_\_\_\_

**INCLUDE A COPY OF THIS SIGNED DISCLAIMER WITH THE PRE-PROPOSAL APPLICATION. A PRE-PROPOSAL RECEIVED BY THE ASTF WITHOUT A SIGNED DISCLAIMER WILL BE RETURNED.**

-----  
**CONFIDENTIALITY REQUESTED**

I have read and understand the policy's governing confidentiality and hereby request that the Alaska Science and Technology Foundation hold in confidence all information and materials included in this Pre-Proposal / Proposal (circle one) designated as "Confidential" by stamp or similar marking. A justification of this request is attached.

Signed: \_\_\_\_\_  
(Project Manager)

Date: \_\_\_\_\_

## Appendix A

### Small Business Development and Assistance Centers

Anchorage SBDC Office  
University of Alaska Anchorage  
430 West 7th Avenue, Suite 115  
Anchorage, Alaska 99501  
274-7232 / Robin Richardson Zerbel, Director

Kenai SBDC Site  
Kenai Peninsula College  
P.O. Box 848  
Soldotna, Alaska 99669  
262-5801 / Bill Phillips

Valdez SBDC Site  
Prince William Sound Community College  
Valdez Chamber of Commerce  
P.O. Box 2418  
Valdez, Alaska 99686  
835-5109 / Debi Somerville

Kodiak SBDC Site  
Kodiak College  
P.O. Box 946  
Kodiak, Alaska 99615  
486-3099 / Val Rader

Fairbanks SBDC Office  
Tanana Valley College  
510 2nd Avenue, Suite 316  
456-1701 / Tom Broderson, Director  
800 427-1701 outside Fairbanks

Nome SBDC Site  
Northwest College  
P.O. Box 400  
Nome, Alaska 99762  
443-2201 / Jeanette Morton

Bethel SBDC Site  
Kuskokwim College  
P.O. Box 368  
Bethel, Alaska 99559  
543-2621 / Alice Crow

Kotzebue SBDC Site  
Chukchi College  
P.O. Box 297  
Kotzebue, Alaska 99752  
442-3400 / 800 478-1701

Juneau SBDC Office  
University of Alaska Southeast  
1108 F Street  
Juneau, Alaska 99801  
463-3789 / Paul Kennedy, Director  
800 478-3789 outside Alaska

Ketchikan SBDC Site  
Ketchikan College  
7th & Madison  
Ketchikan, Alaska 99901  
225-6177 / C.L. Chesire

Sitka SBDC Site  
Islands College  
1101 Sawmill Creek Boulevard  
Sitka, Alaska 99835  
747-6653 / Dick Griffin

Alaska Business Development Center  
143 E. 9th Avenue, Suite 250  
Anchorage, Alaska 99501  
(907) 279-7427 / Gary Selk, Director

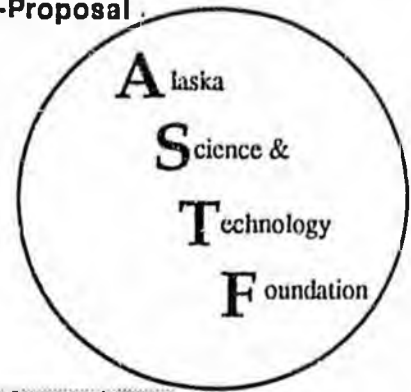
Fairbanks Native Association  
Native Business Center  
Manpower and Training  
310 First Avenue  
Fairbanks, Alaska 99701  
452-3428 or 465-4834 / Bob Kellar

Alaska Business Development Center  
2201 N. Jordan Avenue  
Juneau, Alaska 99801  
(907) 789-3660 / Ren Walt

# Pre-Proposal / Project Summary

Please read the "General Solicitation" and the "General Instructions for Application" before completing this Pre-Proposal.

## Project Title:



## Project Type

<input type="checkbox"/> A. Economic Development	<input type="checkbox"/> D. Combined
<input type="checkbox"/> B. Public Health	<input type="checkbox"/> E. Other (Please Explain) _____
<input type="checkbox"/> C. Telecommunications	_____

## Project Description

Please provide a brief description of the project:

## Project Cost

Please indicate the amount of total funds you will need from the Foundation for this project:

\$ \_\_\_\_\_

Please indicate the total cost of the project:

\$ \_\_\_\_\_

## Project Manager:

Name: \_\_\_\_\_

Position/ Title: \_\_\_\_\_

Social Security #: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone: ( ) \_\_\_\_\_

FAX: ( ) \_\_\_\_\_

## Affiliation (IF APPLICABLE)

Organization/ Business: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone: ( ) \_\_\_\_\_

FAX: ( ) \_\_\_\_\_

(APPLICANTS ARE ENCOURAGED TO SUBMIT ADDITIONAL INFORMATION REGARDING THEIR WORK EXPERIENCE)

## Co-Investor Information

Company Name: _____	Address: _____
Business Focus: _____	_____
Contact Person: _____	_____

Please attach copies of letters of endorsement or agreements from Co-Investor(s) in this proposed project if available at this time.

Phone: ( ) \_\_\_\_\_

FAX: ( ) \_\_\_\_\_

## Project Manager's

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*(Please note that the information given on the first page of this project proposal is considered public information and is subject to disclosure.)*

---

**PROJECT OVERVIEW**

In your own words, please describe the proposed project and the benefits you see resulting from its completion.

---

**WHAT** Please describe exactly what product, process, or service will result from the project.

---

**HOW** Describe how the project will achieve the results just defined. What quarterly benchmark measures will be used to gauge project progress? How does this project relate to previous research or projects undertaken by you or by others in this particular field? How is this project unique with respect to any previous related work? How will project results be disseminated; to whom?

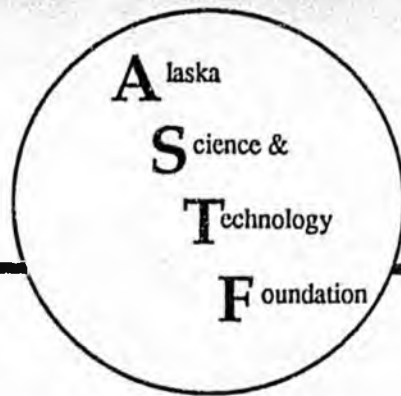
---

**WHERE** Where will the project be undertaken and where will the project's benefits be received? Identify areas or communities (if any) affected by this project, before, during, and after. What plans are there for involving the community where the project will be done? Is the project consistent with prevailing community values?

---

**WHY** Why is this project of benefit to Alaska and Alaskans? Why should this project be funded with public money through the ASTF?

# PROPOSAL



Please read the "General Solicitation" and the "General Instructions for Application" before completing this Proposal.

Project Title: \_\_\_\_\_

### Project Type

<input type="checkbox"/> A. Economic Development	<input type="checkbox"/> C. Telecommunications	<input type="checkbox"/> E. Other (Please Explain)
<input type="checkbox"/> B. Public Health	<input type="checkbox"/> D. Combined	_____

### Project Description

Please provide a brief description of the project:

### Funding sought from ASTF

Please indicate the amount of total funds you will need from the Foundation for this project:

\$ \_\_\_\_\_

Please indicate the total cost of the project:

\$ \_\_\_\_\_

### Project Manager:

Name: _____	Address: _____
Position/Title: _____	_____
Social Security #: _____	Phone: _____ FAX: _____

### Affiliation (If Any)

Organization/ Business Name: _____	Address: _____
Project Manager's Relationship/Title: _____	Phone: _____ FAX: _____

### Co-Investor Information

Company Name: _____	Address: _____
Business Focus: _____	_____
Contact Person: _____	Phone: _____ FAX: _____

**NOTE:** Please attach copies of existing agreements between the proposer and Co-Investor(s) governing this proposed project.

### Project Manager's

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*(Please note that the information given on the first page of this project proposal is considered public information and is subject to disclosure.)*



**Project Manager**

Name: _____	Social Security #: _____
Address: _____ _____	Phone: ( ) _____
	FAX: ( ) _____
Employment Background: _____	

(APPLICANTS ARE ENCOURAGED TO SUBMIT ADDITIONAL INFORMATION REGARDING THEIR WORK EXPERIENCE)

**Affiliation** Is a statement of support from the affiliate or organization enclosed? YES  NO   
 Please describe the relationship of the project manager with the listed organization or institution:

**Personnel** Please list the names, titles, backgrounds, and individual expertise of each project staff member.

<u>STAFF MEMBER</u>	<u>WORK EXPERIENCE / TECHNICAL EXPERTISE</u>
1. _____ (Name) _____ (Title)	
2. _____ (Name) _____ (Title)	
3. _____ (Name) _____ (Title)	
4. _____ (Name) _____ (Title)	
5. _____ (Name) _____ (Title)	

**PROJECTED RESULTS** What product, process, or service will result from the project.

**WHAT**



1. Why is this project of benefit to Alaska and Alaskans?

2. Why should this project be funded with public money through the ASTF? What other sources of funds, public and private, have been sought for this project? What were the results of these other funding requests?

**ASTF PROJECT PROPOSAL**

How will the project achieve results? What benchmarks are the best measures to determine the progress of the project in quarterly reports to the Foundation?

**HOW**

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How does this project relate to previous research or projects undertaken by you or by others in this particular field?  
How is this project unique with respect to any previous related work?

---

How will this project's results and benefits be disseminated; to whom; where?

**ASTF PROJECT PROPOSAL**

Please outline the project's proposed schedule of events, the time involved and projected completion date of each stage and highlight any concurrent events. What is the estimated total time involved and the absolute end-date for project completion? Include dates for commencement, submission of quarterly reports, completion, and final report.

**WHEN**

---

Is the project complete at the end of the proposed funding period? If not, who are the expected follow-on investors?

**ASTF PROJECT PROPOSAL**

Where will the project be undertaken and where will the project's benefits be received? Identify areas or communities (if any) affected by this project, before, during, and after its execution.

**WHERE**

---

What plans are there for involving the community where the project will be done? Please summarize the project's plan for involving the local community. Is the project consistent with prevailing community values?

Is a statement from the local community enclosed? YES  NO

Are copies of relevant permits enclosed? YES  NO

**ASTF PROJECT PROPOSAL**

**PROJECT BUDGET**

ITEM	SOURCE				TOTAL
	ASTF	Federal	Private	Applicant	
1. Personnel Salaries					
A. Project Manager					
B. Staff Members: (list by title)					
i.					
ii.					
iii.					
iv.					
2. Consultant/Contractual Services					
3. Travel/Per Diem					
4. Facilities (Rental/Use)					
A. Space					
B. Office Equipment					
C. Office Furniture					
<b>SUBTOTAL THIS PAGE</b>					

ITEM	SOURCE				
	ASTF	Federal	Private	Applicant	TOTAL
SUBTOTAL - PREVIOUS PAGE	_____	_____	_____	_____	_____
5. Machinery and Equipment Total (Please Itemize in Appendix A)	_____	_____	_____	_____	_____
6. Other Direct Costs	<b>LIST ONLY DIRECT COSTS WHICH ARE APPLICABLE TO THIS PROJECT</b>				
A. Supplies	_____	_____	_____	_____	_____
B. Postage	_____	_____	_____	_____	_____
C. Printing and Publication	_____	_____	_____	_____	_____
D. Telephone	_____	_____	_____	_____	_____
E. Utilities	_____	_____	_____	_____	_____
F. Final Audit and Accounting	_____	_____	_____	_____	_____
G. Insurance/Bonding	_____	_____	_____	_____	_____
I. Advertising	_____	_____	_____	_____	_____
J. Other	_____	_____	_____	_____	_____
<b>TOTAL COSTS</b>	_____	_____	_____	_____	_____

ASTF PROJECT PROPOSAL

**PROJECT CASH FLOW ANALYSIS**

	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	TOTAL
<b>Receipts (by source):</b>					
ASTF:	_____	_____	_____	_____	_____
Co-Investors: (name)					
1)	_____	_____	_____	_____	_____
2)	_____	_____	_____	_____	_____
3)	_____	_____	_____	_____	_____
Applicant:	_____	_____	_____	_____	_____
<b>TOTAL RECEIPTS:</b>	_____	_____	_____	_____	_____
<b>Disbursements (by category)</b>					
Personnel	_____	_____	_____	_____	_____
Consultant/Contractual	_____	_____	_____	_____	_____
Travel/Per Diem	_____	_____	_____	_____	_____
Facilities (Rental/Use)	_____	_____	_____	_____	_____
Equipment	_____	_____	_____	_____	_____
Other Direct Costs	_____	_____	_____	_____	_____
<b>TOTAL DISBURSEMENTS:</b>	_____	_____	_____	_____	_____



# Alaska Science & Technology Foundation

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## Summary First Request for Proposals

### *The Alaska Science and Technology Foundation*

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is requesting proposals for research and development projects in Alaska to further the purposes of the Foundation, which are to make long term investments in economic development and technological innovation in Alaska through applied and basic research that will enhance the State's economy, help build our science and engineering capabilities, and improve the health status of Alaskans.

**PROPOSALS ARE ENCOURAGED FOR ALL PROJECTS THAT WILL ASSIST IN ACHIEVING THESE GOALS.** In addition, we are specifically seeking proposals for projects dealing with the areas listed in this request.

#### *Fisheries*

Develop projects that will result in information that can be used by state and federal management authorities to reduce salmon interception through international negotiation. Proposals might include programs that use high technology remote sensing of foreign fishing vessels and sampling for stock identifiers such as coded wire tags or scale pattern analysis.

Proposals should demonstrate how resulting data and surveillance information can be used by management authorities to reduce high seas interception.

Develop new methods to improve the handling, processing and marketing of Alaskan seafood products, including underutilized species.

*Pursue any other project whose success promises to increase the return to Alaskans from our fisheries resources.*

#### *Coal Technology*

Develop a functional and economic process for drying, stabilizing and beneficiating Alaska coal to enhance its marketability in export markets.

*Pursue any other project which will result in a greater return to Alaskans from exploiting our energy resources.*

### Forest Products Technology

Develop economically viable processes for producing marketable products from Alaskan timber resources, including underutilized species and the small-log and pulp-log components of presently harvested species.

Achieve greater acceptance of Alaska spruce and hemlock species in building codes and specifications to enhance the domestic marketability of Alaska-made building products.

*Pursue any other project which promises to capture more added value from processing forest products in Alaska.*

### Rural Energy Systems and Telecommunications

Develop standardized modular electric generation systems for use in rural Alaska that integrate diesel, renewable and local energy sources and provide flexibility to allow use in diverse locations, load profiles and seasonal availability of energy sources.

Develop economic telemetry and control systems to allow remote monitoring and control of isolated rural systems.

*Accomplish any other project that promises to improve the quality or cost structure of energy or telecommunications in rural Alaska.*

### Public Health & Safety

Develop solutions to the problems of accidental and self-inflicted injuries and deaths in Alaska. Specific emphasis might be placed on marine safety in the commercial fishing fleet, and improvements in the safety of logging and mining practices.

Develop effective programs for the prevention of alcohol and drug abuse in Alaska.

Develop programs which effectively promote individual and community health and wellness.

*Develop and evaluate any other practical program which can be expected to improve the health and wellness status of Alaska residents in the near- to mid-term.*

**PROPOSALS ARE ENCOURAGED FOR ALL PROJECTS THAT WILL ASSIST IN ACHIEVING OUR LEGISLATED GOALS, WHETHER OR NOT THEY ARE SPECIFIED IN THE FIRST REQUEST FOR PROPOSALS!!**

# **Subsistence Briefing**

**1-18-90**

Joint House and Senate Resources Committee  
Subsistence Briefing  
January 18, 1990

Packet Contents

- I. Chronology of Subsistence Law  
by ADF&G
- II. ANILCA Title VIII - Subsistence Management and Use
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(SCS CS HB288(Res) am S
- IV. Alaska Department of Fish and Game Summaries:
  - . Sectional Analysis of 1986 subsistence law
  - . 1989 Alaska Subsistence Fish and Game Hunt Update
- V. News Articles
- VI. Alaska Supreme Court Decision, McDowell v. State of Alaska  
Opinion No. 3540, December 22, 1989

NOTICE: This opinion is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections may be made prior to permanent publication.

THE SUPREME COURT OF THE STATE OF ALASKA

SAM E. McDOWELL, DALE E.  
BONDURANT, RONALD MAHLE and  
HAROLD EASTWOOD,

Appellants,

v.

STATE OF ALASKA, ALASKA  
DEPARTMENT OF FISH AND GAME,  
ALASKA BOARD OF FISHERIES,  
ALASKA BOARD OF GAME and  
DON W. COLLINSWORTH,  
Commissioner of Fish and Game,

Appellees,

THE ALASKA FEDERATION OF  
NATIVES, PROTECTORS OF THE  
LAND d/b/a NUMAN KITLUTSISTI,  
TONY VASKA and WALTER CHARLEY,  
on behalf of himself and all  
other persons similarly  
situated,

Intervenors/  
Appellees.

Supreme Court File  
No. S-2732

Trial Court File  
No. 3AN-83-1592 Civil

O P I N I O N

[No. 3540 - December 22, 1989]

Appeal from the Superior Court of the State  
of Alaska, Third Judicial District, Anchorage,  
Douglas J. Serdahely, Judge.

Appearances: Cheri C. Jacobus, Ross,  
Gingras, Bailey & Miner, P.C., Anchorage, for  
Appellants. Larri Irene Spengler, Assistant  
Attorney General, Grace Berg Schaible,  
Attorney General, Juneau, for Appellees.  
Donald Craig Mitchell, Anchorage, for  
Intervenors/Appellees.

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FACTUAL AND PROCEDURAL SETTING

The 1986 act<sup>1</sup> defines subsistence fishing and hunting as activities which can be undertaken only "by a resident domiciled in a rural area of the state . . . ." Subsistence uses are also defined in terms of residency in rural areas:

"Subsistence uses" means the noncommercial, customary and traditional uses of wild, renewable resources by a resident domiciled in a rural area of the state for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of non-edible 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.

AS 16.05.940(30). A "rural area" is defined as "a community or area of the state in which the noncommercial, customary, and traditional use of fish or game for personal or family consumption is a principal characteristic of the economy of the community or area." AS 16.05.940(25).

Appellants are Alaska residents who have engaged in subsistence hunting and fishing in the past and wish to continue to do so. Under the 1986 act, they are disqualified as subsistence users because they reside in areas classified as non-rural by the joint Boards of Fisheries and Game. Appellants McDowell and Mahle reside in Anchorage, Bondurant resides in

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1. For ease of reference, citations to chapter 52 SLA 1986 in this opinion will be to the appropriate section of the Alaska Statutes where that act is codified.

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**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
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Attorney General, Juneau, for Appellees.  
Donald Craig Mitchell, Anchorage, for  
Intervenors/Appellees.

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Before: Matthews, Chief Justice, Rabinowitz,  
Burke, Compton, and Moore, Justices.

MATTHEWS, Chief Justice.  
COMPTON, Justice, concurring.  
MOORE, Justice, concurring.  
RABINOWITZ, Justice, dissenting.

#### INTRODUCTION

This case challenges chapter 52 SLA 1986 which grants a preference to rural residents to take fish and game for subsistence purposes. The only requirement to be met by a subsistence fisherman or hunter is residency in a rural area of the state.

The rural preference is challenged under several provisions of the Alaska Constitution: the common use clause, article VIII, section 3; the no exclusive right of fishery clause, article VIII, section 15; the uniform application clause, article VIII, section 17; the equal rights clause, article I, section 1; and the due process clause, article I, section 7. In addition, violation of the equal protection and due process clauses of the United States Constitution is claimed. For the reasons that follow, we hold that the rural preference violates article VIII, sections 3, 15 and 17 of the Alaska Constitution.

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FACTUAL AND PROCEDURAL SETTING

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Cooper Landing, and Eastwood resides in the community of McKinley Park.

The 1986 act requires the Board of Fisheries and the Board of Game to decide what portion of each fish stock and game population can be harvested consistent with the principle of sustained yield. Next the Boards must determine how much of the harvestable portion is needed to satisfy subsistence needs. If the harvestable portion of any stock or population is not sufficient to accommodate all consumptive uses -- sport, personal use, and commercial -- then subsistence uses

shall be accorded a preference over other consumptive uses, and the regulations shall provide a reasonable opportunity to satisfy the subsistence uses. If the harvestable portion is sufficient to accommodate the subsistence uses of the stock or population, then the Boards may provide for other consumptive uses of the remainder of the harvestable portion.

AS 16.05.258(c). If the harvestable portion of a stock or population is insufficient to satisfy all subsistence needs, all non-subsistence uses are barred, and the Boards are required to distinguish among subsistence users by applying three criteria: "(1) customary and direct dependence on the fish stock or game population as the mainstay of livelihood; (2) local residency; and (3) availability of alternative resources." Id.

This case was brought in 1983 as a challenge to the 1978 subsistence statute, chapter 151, section 4 SLA 1978. The 1978 statute established that subsistence hunting and fishing had priority over other uses of fish and game stocks. Like the 1986

statute, it provided for two tiers of subsistence users. In the first tier were those who could take fish or game for subsistence purposes when populations were adequate to satisfy all subsistence needs. The second tier was limited to those who could take fish and game for subsistence purposes when populations were inadequate to supply all subsistence needs. The 1978 statute distinguished the second tier of subsistence users from the first tier on the basis of the same three factors utilized in the 1986 statute, namely, customary and direct dependence, local residency, and availability of alternative resources. Id. However, unlike the 1986 statute, the 1978 statute did not impose a rural residency requirement as a condition to becoming a first-tier subsistence user.

The appellants' initial complaint challenged the second-tier subsistence priority of the 1978 statute. The complaint was amended several times to expand on the original theory and add challenges to various regulations. All parties submitted motions for summary judgment. The superior court granted some of these motions and deferred others on October 24, 1984. Before the deferred motions could be ruled on, this court decided Madison v. Alaska Department of Fish and Game, 696 P.2d 168 (Alaska 1985), which struck down, as inconsistent with the 1978 statute, subsistence fishing regulations which imposed a rural residency requirement on first-tier subsistence users. Id. at 178.

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The next event of significance was the passage in 1986 of chapter 52 SLA 1986, which, as noted, provides that only rural residents can be first- or second-tier subsistence users. Following passage of this act, the appellants again amended their complaint, challenging the rural preference on constitutional grounds. Both the appellants and the state moved for summary judgment. The superior court granted the motion of the state and denied the motion of the appellants. Judgment was entered on the basis of this ruling.

The setting of this case would not be complete without mention of the Alaska National Interest Lands Conservation Act (ANILCA), enacted by Congress in 1980.<sup>2</sup> Section 3114 of this act requires that on federal public lands in Alaska, subsistence uses are to be given priority over the taking of fish and wildlife for other purposes. Under ANILCA, only rural Alaska residents are entitled to a subsistence priority.<sup>3</sup> ANILCA requires federal

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2. 16 U.S.C.A. §§ 3101-3233 (West 1985).

3. ANILCA § 804, 16 U.S.C.A. § 3114, states:

Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes. Whenever it is necessary to restrict the taking of populations of fish and wildlife on such lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such priority shall be

(Footnote Continued)

management of public lands in Alaska in order to ensure the subsistence priority.<sup>4</sup> However, federal management may be supplanted by the state so long as the state enacts and implements subsistence laws "which are consistent with, and which provide for the definition, preference, and participation specified in" ANILCA.<sup>5</sup>

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(Footnote Continued)

implemented through appropriate limitations based on the application of the following criteria:

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

(Emphasis added).

ANILCA § 803, 16 U.S.C.A. § 3113, defines the term "subsistence uses" as used in ANILCA to mean

the customary and traditional uses by rural Alaska residents 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 byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade.

(Emphasis added.)

4. 16 U.S.C.A. § 3115(c).

5. 16 U.S.C.A. § 3115(d).

After this court's Madison decision, the Secretary of the Interior notified the state that state law was no longer consistent with ANILCA and that federal management would begin unless consistency was achieved by June 1, 1986. Kenaitze Indian Tribe v. State of Alaska, 860 F.2d 312, 314 (9th Cir. 1988), cert. denied, 105 L. Ed. 2d 695 (1989). With the passage of the 1986 act, the Interior Department has stated that Alaska is once again in compliance with ANILCA. Id.

After final judgment was entered by the superior court, the 9th Circuit Court of Appeals ruled that the definition of "rural" in the 1986 act does not comply with § 3113 of ANILCA. Id. at 318. "Rural," in ANILCA, according to the court, refers to "sparsely populated" areas; "rural is the antonym of urban and includes all areas in between cities and towns of a particular size." Id. at 316-17. The court referred to Census Bureau standards under which "the urban population consists of people living in communities of 2,500 or more, while the rural population comprises everyone else." Id. at 317. Thus, the 1986 act's subsistence-oriented definition was held inconsistent with ANILCA.

Bondurant and Eastwood both reside in rural areas as Kenaitze has interpreted ANILCA's use of that term. They are thus probably entitled to injunctive relief under ANILCA, 16

U.S.C.A. § 3117(a).<sup>6</sup> However, the Kenaitze decision does not change the issues presented in this appeal because the 1986 statute remains fully applicable to all non-federal lands.

Background and Purpose of the 1986 Statute

Prior to 1978, urban residents could engage in subsistence hunting and fishing. However, there was no statutory preference given to subsistence over sport or commercial fishing or sport hunting. With the enactment of chapter 151 SLA 1978, subsistence hunting and fishing was given such a priority. Madison, 696 P.2d at 174 n.12. The 1978 statute did not bar urban residents from eligibility as first-tier subsistence users. Madison, 696 P.2d at 176. However, a regulation adopted by the Board of Fish and Game did exclude urban residents. 5 AAC 01.597. Madison held that this regulation violated the 1978 statute. Id.

In 1985 the Alaska House of Representatives adopted a letter of intent which accompanied the bill that became the 1986 subsistence act. 1985 House Journal 1246. The letter explained the rural preference of the 1986 act as follows:

This limitation of the definition of "subsistence uses" recognizes that Alaska is unique, and unlike any of the other forty-nine states, the economy of many rural communities in rural areas in Alaska is significantly dependent upon participation by the residents of these communities in the

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6. Such relief has not been requested in this case, and the question whether the § 3117(a) remedy is available only in federal courts has not been briefed.

taking of fish stocks and game populations for personal and family consumption. Further, the legislature finds that the general health and welfare of these citizens is significantly tied to their participation in these activities.

Id. at 1229-30. In making this determination, the legislature sounded a theme that was also expressed by Congress in enacting ANILCA. The House Committee on Interior and Insular Affairs determined that:

After consideration of the testimony at the subcommittee's hearings and town meetings throughout Alaska and review of studies done by a variety of federal, state, academic, and other agencies and groups, the Committee has no doubt about the importance of subsistence uses to the rural people of Alaska. Reliable evidence was given to the Committee demonstrating that fifty percent of the food for three-quarters of the Native families in Alaska's small and medium villages is acquired through subsistence uses, and 40 percent of such families spend an average of 6 to 7 months of the year in subsistence activities . . . .

H.R. Rep. No. 1045, 95th Cong., 2d Sess., at 181 (1978). The intervenors in this appeal similarly expressed the purpose of the rural preference as follows:

If village access to fish and game is overwhelmed by competition from the tens of thousands of sportsmen who Alaska's fortuitous oil wealth has drawn to the urban centers, the effect on the rural village economy would be adverse, and the effect on the health and welfare of rural residents would be even more so.

An additional purpose of the 1986 subsistence law is to retain state management of fish and game on federal lands by meeting the requirements of ANILCA.<sup>7</sup>

#### Urban-Rural Subsistence Patterns

Appellants' basic objection to the 1986 act is that by excluding from eligibility as subsistence users all urban dwellers and by including all rural dwellers, the act unfairly excludes some urban residents who have lived a subsistence lifestyle and desire to continue to do so, while needlessly including numerous rural residents who have not engaged in subsistence hunting and fishing. Appellants claim, in other words, that the urban/rural criterion is both unfairly under-inclusive, because it excludes deserving urban residents, and over-inclusive, because it includes undeserving rural residents. Appellants instead suggest that the right to subsistence should depend upon individual needs and traditions, not on one's place of residence.

The record supports the appellants' claim that there are substantial numbers of urban subsistence users. A state

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7. Senator Fisher, a member of the Senate Resource Committee, noted in the Senate floor debate: "[T]his legislation will provide the boards the tools to solve the problems in harvest disruption that followed Madison, and will assure the state will retain management of fish and game throughout Alaska by meeting the requirements of the federal subsistence law."

study of subsistence use patterns<sup>8</sup> found that of some 255 holders of subsistence salmon permits for the 1980 Tanana River fishery, approximately 20% exhibited the attributes commonly associated with a traditional subsistence lifestyle, even though they all resided in the urban Fairbanks area. The report states:

Despite their residence in or near populated areas of the Fairbanks North Star Borough, these households generally participated in the wage economy on a seasonal basis and had longer histories of participation in the fishery, lower cash incomes, and somewhat larger household sizes than the majority of users. Some of these households have long-standing cultural ties to the subsistence fishery. For these more intensive users, fishing in sub-district Y-6C was less a recreational outing than an integral component of their way of life in Interior Alaska. Their residence in an area which is currently defined by regulation as urban, coupled with escalating demands upon the resource base, however, raise questions about whether these more intensive uses can continue in the future.

Study at 12. Similarly, in the city of Homer, an urban area under the regulations,<sup>9</sup> the study reports that 38.2% of the city residents obtained at least one-half of their meat and fish supply from personal hunting and fishing activities. Id. at 162.

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8. R.J. Wolfe and L.J. Elianna Resource Use and Socioeconomic Systems: Case Studies of Fishing and Hunting in Alaskan Communities, Technical Paper Number 61, Alaska Department of Fish and Game, Division of Subsistence, Juneau, March, 1983 (hereinafter "Study").

9. 5 AAC 99.014.

Likewise, the study documents the fact that numerous Alaskans who live in areas classified by the regulations as rural do not engage in subsistence activities. For example, in the City of Sitka, which is classified as rural, although it has a population of 7,803, some 26% of the households sampled did no hunting and 7% did no fishing. Id. at 235. Similarly, in the City of Nome, population 3,249, which is also rural under the regulations, id. at 93, some 5% of all households use no locally taken fish or game. Id. at 111.

The study also amply supports the critical importance of subsistence hunting and fishing to residents of the numerous small and remote villages of our state. For example, in the Wade Hampton census area of Western Alaska, the average annual per capita cash income was only \$2,737 (1979),<sup>10</sup> id. at 30, and the average household harvested 4,597, dressed weight, pounds of fish and game each year. Id. at 42.

#### The Article VIII Clauses - History and Analysis

##### A.

Section 15 of article VIII of the Alaska Constitution provides:

No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State. This section does not restrict the power of the State to

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10. The 1979 statewide average was \$11,152. Study at 30.

limit entry into any fishery for the purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the State.

Section 3 of article VIII provides:

Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.

Section 17 of article VIII provides:

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.

Although the ramifications of these clauses are varied, they share at least one meaning: exclusive or special privileges to take fish and wildlife are prohibited. Section 15 states this explicitly with respect to fisheries. The proceedings of our Constitutional Convention show that the same meaning was intended with respect to sections 3 and 17.

A memorandum of the Constitutional Convention Committee on Resources expresses the view that the common use clause has as one of its purposes a prohibition on exclusive grants or special privileges. The memorandum states: "The expression 'for common use' implies that these resources are not to be subject to exclusive grants or special privileges as was so frequently the case in ancient royal tradition." Alaska Constitutional Convention Papers, Folder 210, Papers Drafted by Committee on Resources, entitled "Terms."

The Committee on Resources commentary with respect to the uniform application clause states:

This section is intended to exclude any especially privileged status for any person in the use of natural resources subject to the disposition of the state.

6 Proceedings of the Alaska Constitutional Convention 84 (Dec. 16, 1955).

In Owsichuk v. State, 763 P.2d 488 (Alaska 1988), we observed that the article VIII provisions were designed to ensure to the public the broadest possible access to wildlife. We noted that "the common use clause impose(s) upon the state a trust duty to manage the fish, wildlife and water resources of the state for the benefit of all the people." Id. at 495 (emphasis added). "[A] minimum requirement of this duty is a prohibition against any . . . special privileges." Id. at 496. In State v. Ostrosky, 667 P.2d 1184, 1191 (Alaska 1983), we observed that the common use and no exclusive right of fishery clauses reflected "anti-exclusionist values."

Appellants contend that the rural residency requirement amounts to an exclusive or special privilege prohibited explicitly by section 15 and implicitly by sections 3 and 17. They focus on Hynes v. Grimes Packing Co., 337 U.S. 86 (1949), a case which interpreted section 1 of the White Act, former 48 U.S.C. §§ 220-224 (1941), under which Alaska fisheries were regulated before statehood. In Hynes, the Supreme Court held that the White Act prohibited granting a preferential right to fish to Native residents of the Karluk Reservation. Id. at 123.

This case is of precedential importance, they contend, because section 15 was based on section 1 of the White Act.

In response, the state agrees that the first sentence of section 15 is based on section 1 of the White Act. However, the state distinguishes Hynes on the grounds that the exclusive right to fish there was available to "a closed class." In contrast, it argues there is no closed class here because "people may become eligible to participate in subsistence uses by establishing their domicile in a rural area." Further, the state relies on Kenai Peninsula Fishermen's Cooperative Association v. State, 628 P.2d 897, 904 (Alaska 1981) which held that section 15 does not bar differential treatment between commercial, sport, and subsistence fishermen. The intervenors' argument in response relies exclusively on this case.

The parties correctly agree that the no exclusive right of fishery clause is based on section 1 of the White Act. The commentary concerning the exclusive right of fishery clause prepared by the Committee on Resources of the Constitutional Convention states:

This section is intended to serve as a substitute for the provision prohibiting the several right of fisheries in the White Act. Instead of using the terminology of that Act the purposes sought by it are given expression in a prohibition of exclusive right or special privileges of any person to the fisheries of the state.

6 Proceedings of the Alaska Constitutional Convention Proceedings at 87 (Alaska Legislative Council).

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The language of the White Act, for which the no exclusive right clause is meant to be a substitute, is as follows:

Provided, that every such regulation made by the Secretary of the Commerce shall be of general application within the particular area to which it applies, and that no exclusive or several right of fishery shall be granted therein, nor shall any citizen of the United States be denied the right to take, prepare, cure, or preserve fish or shellfish in any area of the waters of Alaska where fishing is permitted by the Secretary of the Commerce.

Act of June 6, 1924, ch. 272, § 1, 43 stat. 464.

The appellants' reliance on Hynes as an explanation of the meaning of the bar on exclusive rights and special privileges is apt. At issue in Hynes was a regulation of the Secretary of the Interior<sup>11</sup> prohibiting commercial salmon fishing in all waters within 3,000 feet of the shores of the Karluk Reservation. 337 U.S. at 92. The Secretarial Order made an exception which allowed Natives residing on the Reservation and their licensees to fish in these waters. Id. The Supreme Court held that this exception in favor of the Native residents and their licensees violated section 1 of the White Act. The court stated:

[W]e think it clear that its proviso, "that no exclusive or several right of fishery shall be granted therein," applies to commercial fishing by Natives equally with

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11. Regulatory jurisdiction over the administration of the White Act was transferred from the Department of Commerce to the Department of the Interior, effective July 1, 1939; Hynes, 337 U.S. at 92 n.4.

fishing companies, nonresidents of Alaska or other American citizens and so applies whether those Natives are or are not residents on a reservation. We find nothing in the White Act that authorizes the Secretary of the Interior to grant reservation occupants the privilege of exclusive commercial fishing rights. . . . "Exclusive," as used in Section 1 of the White Act, forbids not only a grant to a single person or corporation but to any special group or number of people. The legislative history set out above shows this. The offending regulations which brought about the enactment of the proviso in § 1 of the White Act were administered so as to limit fishing to those who had been using the fisheries before the regulations.

337 U.S. at 122.<sup>12</sup>

As noted above, the state seeks to distinguish Hynes on the ground that Hynes involved a closed class of recipients of a special privilege, whereas the 1986 subsistence law does not because anyone who wants to hunt and fish for subsistence purposes can move to a rural area. We find this argument unpersuasive. If it were valid, virtually any discrimination based on residence would be justified - the residents of the disfavored area could simply move. Such a rationale is inconsistent with the prevailing approach in territorial

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12. We do not agree with Justice Rabinowitz's statement in dissent that the limitation struck down in Hynes was predicated solely on the fact that the users were Indians. Infra at 50. Both ethnic status and local residency were required as the regulation in question applied to "natives in possession of [the Karluk] reservation." 337 U.S. at 92. In any case, the quote in the text makes it clear that if the exception had been based solely on residence, rather than on residence and race, it would also have been struck down.

discrimination cases, which is to subject territorial classifications to scrutiny under the equal protection clause. Gilman v. Martin, 662 P.2d 120, 125 (Alaska 1983); Neuman, Territorial Discrimination, Equal Protection, and Self-Determination, 135 U. Pa. L. Rev. 261, 274-75 (1987).

The state's and the intervenors' reliance on Kenai Peninsula is also off the mark. That case merely affirmed what article VIII, section 4<sup>13</sup> says explicitly - that preferences among beneficial uses of fish and game may be legislatively or administratively established. We stated in Kenai Peninsula:

While section 15 does prohibit granting monopoly fishing rights, that section was not meant to prohibit differential treatment of such diverse user groups as commercial, sport, and subsistence fishermen. To conclude that, because a certain species is made available for sport fishing in a given area, commercial fishing of the same species must also be allowed, would be to go far beyond the purpose of the section.

628 P.2d at 904 (footnote omitted). The state may, indeed must, make allocation decisions between sport, commercial, and

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13. Article VIII, section 4 of the Alaska Constitution provides:

Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

subsistence users. That authority, however, does not imply a power to limit admission to a user group.<sup>14</sup>

Section 1 of the White Act guaranteed equal access to fisheries regardless of residence. The language of the Act and Hynes make this clear.<sup>15</sup> Alaska's constitutional framers were

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14. The foregoing also answers Justice Rabinowitz's contention that our interpretation of the equal access clauses of article VIII is in conflict with article VIII section 4. We have consistently taken the position that limits on admission to user groups are subject to scrutiny under the article VIII equal access clauses. See State v. Ostrosky, 667 P.2d 1184, 1189 (Alaska 1983); Owsichuk v. State, 763 P.2d 488, 492 (Alaska 1988).

15. The legislative history of the White Act is in accord. Congressional debate at the time the White Act was proposed demonstrated concern that Alaska residents and non-residents alike were being excluded from Alaska fisheries. The debate also demonstrated Congress' desire that Alaska fisheries be equally accessible to everyone:

Mr. Robinson. The Secretary of Commerce sought to give exclusive right to fish in certain Alaskan water, and out of this attempt to give exclusive rights to fish, thus depriving a large number of the people the right to pursue their usual vocation, great complaint arose. This bill, however, denies to the Secretary of Commerce any power to grant an exclusive right to fish and requires him to give everyone equal rights within the areas where fishing is permitted.

Mr. Jones of Washington. The bill removes the principal cause of complaint with reference to the exercise of power by the Secretary of Commerce. . . . Within the two reservations [of restricted fishing areas] that were created by Executive Order a year or two ago the Secretary of Commerce has seen

(Footnote Continued)

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(Footnote Continued)

fit to make regulations under which outsiders might not go in order to fish. In other words, those who are already located there, if [the Secretary] thought they took all the fish that should be taken, were given the full rights, and nobody else could go in there and take fish.

Mr. King: They were given exclusive rights.

Mr. Jones of Washington. They may be called exclusive rights, but I want to say this in justice to the Secretary of Commerce:

When I came back this fall, and came down here, and we were considering matters of this kind, the Delegate from Alaska and I talked over the matter with reference to those exclusive rights, and I saw the Secretary of Commerce, and the Secretary of Commerce himself said that he would be glad to have that discretion taken away, that certainly he was not in favor of that policy, but those who were on the ground and who had been dealing with the matter especially and who might be considered to be experts had recommended and urged that that policy be pursued. I will say, in justice to him, that he said frankly that he would prefer not to have that absolute power, so I can say for him that he is glad that this provision is put in the bill prohibiting him from granting exclusive rights within the fishing areas up there.

.....

Mr. Robinson. I have been unable to find any authority for [the Secretary] to grant exclusive rights of fishery. It was about that alleged abuse of authority that most of the complaints arose; namely, that the Secretary in some instances had created reservations, and in others had granted in certain waters the exclusive right to fish, usually to large corporations or packing concerns, which deprived the fishermen of the

(Footnote Continued)

aware of Hynes.<sup>16</sup> As noted, section 15 of article VIII was meant to be a substitute for section 1 of the White Act and to further

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(Footnote Continued)

opportunity to pursue their occupations; and they desired very much the provision that is in this bill, which secures to every citizen of the United States the right to fish in Alaskan waters upon equal terms and without discrimination. The bill deprives the Secretary of any power . . . to grant exclusive rights to fish in Alaskan waters.

65 Cong. Rec. 9520-21 1924) (emphasis added).

Based in part upon the Congressional debate identified above, Hynes concluded that

[T]he legislative history of the White Act only emphasizes what the statute clearly says, that is, no special privileges in Alaskan fishing preserves.

Hynes, 337 U.S. at 120 (footnote omitted).

16. A memo of the Committee on Resources defining terms states the following under "White Act Provisions" 48 U.S.C.A. 222:"

That every such regulation made by the Secretary shall be of general application within the particular area to which it applies, and that no exclusive or general right of fishery shall be granted therein, nor shall any citizen of the U.S. be denied the right to take, prepare, cure, or preserve fish or shellfish in any area of the waters of Alaska where fishing is permitted by the Secretary. . . . The word "exclusive" forbids not only a grant to a single person or corporation, but to any special group or number of people. (Hynes-Grimes Karluk Reservation)

Alaska Constitutional Convention Papers, Folder 210.

its purposes.<sup>17</sup> It follows that section 15 likewise was meant to ensure an equal right to participate in fisheries, regardless of where one resides.

Although section 15 pertains only to fisheries, the prevention of grants of exclusive or special privileges with respect to fish and game is also one purpose of the common use and the uniform application clauses.<sup>18</sup> It follows that the grant of special privileges with respect to game based on one's residence is also prohibited.

We therefore conclude that the requirement contained in the 1986 subsistence statute, that one must reside in a rural area in order to participate in subsistence hunting and fishing, violates sections 3, 15, and 17 of article VIII of the Alaska Constitution.<sup>19</sup>

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17. Commentary on Article on State Lands and Natural Resources, 6 Proceedings of the Alaska Constitutional Convention at 87.

18. See supra pages 14 and 15.

19. Justice Rabinowitz states in his dissenting opinion that he does not interpret the statute to mean that "eligibility to participate in subsistence uses is determined solely with reference to where an individual lives." Infra at 47. That, however, clearly is the case with respect to first-tier subsistence users. Urban resident may not be subsistence users because subsistence uses are by definition limited to rural residents. AS 16.05.940(30), quoted supra at pp.2-3. Yet all rural residents may be first-tier subsistence users without regard to their individual characteristics. The regulation on which Justice Rabinowitz relies, 5 AAC 99.010(b), defines customary and traditional uses but does not state that first-tier subsistence rights can be limited to customary and

(Footnote Continued)

B.

The conclusion we have reached does not mean that everyone can engage in subsistence hunting or fishing. We do not imply that the constitution bars all methods of exclusion where exclusion is required for species protection reasons. We hold only that the residency criterion used in the 1986 act which conclusively excludes all urban residents from subsistence hunting and fishing regardless of their individual characteristics is unconstitutional.

We are not called upon in this case to rule on what selection criteria might be constitutional. It seems appropriate, however, to note that any system which closes participation to some, but not all, applicants will necessarily create a tension with article VIII. In such cases, assuming that the exclusionary criterion is not per se impermissible, our decisions suggest that demanding scrutiny is appropriate.

We alluded to this in State v. Ostrosky, 667 P.2d 1184 (Alaska 1983) in discussing the interplay between the constitutionally allowed limited entry system, which was permitted by

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(Footnote Continued)

traditional users. As we stated in Madison "the phrase 'customary and traditional' modifies the word 'uses' . . . it does not refer to users." 696 P.2d at 174. The state acknowledges that only in the second-tier subsistence context may individual characteristics separate those rural residents who may be second-tier subsistence users from those who are ineligible. Brief of Appellees, p. 8. The state also notes that the need for a second-tier limitation has, to date, not arisen. Id.

amendment to article VIII, section 15, and the common use and no exclusive right of fisheries clauses. We stated:

[S]ince the common use clause of section 3 and the no exclusive right of fishery clause of section 15 remain in the constitution, the premise of the argument is that whatever system of limited entry is imposed must be one which, consistent with a feasible limited entry system, entails the least possible impingement on the common use reservation and on the no exclusive right of fishery clause. The argument concludes that free transferability does not entail the least possible impingement on the anti-exclusionist values which these provisions reflect.

. . . (T)he premise of this argument is logical.

Id. at 1191. We expressed the same theme in Johns v. Commercial Fisheries Entry Commission, 758 P.2d 1256 (Alaska 1988) concerning the obligation of the Commercial Fisheries Entry Commission to establish an optimum number of entry permits. We stated in Johns:

In (Ostrosky), we noted that there is a tension between the limited entry clause of the state constitution and the clauses of the constitution which guarantee open fisheries. We suggested that to be constitutional, a limited entry system should impinge as little as possible on the open fishery clauses consistent with the constitutional purposes of limited entry, namely, prevention of economic distress to fishermen and resource conservation. Ostrosky . . . . The optimum number provision of the Limited Entry Act is the mechanism by which limited entry is meant to be restricted to its constitutional purposes. Without this mechanism, limited entry has the potential to be a system which has the effect of creating an exclusive fishery to ensure the wealth of permit holders and permit values, while exceeding the constitutional purposes of limited entry. Because this risk of unconstitutionality

exists, the [Commercial Fisheries Entry Commission] should not delay in embarking on the optimum number process, except where there is a substantial reason for doing so.

Id., 758 P.2d at 1266 (footnote omitted).

Most recently in Owsichek, we suggested that section 17 of article VIII, the uniform application clause, "may require 'more stringent review' of a statute than does the equal protection clause in cases involving natural resources." Owsichek, 763 P.2d at 498 n.17 (quoting Gilman v. Martin, 662 P.2d 120, 126 (Alaska 1983)). We also cited with approval Justice Rabinowitz's dissent in Ostrosky, 667 P.2d at 1196 which employs a least restrictive alternative approach in view of the "highly important interest running to each person within the state" by virtue of the common use clause. 763 P.2d at 492 n.10.

In reviewing legislation which burdens the equal access clauses of article VIII, the purpose of the burden must be at least important. The means used to accomplish the purpose must be designed for the least possible infringement on article VIII's open access values. Ostrosky, supra at 1191, Johns, supra at 1266.

We employ this method of analysis in the present case as an alternative ground of decision. Using this approach, we conclude that the rural-urban residency criterion is unconstitutional for the reasons that follow.

One purpose of the 1986 act is to ensure that those Alaskans who need to engage in subsistence hunting and fishing in order to provide for their basic necessities are able to do so.

This is an important interest.<sup>20</sup> However, the means used to accomplish this purpose are extremely crude. There are, as noted above, substantial numbers of Alaskans living in areas designated as urban who have legitimate claims as subsistence users. Likewise, there are substantial numbers of Alaskans living in areas designated as rural who have no legitimate claims. A classification scheme employing individual characteristics would be less invasive of the article VIII open access values and much more apt to accomplish the purpose of the statute than the urban-rural criterion.

We note that several other jurisdictions have struck down intrastate residential preferences in fish and game statutes. These authorities support our view that the equal access clauses of article VIII, which are a special type of equal

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20. Another expressed purpose is to aid communities whose residents are dependent on subsistence, as distinct from aiding the individual residents. This is not a purpose separate from aid to individual community members where the aid goes directly to the individuals. As we stated in State v. Enserch, P.2d , Slip Op. No. 3539 at 31 (Alaska, December 18, 1989): "It would not make sense to conclude that a statute may not discriminate between residents of two areas in order to aid the residents of the more disadvantaged area, but that such a statute could discriminate between residents of two areas in order to aid the communities in the more disadvantaged area. The communities are merely the collective sum of the residents."

A third purpose is to comply with ANILCA in order to retain state fish and game control on federal lands. It is difficult to view this as a sufficiently important purpose. ANILCA does not require state compliance. State control merely for the sake of control is a questionable goal when the terms infringe upon the open access values of article VIII.

protection guaranty, bar the residential discrimination imposed in this case.<sup>21</sup> Lewis v. State, 161 S.W. 154 (Ark. 1913)

contains an excellent historical statement:

When it becomes necessary for the propagation and preservation of wild game and fish for the use of the public, the people acting in their sovereign capacity, through their lawmaking power, may pass laws to regulate the right of each individual which he enjoys in common with every other member of the community to use of same. But when

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21. See State v. Brvan, 99 So. 327, 330 (Fla. 1924) (state law levying \$10 and \$50 license tax on state residents who are non-residents of certain counties, as a prerequisite to hunting in those counties, when residents of those counties pay only \$1 or \$1.25, violates equal protection); State v. Barkley, 134 S.E. 454, 455 (N.C. 1926) (state law levying \$3 hunting fee on non-resident hunters in the county, and a \$1 fee on residents of the county, held invalid in that it taxed inhabitants unequally); Harper v. Galloway, 51 So. 226, 229 (Fla. 1910) (state law that required citizens of the state of Florida who were not residents of Marion County to give a previous notice of intention to hunt and to pay a special license tax for the privilege of hunting game in Marion County, while no notice or license tax was required of residents of Marion County, denied equal protection of the laws); Bruce v. Director, Dep't of Chesapeake Bay Affairs, 276 A.2d 200, 208 (Md. 1971) (statutes prohibiting crabber from crabbing in waters of county other than his county of residence and prohibiting oystermen from going to waters of another county invalid); Power, More About Oysters Than You Wanted To Know, 30 Maryland L. Rev. 199, 218 (1970) ("A county non-resident represents no peculiar threat to the fishery but merely the same threat as represented by a county resident.").

But see Commonwealth v. Hilton, 54 N.E. 362, 364 (Mass. 1899) (selectmen of a town may prohibit the digging of clams by nonresidents of the town); State v. Norton, 335 A.2d 607, 615 (Me. 1975) (state had compelled governmental interest in conservation of its clams and its attempt to achieve that purpose by, in part, authorizing municipalities to apply a resident-nonresident standard in licensing shell fisheries did not unconstitutionally discriminate against nonresidents).

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the sovereign undertakes to regulate or restrain the individual in its right as a member of the community to enjoy the right to take and use this common property of all, it must do so upon the same terms to all members of the community alike. The common right, which one individual of the whole community is entitled to enjoy as much as another, cannot be made by law the exclusive privilege of the people of a certain class or section upon terms and conditions that do not apply to the whole people alike. This right which one individual has in common with every other individual in the community to take and use fish and game, *ferae naturae*, is one that has existed from the remotest times, and, although at one time in England after the Norman Conquest the right to take fish and game was claimed as a royal prerogative to the exclusion of the people, it was restored to them by the Barons at Runnymede in 1215, and was declared in the great charter which they wrested from King John. "The rights," says Green, "which the barons claimed for themselves they claimed for the nation at large." Green's History of the English People, vol. 4, pp. 252-254. —

These rights were confirmed and established ever thereafter in England by acts of Parliament, and they have come down to us from the laws of England and may be regarded as a common heritage of the English-speaking people. See Parker v. People, 111 Ill. 581, 53 Am. Rep. 643. Also Geer v. Conn., 161 U.S. 519, 16 Sup. Ct. 600, 40 L. Ed. 793; Martin v. Waddell, 16 Pet. 412, 10 L. Ed. 997. The only justification for a law regulating and restricting the common right of individuals to take wild game and fish is the necessity for protecting the same from extinction, and thus to preserve and perpetuate to the individual members of the community the inalienable rights which they have had from time immemorial. While the state, holding the title to game and fish, so to speak, in trust for every individual member of the community, may pass laws to regulate the rights of each individual in the manner of taking and using the common property, yet, as we have already stated, this must be done, under the

Constitution, upon the same terms to all the people. No special privileges or immunities can be conferred.

Where the necessity for the preservation of the wild game and fish exists in certain territories of the state, that territory may be segregated for the purpose of regulating the right to taking game and fish therein; but the privilege of taking and using same must be extended to the people of the state outside of the territory upon the same terms that are given to those who are residents of the territory embraced in the legislation. Hayes v. Territory, 2 Wash. T. 286, 5 Pac. 927. In the cases of State v. Higgins, 51 S. C. 51, 28 S. E. 15, 38 L. R. A. 561, and Harper v. Galloway, 58 Fla. 255, 51 South. 226, 26 L. R. A. (N.S.) 794, 19 Ann. Cas. 235, the question here involved was considered and determined in accord with the doctrine we have announced.

Id. at 155-156 (footnote omitted, emphasis added).

#### CONCLUSION

Our disposition of this case makes it unnecessary to discuss the other grounds advanced by appellants. For the above reasons, the judgment of the superior court is reversed. This case is remanded to the superior court with instructions to issue a declaratory judgment that the rural preference of ch. 52 SLA 1985 is unconstitutional and to take such further action as may be appropriate.

REVERSED and REMANDED.