

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8993 SENATE RESOURCES



STATE OF ARIZONA
EXECUTIVE OFFICE

FIFE SYMINGTON
Governor

May 19, 1994

The Honorable Bruce Babbitt
Secretary, Department of the Interior

The Honorable Mike Espy
Secretary, Department of Agriculture

Dear Secretary Babbitt, Secretary Espy:

On Wednesday, May 18, I addressed an assembly of public land "stakeholders" on the topic of creating a vision for public land management in Arizona. By design, this Forum was intended to provide state leaders with an opportunity to formulate a cohesive strategy for addressing land management challenges.

During the course of public discussion over issues, such as Rangeland Reform and Mining Law Reform, I have grown increasingly aware of the structural difficulties that prevent professional land managers from doing their jobs effectively. Some of these impediments are endemic to a democracy. Others, however, are the result of the evolution of the state and federal land agencies and their authorities. This evolution has not resulted in a rational design. In fact, my contention is that this structure is designed for gridlock.

Enclosed with this letter is a copy of the speech I delivered on Wednesday, as well as a proposal for correcting these structural deficiencies. As a result of this meeting, I expect some modifications in this proposal may be necessary before it is formally presented to you for review and response. However, I wanted to give you an opportunity to review the initial offering. It occurs to me that this kind of reorganization is consistent in many ways with some of your proposals for the development of state standards and guidelines in the latest version of Rangeland Reform.

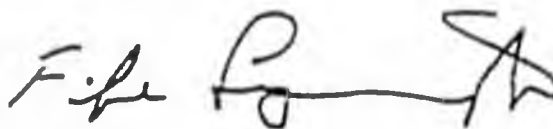
Background

The Honorable Bruce Babbitt
The Honorable Mike Espy
May 19, 1994
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This proposal is not an effort to "take over federal lands", to "gut the Endangered Species Act" or to, in any way, change the legal mandates that govern your operations. It is simply an attempt to bring management decisions out of the Courts and national political arena and back to ground level where it belongs.

My staff and I are prepared to meet with you at any time to address questions or concerns you may have with this proposal. In the near future, it may be valuable for us to sit down together and work through this matter in a very detailed way.

Sincerely,

A handwritten signature in black ink, appearing to read "Fife Symington". The signature is fluid and cursive, with a large initial "F" and a stylized "S" at the end.

Fife Symington
GOVERNOR

FS/jk

Enclosures

LAND POLICY 2000

delivered May 18, 1994

Flagstaff, Arizona

by Governor Fife Symington

I want to start off my remarks today with what may be a controversial statement. Bruce Babbitt is right. We do live in a NEW WEST. Our region has experienced very dramatic changes in our demographics, our culture and our economic base.

Secretary Babbitt thinks that means that there is a new political ethic in the West that supports protection of our natural beauty, and promotion of environmental values. Once again, I think he is right.

As I have traveled this state, I have met the rancher who has changed his grazing methods. He is working to protect riparian areas, to ensure that native grasses thrive, and to prevent his cattle from destroying the forage he needs for the future. He is also teaching others what he knows.

I have met the miner who prefers to live in a small community -- away from the bright and dangerous lights of the city. On weekends he takes the kids fishing in the stream that runs by the mine where he works.

I have met the environmental activist who put aside his preconceptions, and spent some time talking to his opponents. And he discovered that he and the rancher agreed about a lot of things.

And I have met the logger who has worked in Arizona's forests, and who has seen the devastation of the Dude Fire. He is trying to find a way to use timber management as a method to protect the big yellow belly pines and the wildlife. He wants to take out some of the smaller trees that natural fires would have eliminated safely before there got to be too many.

We are the
ones fighting
for change.
Above all, we
are fighting for
common
ground.

But Secretary Babbitt thinks these people are fighting to protect the status quo. I know that we are the ones fighting for change. Above all, we are fighting for common ground.

I don't mind a good fight, but I am tired of the way the public lands debate has been carried on.

What I propose that we begin to talk about today is a fundamentally different management structure for public lands in the West. Not an untested, unknown formula, but rather a method for enhancing the ability of individuals and governments to make affirmative decisions to carry out the activities we agree are necessary.

The fundamental test of legitimacy for any government is this: If it cannot function effectively, efficiently and with purpose, then it should not pretend to. It should not hinder the efforts of people to do good works. And today, it is doing just that.

The federal government should not hinder the efforts of people to do good works. And today, it is doing just that.

This is not a matter of doing battle with the federal government. I am not opposed to fighting battles where I believe it is appropriate. Battles can and should be fought when the federal government attempts to take on responsibilities it should not; or when it attempts to prevent states and communities carrying out their legitimate responsibilities and activities.

But my proposal today is not about fighting. It is about ideas. No battle is worth fighting unless you have an idea for a better way.

I believe the federal government does have a legitimate interest in the condition of our lands, and in ensuring its sustainability, and the utilization of these lands for a variety of purposes, including the protection of wildlife populations.

But there is a disconnect today between the federal interest in lands, and their ability to do what is necessary on behalf of those lands. Everyone is frustrated. Wildlife managers, hikers, miners, cattlemen, birders — the sense of helplessness and concern is everywhere.

In 1992, the U.S. Forest Service was described as becoming "a Stalinesque bureaucracy that is contemptuous of fair play and the rule of law in a democracy." That complaint did not come from an out of work logger. It came from the Sierra Club Chair in Montana.

What is the state of public land management in Arizona today? We have a situation where important resource decisions are made outside of Arizona. Often, these are by individuals in regional offices whose interest is uniformity, not diversity. If our lands were uniform, then that structure would be rational.

Between these five agencies, four are managed within distinct jurisdictions. For example, the BLM and the Fish and Wildlife Service operate in the Department of Interior. But the Forest Service is in the Department of Agriculture.

2. The talent in federal and state agencies exists to undertake a change of this magnitude. This proposal requires a change in culture as much as structure. Without the personnel talent, structural change will have little effect.
3. In order to carry out this proposal, we must abide by all existing federal public laws and state statutes that mandate the utilization and protection of this states' natural resources. We are not looking here for an exemption from federal requirements. Instead, we hope to demonstrate that a new structure can more effectively manage these lands within the context of federal and state requirements.
4. The five agencies selected for this proposal have obvious redundancies and duplication. Other agencies may be considered for future inclusion, but these first five are the most logical to start with.
5. By placing the management structure in closer proximity to the residents that live here, we empower Arizonans to have a powerful impact on their own future, and the future of their children. Without this power, we become insulated from the consequences of our own actions.
6. Multiple use lands can and should be managed with an integrated ecosystem focus.
7. The flow of public funds should continue from the existing federal and state fund sources. Revenues from the land should accrue back to the appropriate jurisdiction.
8. By improving management process, and eliminating unnecessary structure, we enhance the availability of resources to perform the functions of management. Our preliminary estimates indicate a savings in personnel costs of ten to fifteen percent. Additional savings would be possible due to the potential consolidation of offices and the reduction of federal positions outside Arizona.

The new Arizona Resource Management Agency would consist of several important functions:

- A central office with zone and field offices throughout the state. I have a map to demonstrate a possible configuration.
- A Natural Resources Advisory Council, consisting of federal, state and public stakeholders to advise the agency director on policy matters.
- A Natural Resources Appeals Commission which would have quasi-judicial responsibilities to review decisions by the agency.

While each of those programs has problems unique to the subject, I am convinced that land management is in dire need of the same state autonomy.

It is a dramatic departure from the way public land management has developed over the last century. The controversies that have sparked the so-called "Sagebrush Rebellion" and the recent debates over mine reform and rangeland reform are symptoms of the underlying problem. The bitter arguments over public land policy are self-perpetuating and self-defeating. The constituency that is damaged directly by this gridlock on the public lands is the public.

I offer this idea as a starting point. Above all, we do need to establish common ground between competing and diverse interests. There is a lot of ground to cover.

The bitter arguments over public land policy are self-perpetuating and self-defeating.

Today, and in the weeks and months to come, your task is to analyze this proposal, and to suggest areas and ideas for its improvement and refinement. All such suggestions will be seriously considered.

If we do live in a New West, why should our institutions of government be restrained by traditional ways of thinking and doing. We need to unchain our citizens from the shackles of bureaucracy, and create a new order where the citizens have a voice, and an opportunity to shape the vision for the land in which they live.

* * * * *



STATE OF ARIZONA
EXECUTIVE OFFICE

FIFE SYMINGTON
Governor

December 21, 1994

The Honorable John McCain
United States Senator
1839 South Alma School Road, Suite 375
Mesa, AZ 85210

Re: Endangered Species Act

Dear John,

The recent election results send many messages to those of us who serve in government. Chief among these lessons is that the citizens want to exercise greater control over their lives and fortunes. They want government to back off, and to be an instrument of citizen initiative. Unfortunately, the roots of this intrusion upon individual rights are deeply ingrained in our entire structure of government.

I am writing to you about a matter of growing concern to me and to many Arizona citizens. I refer to the extent and manner the Endangered Species Act is being applied to Arizona lands and the severe negative impact it is having on segments of our citizens — particularly in rural Arizona — and to the future management of the natural resources in this state.

Let me make it clear from the outset that I am as concerned as anyone about protecting plants and animals where threats exist. It is clear, however, that the Endangered Species Act has become a fierce and cruel weapon being used by environmental extremists with no regard for the adverse impacts this causes to individuals and whole communities or even to the species they purport to protect. It has been perverted by the cumulative impact of judicial interpretations. It has recently become a vehicle for attack on private property rights. And it ignores the rightful role of state land and wildlife agencies to address wildlife and habitat problems in a reasonable and systematic way.

I speak for a growing number of Arizonans who are now beginning to understand the implications of the ESA and how it is being used to destroy jobs, towns, and the natural resources. I have attached a list of pending environmental lawsuits that directly affect the State of Arizona and its citizens. Although the list is long, it does not include numerous administrative appeals used by activists to stall timber sales, to actually prevent management reforms, and to eventually force companies out of business.

The Honorable John McCain
December 21, 1994
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The State of Arizona has tried, within the means available to it, to offset the negative actions of the extremists. We have helped to organize and sponsor at least two major conferences aimed at educating citizens to the issues. We have attempted intervention in lawsuits we believe to be malicious to our citizens and to our resources. We will continue these efforts in the future.

In the meantime, it has become abundantly clear that the ESA in its present form will continue to be used frivolously and maliciously by extremists to pursue their objectives regardless of the economic and environmental chaos this creates for others and for our resources. Listing of the Mexican Spotted Owl and the rash of appeals and complaints by environmental groups have brought forest management, and the management tool of forest-based industries, to a halt in Arizona. The Payson and Flagstaff sawmills have closed permanently; the sawmill at Fredonia will shut down this spring; and the sawmill at Eager is operating at greatly reduced capacity. The Precision Pine mill at Heber is still operating, but for how long?

Because the pulp mill at Snowflake could not depend on chips from sawmills or pulpwood from the national forests, Stone Container has announced conversion of the plant to 100% recycled paper. This represents the loss of a management option for harvesting small trees which are grossly over-abundant in all southwestern forests. These developments are not only devastating to individuals and communities, they are destroying our ability to manage forests in a sustainable way for the well-being of our citizens and for the protection of all species of plant and animals.

Environmentalists have sued to have the Northern Goshawk listed and have served the required 60-day notice that unless the process for considering numerous other species is started, they will file additional lawsuits. It is obvious they wish to stop all activities in the affected area, and to date they have been extremely successful. The logical extension of these actions is that our forests will be devastated by disease or fire, and all the species who make their homes there will suffer.

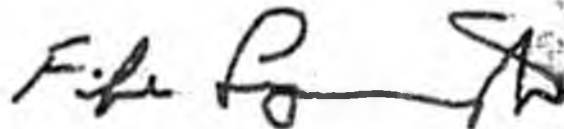
As an elected federal representative for Arizona citizens, only you can represent the needs of our state in this crisis. I will do everything in my power to support you, but you must take the lead in repealing the ESA and replacing it with a system that delegates this responsibility to states who have the expertise and the sensitivity to ensure that species and habitat protections will be carried out responsibly. The current cooperation of extremist environmental groups and allied judges on the federal bench has been both a practical and constitutional failure.

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The ESA has ultimately failed in its objective because of its focus on single species, as opposed to dealing with more comprehensive concerns of habitat health for the multitude of species, including humans. Based upon the experiences suffered under the Act over the course of the last 25 years, I have concluded that the Act is probably beyond repair. It has been a failed and costly experiment. While hundreds of species have been listed, only five have been delisted for reasons mostly unrelated to provisions in the Act, while at least six species have become extinct under the shield of its protection. It should be allowed to sunset. Its ambitions to protect individual species should be absorbed within the broader authorities of state and federal land management agencies to plan and provide for the sustainable use of our state and federal public lands.

Reauthorization of the Endangered Species Act is pending in both the House and Senate. I urge you to repeal it, in order that efforts to protect species, habitats, commerce, state authorities, and property rights may be allowed to succeed in a unifying way at the state level. I pledge any and all assistance that I can give to help you accomplish this urgent task.

Sincerely,



Fife Symington
GOVERNOR

FS:slb

enclosure

cc The Honorable Ed Pastor
The Honorable Bob Stump
The Honorable Jon Kyl
The Honorable Jim Kolbe
Congressman-Elect John Shadegg
Congressman-Elect Matt Salmon
Congressman-Elect J.D. Hayworth

Chronology re: Environmental Litigation

<u>Date</u>	<u>Event</u>
2/12/94	Silver v. Babbitt case filed.
3/8/94	USFWS designated critical habitat for spikedace and loach minnow (found in Graham, Pinal and Yavapai counties)
3/27/94	Plaintiffs filed First Amended Complaint, Silver v. Babbitt
4/1/94	ASLD filed motion to intervene, Silver v. Babbitt
4/11/94	Stipulated Motion to Stay Proceedings, Silver v. Babbitt
5/2/94	Federal Defendants answered First Amended Complaint, Silver v. Babbitt
6/1/94	Plaintiffs filed motion for judgment on pleadings, Silver v. Babbitt
6/24/94	Judge Muecke granted motion for judgment on pleadings, Silver v. Babbitt
7/11/94	USFWS announced 90-day and 12-month findings re: petition to reclassify spikedace and loach minnow from threatened to endangered (found reclassification warranted)
7/7/94	Complaint filed, Southwest Center for Biological Diversity v. Perry (Pt. Huachuca/San Pedro River)
8/9/94	Complaint filed, Silver v. Thomas
8/10/94	Complaint filed, Forest Conservation Council v. USFS (assigned to Judge McNamee)
8/11/94	Order entered denying motion to intervene, granting amicus status to State of Arizona, Apache County and White Sands
8/18/94	Plaintiffs filed motion to transfer Silver v. Thomas to Judge Muecke, as related to Silver v. Babbitt

Environmental Litigation Chronology
Page 2

- 9/3/94 Defendants moved to transfer Silver v. Thomas to New Mexico to be consolidated with de-listing litigation and for convenience
- 9/8/94 Judge Bilby issued order enjoining logging on Elk Timber Sale pending ENVIRONMENTAL ASSESSMENT, Greater Gila Biodiversity Project, et al. v. USFS
- 9/16/94 Parties submitted proposed schedule for determination of critical habitat, Silver v. Babbitt
- 9/21/94 Huachuca species listing suit filed, Southwest Center for Biological Diversity v. Babbitt (re: Huachuca tiger salamander, Huachuca water umbel, and Canelo hills' ladies tresses)
- 9/22/94 Judge Muecke ordered Silver v. Thomas transferred to him and consolidated with Silver v. Babbitt
- 9/23/94 Complaint filed, Southwest Center for Biological Diversity v. Babbitt (Willow flycatcher listing suit)
- 9/30/94 Judge Muecke issued order setting deadlines for publication of proposed and final rule re: critical habitat designation
- 10/4/94 Complaint filed, Southwest Center for Biological Diversity v. Babbitt (Goshawk listing suit)
- 10/12/94 Southwest Center for Biological Diversity delivered 60 day notice of intent to sue USFS on 12/11/94 re: 40 species in 11 New Mexico and Arizona forests
- 11/1/94 State of Arizona filed motion to intervene, Silver v. Thomas
- 11/3/94 State filed motion to intervene, PCC v. USFS
- 11/4/94 Federal defendants filed answer, Silver v. Thomas
- 11/9/94 Administrative Record filed, PCC v. USFS
- 11/10/94 Apache County & White Sands filed motion to intervene, Silver v. Babbitt
- 11/21/94 Judge Muecke granted extension of time to respond to intervention motions (until 1/2/95)
- 11/29/94 Plaintiffs filed motion to authorize discovery Silver v. Babbitt (attaching USFWS memo as evidence of intent to sue in order)

Environmental Litigation Chronology

Page 3

- 11/30/94 Judge Muecke issued order directing response, if any, to motion to authorize discovery be filed by 12/7/94
- 12/1/94 Deadline for public comment, DEIS for amendments to Southwest Region Forest Plans (ASLD submitted written comments)
- 12/1/94 Kaibab Timber announced plans to close last Arizona sawmill (Predonia)
- 12/1/94 Deadline for publication of proposed rule designating critical habitat, Silver v. Babbitt (not published but submitted for publication)
- 12/5/94 Judge Muecke granted extension of time (until 12/7) to publish proposed designation of critical habitat, Silver v. Babbitt
- 12/5/94 Plaintiffs requested contempt order for USFWS failure to publish proposed habitat designation by 12/1/94
- 12/7/94 Date proposed designation of MSO critical habitat will be published in Federal Register, Silver v. Babbitt.
- 5/27/95 Deadline for publication of final designation of MSO critical habitat, Silver v. Babbitt

2583A.54-56

Pending Environmental Litigation
That Directly Affects State of Arizona

1. Silver et al v. Babbitt, et al. (Feb., 1994)(Judge Muecke)[Endangered Species Act ("ESA")/Mexican Spotted Owl ("MSO")](Suit to compel United States Fish and Wildlife Service ("USFWS") to publish proposed rule designating critical habitat for MSO. USFWS missed 1 year deadline, as extended to 2 years. Arizona moved to intervene; motion denied, but amicus status granted.)

2. Greater Gila Biodiversity Project, et al, v. United States Forest Service (1994)(Judge Bilby)[National Environmental Policy Act ("NEPA")/Goshawk](Suit to compel USFS and Stone Southwest Corp. to halt logging on the Elk Timber Sale pending completion of a second Environmental Assessment, due to increase in volume of timber to be harvested and address concerns re: goshawk. Injunction issued 9/8/94)

3. Southwest Center for Biological Diversity v. Perry (July, 1994)[NEPA/San Pedro River species](Action to compel defense agencies to consider environmental impacts of expansion of activities at Pt. Huachuca due to 5,000 additional personnel.)

4. Silver, et al. v. Thomas, et al. (Aug. 1994)(Judge Muecke)[ESA/MSO](Suit to enjoin the United States Forest Service ("USFS") and the Bureau of Indian Affairs, with respect to the Navajo reservation ("BIA") from "authorizing, carrying out or continuing any timber, road or other "ground-disturbing" projects that may adversely affect the MSO pending the consultation between USFS and USFWS re: effect of MSO listing on forest plans, LRMPs, and other programmatic documents. Relies on 9th circuit ruling in Pacific Rivers v. Thomas consolidated with Silver v. Babbitt; Arizona's motion to intervene is pending.)

5. Forest Conservation Council v. United States Forest Service (Aug. 1994)(Judge McNamee)[Northern Goshawk](Suit to enjoin USFS and its contractors from "allowing, permitting, authorizing or taking any action in connection with the sale of timber and any other decisions in Northern Goshawk habitat" pending compliance with NEPA and NFMA, which plaintiffs contend requires preparation of EIS addressing environmental impacts on region-wide basis, and amendment to USFS regional guide. Arizona's motion to intervene is pending, as is USFWS motion for summary judgment.)

6. Southwest Center for Biological Diversity, et al v. Babbitt (Sept. 1994)(Judge Strand)[Southwestern Yellow

Flycatcher)(Suit to compel USFWS to publish regulation listing southwestern willow flycatcher as endangered and to designate critical habitat. USFWS missed 1 year deadline.)

7. Southwest Center for Biological Diversity, et al. v. Babbitt (October, 1994)(Judge Bilby)(Northern Goshawk)(Suit to compel USFWS to list the Northern Goshawk as endangered throughout the United States west of the 100th meridian, claiming it is a "distinct population segment" because it is geographically isolated from other goshawk populations. A consortium of timber interests is preparing motion to intervene.)

8. Coalition of Arizona/New Mexico Counties v. U.S. Fish and Wildlife Service (Sept. 1994)(U.S. District Court, New Mexico)(MSO)(Action to challenge listing of MSO, and to review denial of petition to de-list the MSO.)

9. Southwest Center for Biological Diversity, et al. v. Babbitt (Sept. 1994)(Judge Carroll)(Canelo hills ladies' tresses (plant), Huachuca water umbel (plant) and Huachuca tiger salamander)(Suit to compel publication of finding as to whether the three species should be listed and if warranted to publish proposed regulations to list as endangered, with proposed critical habitat. USFWS missed 1 year deadline)

SJR

19




Alaska State Legislature

Session:
State Capitol
Juneau AK 99801-1182

SENATE RESOURCES COMMITTEE

Interim:
716 W 4th Avenue
Anchorage AK 99501-2133

To: All Legislators

From: Senator Loren Leman, Chair
Senate Resources Committee 

Re: Public Hearing Schedule for SJR 19

Date: March 24, 1995

Over the next three weeks the Senate Resources Committee will hold public hearings in Fairbanks, Soldotna, and Juneau on Senate Joint Resolution 19 which urges Congress to amend the Alaska National Interest Lands Conservation Act (ANILCA) to clarify that the term "public lands" means only federal lands and waters in Alaska. I invite all interested legislators to participate by teleconference. The hearing schedule is below.

These meetings are intended to provide resource user groups and individuals in Alaska who will be affected by further federal intervention into state resource management with a first hand opportunity to provide input on SJR 19. The first portion of the meetings will be reserved for testimony by invitation of various organizations, while the latter portion will be set aside for individual public testimony. The Fairbanks and Soldotna hearings will be teleconferenced listen-only, while the Juneau hearing will be teleconferenced for public testimony statewide.

At the time of enactment of ANILCA in 1980 it was clearly the intent of Congress that all provisions in the Act related to public lands refer only to federal lands and waters; however, recently the Department of Interior has attempted to extend management authority to *state* lands and waters. This encroachment upon our resource management authority will have significant and far reaching impacts, ultimately on all resource use, whether private or commercial. Hearings to address this federal action are critical, and failure to do so will serve only to demonstrate to Congress and the federal

courts that Alaska is willing to relinquish an extremely important right of the state.

I welcome your participation in these important hearings. If you have questions, please contact Annette Kreitzer at 4907.

**Senate Resources Committee
Meeting Schedule for SJR 19**

March 29, 1995	Fairbanks North Star Borough Assembly Chambers 809 Pioneer Rd. (Teleconference listen only.)	10:00 a.m. to 4:30 p.m.
April 8, 1995	Soldotna (Teleconference listen only.)	Time to be announced.
April 10, 1995	Juneau (Statewide teleconference.)	3:30 p.m. to 7:00 p.m.

MAJOR ANILCA CONFLICTS

- * Customary trade provisions allow for commercial sale of subsistence taken resources.
- * Federal courts will not give deference to state agencies.
- * Federal court oversight.
- * Federal court interpretations that "all competing uses must be eliminated before subsistence uses are restricted."
- * Definition of "public lands," as described by the federal courts, may include state and private lands and waters.
- * Definition of public lands applies to all sections in ANILCA and not just Title VIII.
- * Federal definition of rural will be difficult to implement in Alaska.

Distributed by Senator Mike Miller

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SJR 19

Revision Date: _____ Dept. Affected: Fish and Game
 Title: Ask Feels to Amend ANILCA BRU: Subsistence
 Component: Subsistence
 Sponsor: Senator Miller
 Requester: Senate Resources COMPONENT SERIAL NO. 483

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

There are no direct costs to the Department of Fish and Game that would result from passage of this resolution. Should Congress amend ANILCA as the resolution requests, fiscal implications could result but they would be variable depending on subsequent actions of the federal government and the Alaska Legislature.

Prepared by: Rob Bosworth Phone: 485-6143
 Division: Subsistence Date: 3/15/95
 Approved by Commissioner: Cecil Deane Jr. Date: 3/20/95
 Agency: Fish and Game

PREPARER TO PROVIDE ALL INFORMATION TO THE LEGISLATIVE OFFICE
For further distribution

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 3/6/95

FURTHER:

Date of 5-Day Notice: 3-15-95
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 4-11-95

Resources Committee considered SJR 19

Requesting Congress to amend Alaska National Interest Lands Conservation Act.

and recommends:

- be replaced with CS SJR 19 (RES)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:
 same title
 new title
 House Bill:
 same title
 technical title
 new: SCR# _____

SIGNING DP/PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Rick Stedman</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
<i>Christ Taylor</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>[Signature]</i>					

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>DFWG</i>	<i>3/20</i>	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

CS FOR SENATE JOINT RESOLUTION NO. 19(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:

Referred:

Sponsors: SENATORS MILLER, Pearce, Green

A RESOLUTION

1 Requesting the Congress to amend the Alaska National Interest Lands Conservation
2 Act to clarify that the term "public lands" means only federal land and water
3 and that any extension of federal jurisdiction onto adjacent land and water is
4 expressly prohibited.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

6 WHEREAS the State of Alaska entered into the Union on an equal footing with all other
7 states, and the Statehood Compact specifically granted authority over fish and wildlife to the
8 State of Alaska; and

9 WHEREAS the issue of fisheries management was one of the most prominent
10 justifications for statehood, and

11 WHEREAS the State of Alaska contends that the Statehood Compact cannot be legally
12 modified by either party without the consent of the other party; and

13 WHEREAS the Congress and the President of the United States are presently embarking
14 on a campaign to return rights and authority to the states; and

15 WHEREAS Title VIII of the Alaska National Interest Lands Conservation Act
16 (ANILCA, P.L. 96-487), enacted in 1980, grants a subsistence priority on federal public land

1 in Alaska; and

2 **WHEREAS** the Secretary of the Interior and the Secretary of Agriculture have
3 threatened unilateral federal preemption of state fish and wildlife management on state and
4 private land and water in Alaska; and

5 **WHEREAS** the State of Alaska, the federal government, and other parties are attempting
6 to sort out the complexities of the federal law related to jurisdictional issues created by
7 ANILCA; and

8 **WHEREAS** the legal process for developing a final resolution to the jurisdictional
9 questions is extremely slow, and major social and economic disruption is imminent if the federal
10 government continues on a course to illegally and unconstitutionally preempt state management
11 of fish and wildlife; and

12 **WHEREAS** the Congress specifically declined to grant preemption authority to the
13 Secretary of the Interior and the Secretary of Agriculture in ANILCA; and

14 **WHEREAS** the Congress specifically reemphasized that the jurisdiction and authority
15 of the state were to be maintained; and

16 **WHEREAS** the Alaska State Legislature is confident that the Alaska delegation in the
17 Congress and the people of Alaska would never have agreed to the final compromise ANILCA
18 package had they been advised that ANILCA contained provisions to allow federal preemption
19 of all state fish and wildlife management in Alaska; and

20 **WHEREAS** the federal agencies and some parties are arguing in recent court cases
21 concerning state/federal jurisdiction that federal reserved water rights and the navigational
22 servitude provide legal basis for a claim of federal title to land and resources; and

23 **WHEREAS** this interpretation of federal laws related to federal reserved water rights and
24 the navigational servitude is contrary to all existing related laws and policies adopted by the
25 Congress and threatens to undermine existing reserved water rights and navigable waters policies
26 that are critical to all western states;

27 **BE IT RESOLVED** that the Alaska State Legislature respectfully and urgently requests
28 the Congress to amend the Alaska National Interest Lands Conservation Act (ANILCA) to
29 clarify that the original intent of the Congress was not to violate the Statehood Compact or to
30 preempt state management of fish and wildlife in Alaska; and be it

31 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests that the
32 Congress amend ANILCA to clarify that the definition of "public lands" means only federal

1 public land and water; and be it

2 **FURTHER RESOLVED** that, while the federal courts are resolving the federal/state
3 conflicts created by Title VIII of ANILCA, the Alaska State Legislature respectfully requests that
4 the Congress amend ANILCA to expressly prohibit preemption of state jurisdiction on state and
5 private land and water unless specifically authorized by the Congress and the State of Alaska;
6 and be it

7 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests the
8 Congress to clarify that neither ANILCA nor another federal law provides authority for the
9 federal agencies to claim title to resources or land through federal reserved water rights or
10 through the navigational servitude; and be it

11 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests the
12 Alaska delegation in Congress to oppose any other amendments to ANILCA until the Congress
13 takes action to confirm state management and to limit the definition of "public lands."

14 **COPIES** of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President
15 of the United States and President of the U.S. Senate; the Honorable Newt Gingrich, Speaker
16 of the U.S. House of Representatives; the Honorable Strom Thurmond, President Pro tempore
17 of the U.S. Senate; the Honorable Bob Dole, Majority Leader of the U.S. Senate; and to the
18 Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable
19 Don Young, U.S. Representative, members of the Alaska delegation in Congress.

9-LS0848C
Utermohle
3/30/95

CS FOR SENATE JOINT RESOLUTION NO. 19()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS MILLER, Pearce, Green

A RESOLUTION

1 Requesting the Congress to amend the Alaska National Interest Lands Conservation
2 Act to clarify that the term "public lands" means only federal land and water
3 and that any extension of federal jurisdiction onto adjacent land and water is
4 expressly prohibited.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

6 WHEREAS the State of Alaska entered into the Union on an equal footing with all other
7 states, and the Statehood Compact specifically granted authority over fish and wildlife to the
8 State of Alaska; and

9 WHEREAS the issue of fisheries management was one of the most prominent
10 justifications for statehood; and

11 WHEREAS the State of Alaska contends that the Statehood Compact cannot be legally
12 modified by either party without the consent of the other party; and

13 WHEREAS the Congress and the President of the United States are presently embarking
14 on a campaign to return rights and authority to the states; and

15 WHEREAS Title VIII of the Alaska National Interest Lands Conservation Act
16 (ANILCA; P.L. 96-487), enacted in 1980, grants a subsistence priority on federal public land

1 in Alaska; and

2 **WHEREAS** the Secretary of the Interior and the Secretary of Agriculture have
3 threatened unilateral federal preemption of state fish and wildlife management on state and
4 private land and water in Alaska; and

5 **WHEREAS** the State of Alaska, the federal government, and other parties are attempting
6 to sort out the complexities of the federal law related to jurisdictional issues created by
7 ANILCA; and

8 **WHEREAS** the legal process for developing a final resolution to the jurisdictional
9 questions is extremely slow, and major social and economic disruption is imminent if the federal
10 government continues on a course to illegally and unconstitutionally preempt state management
11 of fish and wildlife; and

12 **WHEREAS** the Congress specifically declined to grant preemption authority to the
13 Secretary of the Interior and the Secretary of Agriculture in ANILCA; and

14 **WHEREAS** the Congress specifically reemphasized that the jurisdiction and authority
15 of the state were to be maintained; and

16 **WHEREAS** the Alaska State Legislature is confident that the Alaska delegation in the
17 Congress and the people of Alaska would never have agreed to the final compromise ANILCA
18 package had they been advised that ANILCA contained provisions to allow federal preemption
19 of all state fish and wildlife management in Alaska; and

20 **WHEREAS** the federal agencies and some parties are arguing in recent court cases
21 concerning state/federal jurisdiction that federal reserved water rights and the navigational
22 servitude provide legal basis for a claim of federal title to land and resources; and

23 **WHEREAS** this interpretation of federal laws related to federal reserved water rights and
24 the navigational servitude is contrary to all existing related laws and policies adopted by the
25 Congress and threatens to undermine existing reserved water rights and navigable waters policies
26 that are critical to all western states;

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5 private land and water unless specifically authorized by the Congress and the State of Alaska:
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9 federal agencies to claim title to resources or land through federal reserved water rights or
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14 **COPIES** of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President
15 of the United States and President of the U.S. Senate; the Honorable Newt Gingrich, Speaker
16 of the U.S. House of Representatives; the Honorable Strom Thurmond, President Pro tempore
17 of the U.S. Senate; the Honorable Bob Dole, Majority Leader of the U.S. Senate; and to the
18 Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable
19 Don Young, U.S. Representative, members of the Alaska delegation in Congress.

Walter J. Hickel

JNH
4-10-95
Box 101700
Anchorage, Alaska 99510-1700
907-276-7400

April 4, 1995

The Honorable Loren Leman
State Capitol (MS-3100)
Juneau, AK 99801

Dear Senator Leman:

I am pleased to offer my support of Senate Joint Resolution (SJR) 19.

As a person who was deeply involved in the creation of our Statehood Compact, I remember many of the hard-fought battles. One of the major disputes centered around who would manage Alaska's fish and game.

Congress eventually agreed to grant Alaska the authority to manage its fish and wildlife on all state and non-public lands. However, Alaska did not become a state with just the passage of a statehood bill. Alaskans needed to ratify those terms--and we did.

Alaskans were acutely aware of the provisions in the bill, as the terms of statehood were printed in most of the local papers. When we voted "yes" to statehood, we were voting for more than just becoming another star on the American flag. We voted "yes" to the terms of the Statehood Bill, which included the right to manage our fish and wildlife.

However, since Congress created The Alaska National Interest Conservation Act (ANILCA) in 1980, the management of our resources has been in jeopardy. Recently, the courts have interpreted ANILCA to mean that Congress intended for the federal government to have management authority of our fish and game that extends beyond federal lands.

Whether it is the fault of the courts, the lack of understanding by Congress, or the ambiguity of ANILCA, Alaska faces a fish and wildlife management crisis that needs to be addressed.

SJR 19 is a step in the right direction. This resolution will help clarify Alaska's position that the federal government does not have the authority to manage our fish and game resources, as stipulated in our Statehood Act. And this resolution petitions Congress to amend ANILCA, by reaffirming that "public lands" means only federal public land and water.

This issue is not solely a subsistence issue, it is a state's rights issue. Whether one agrees with a rural preference or not, we as Alaskans cannot allow our sovereign rights as a state to be diminished because of an issue that is currently dividing us.

I urge all Alaskans to support SJR 19.

Sincerely,


Walter J. Hickel



Grand Camp
Alaska Native Brotherhood
ALFRED MCKINLEY, SR., GRAND PRESIDENT
ALASKA NATIVE BROTHERHOOD

TESTIMONY

10 APRIL 1995

MR. CHAIRMAN AND MEMBERS OF THE SENATE RESOURCES COMMITTEE

WHEN THE ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1971 BECAME LAW, THE CONFERENCE COMMITTEE OF U. S. SENATE AND U. S. HOUSE MEMBERS EXPECTED THE SECRETARY OF INTERIOR AND THE STATE OF ALASKA TO USE THEIR EXISTING AUTHORITY TO TAKE ACTION NECESSARY TO PROTECT THE SUBSISTENCE NEEDS OF THE ALASKA NATIVES. THE FAILURE OF THE FEDERAL AND STATE GOVERNMENTS TO HEED CONGRESSIONAL ADMONITIONS CAUSED THE NATIVES TO SEEK A SOLUTION THROUGH FEDERAL LEGISLATION. AS A RESULT, THERE IS A TITLE VIII OF THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT (ANILCA). CONGRESS RECOGNIZED THE NEED TO PRESERVE THE SUBSISTENCE LIFESTYLE AS PRACTICED BY ALASKA NATIVES FROM "TIME IMMEMORIAL" AND THE FACT THAT THE FINAL VERSION CONTAINED PROVISIONS FOR "RURAL ALASKANS" DID NOT DILUTE THE PRIMARY PURPOSE OF PROTECTION AND PRESERVATION OF THE NATIVE SUBSISTENCE LIFESTYLE.

WITH THIS BACKGROUND TO MY REMARKS, I NOW STATE ALASKA NATIVE BROTHERHOOD'S OPPOSITION TO THE PASSAGE OF SENATE JOINT RESOLUTION NO. 19. THE RESOLUTION, ON IT FACE, WOULD SEEK TO NULLIFY RECENT NATIVE SUBSISTENCE VICTORIES IN THE U.S. DISTRICT

COURT, INCLUDING THE DECISION IN THE KATIE JOHN CASE (ON APPEAL TO THE NINTH CIRCUIT) WHICH HELD THAT FEDERAL JURISDICTION (FOR TITLE VIII) SHOULD EXTEND TO ALL NAVIGABLE WATERS IN THE STATE OF ALASKA. AT LEAST 60% OF NATIVE SUBSISTENCE TAKES PLACE IN NAVIGABLE WATERS IN ALASKA UNLESS THE STATE COMES INTO COMPLIANCE WITH TITLE VIII OF ANILCA IN ORDER FOR NATIVES TO FULLY BENEFIT FROM THE SUBSISTENCE PRIORITY PROVIDED BY TITLE VIII OF ANILCA, FEDERAL JURISDICTION MUST BE ABLE TO REGULATE NON-FEDERAL HUNTING AND FISHING ACTIVITIES THAT IMPACT ON SUBSISTENCE HARVEST EFFORTS.

ADDITIONALLY, I SUPPORT THE PETITION SUBMITTED TO THE SECRETARIES OF INTERIOR AND AGRICULTURE ON BEHALF OF A NUMBER OF NATIVE ORGANIZATIONS THAT SEEK TO EXPAND FEDERAL SUBSISTENCE MANAGEMENT JURISDICTION BEYOND FEDERAL PUBLIC LANDS.

I CANNOT, NOW, SUPPORT A RESOLUTION CALCULATED TO RESTRICT THE NATIVE SUBSISTENCE RIGHTS BEYOND WHAT IS SET OUT IN TITLE VIII AND INTERPRETED BY THE COURTS. I EMPHATICALLY OPPOSE ANY EFFORT TO AMEND TITLE VIII THAT DOES NOT FIRST, THROUGH A SERIES OF CONSULTATIONS, GAIN THE SUPPORT OF THE ALASKA NATIVES.



The Aleut Corporation

Sent Via Facsimile & 1st Class Mail

April 12, 1995

The Honorable Loren Leman
Chairman, Senate Resources Committee
Room 113, Alaska State Capitol
Juneau, Alaska 99801

Dear Mr. Chairman:

Thank you for inviting me to submit testimony to Senate Joint Resolution 19.

The Aleut Corporation does not support adoption of SJR 19. Its passage will not bring Alaska one step closer to solving the real subsistence issue: the continued existence of Native villages throughout the bush. On the contrary, SJR 19 proposes that the Congress deliver a death blow to the villages by reducing current federal subsistence protections to an empty rhetorical shell.

Alaska must not destroy its rural areas in order to serve a vocal urban minority which is so afraid of the majority that it will do anything to keep the question from going to the voters. Rural Alaskans (Native and non-Native) must be guaranteed nutritional resources for family and community survival in times of resource shortage. That is all that Title VIII does, despite the frenzied attempt in Juneau to redefine the issue as "management," "states' rights," or "equality."

Title VIII is a reasonable, justifiable policy enacted by the Congress and agreed to by the state in 1980. By trying to reverse it, SJR 19 proposes to pull the economic and cultural rug out from under rural Alaska - and to pass along the enormous cost of its collapse to every future governor, legislator, and taxpayer.



Chairman Leman
April 12, 1995
Page 2

We at The Aleut Corporation strongly object to SJR 19 - not only because it advocates a disastrous social policy - but because it asks the wrong people to decide the issue. We agree with Senator Stevens that subsistence must be decided in Alaska, by Alaskans, not in Washington D.C.

Sincerely,

THE ALEUT CORPORATION



Alice Petrivelli
President

/kgd



The Aleut Corporation

FACSIMILE TRANSMITTAL

DATE: APRIL 12, 1995 TIME: :

FAX NUMBER:	(907) 465-3810
SENT TO:	The Honorable Loren Leman
	Chairman, Senate Resources Committee
	Room 113, Alaska State Capitol
	Juneau, Alaska 99801

FROM: Alice Patrivelli, President

THE ALEUT CORPORATION
ONE ALEUT PLAZA, SUITE 300
4000 OLD SEWARD HIGHWAY
ANCHORAGE, AK 99503

FAX NUMBER: (907) 563-4328

SUBJECT:	Senate Joint Resolution 19

NUMBER OF PAGES (including this cover sheet) 3

IF YOU HAVE NOT RECEIVED ALL PAGES PLEASE CALL: Natasha



Arctic Slope
Native Association Limited

April 8, 1995

Senate Resources Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Senate Resources Committee:

I would like to submit the following into the record as written testimony to Senate Joint Resolution (SJR) #19.

Please be aware that the Arctic Slope Native Association, Limited (ASNA) is strongly opposed to the passage of SJR #19, requesting Congress to amend the Alaska National Interest Lands Conservation Act (ANILCA) to clarify that the term "public lands" means only federal land and water and that any extension of federal jurisdiction onto adjacent land and water is expressly prohibited.

It is our understanding that one of the most important features of ANILCA was to:

provide the opportunity for continued subsistence use by local residents.

Any effort to amend any sections of ANILCA will be seen as a threat to the subsistence lifestyle that has been practiced for centuries, passed down from one generation to the next.

Let me remind you that on March 30, 1994, in Federal District Court, Judge Holland ruled that the federal government has the legal authority to regulate subsistence hunting and fishing on all such public lands and waters. In other words, the federal government has direct management authority over subsistence takings of fish and wildlife on federal public lands during state non-compliance.

At this moment in time, ASNA also believes that federal law is the best protection subsistence users have in this state.

Letter to the Senate Resources Committee
April 8, 1995

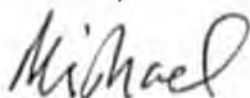
PAGE 2

The best solution to resolve the subsistence impasse in Alaska is an amendment to the Alaska Constitution to recognize a rural subsistence priority.

In closing, and let me say it again, ANILCA is the only protection for Native residents in rural Alaska. We are able to continue a lifestyle that is vital to the different cultures in each region of Alaska, and that is the subsistence lifestyle, a tradition that has been practiced since time immemorial by all Native Alaskans.

I thank you for the opportunity to provide written comments for the record.

Sincerely,



Michael D. Pederson
Natural Resources Specialist



STR-19

Post Office
Fax Transmittal Memo 7872

To: Sen. Lyman Hoffman
Company: State of AK
Address: Juneau
Phone: 465-4523

(1) No. of Pages: 3
From: Myron Naneng
Company: AVCP
Location: Bethel
Phone: 543-3594
Original Discussion Copy Return Call to p. #

Lyman,
Please distribute copies to State legislature. Thank you

AVCP

Association of Village Council Presidents
PO Box 218 • Bethel, Alaska 99559 • Phone 543-3521

Mid-Year Conference
Resolution No. 95-03-01

A RESOLUTION OF THE ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS, INC (AVCP),
OPPOSING ALASKA LEGISLATURE HOUSE JOINT RESOLUTION 11 (HJR-11) AND SENATE
JOINT RESOLUTION 19 (SJR-19) AMENDING TITLE VIII OF ANILCA.

WHEREAS, ANILCA TITLE VII provides for a priority for rural subsistence uses and provides a
protection of the subsistence way of life of the people of the AVCP region, and

WHEREAS, the subsistence way of life is the most important sustainable cultural tradition and economy
of the people of the AVCP region, and

WHEREAS, the subsistence way of life extends beyond the simple use of the resource, it also validates
the spiritual and cultural association of the people to the land and its resources, and

WHEREAS, the people of the AVCP region have little or no other economic resources to provide for the
subsistence of the people and the culture, and

WHEREAS, Title VIII of ANILCA is the law of the land which must be implemented by courts and
enforced and complied by the State of Alaska, and

WHEREAS, without this protection the conservation of the subsistence resources would be placed in
jeopardy by curtailing the rural protection provisions of the law during times of shortages of the resources,
and

WHEREAS, the Alaska Legislature, by enacting this legislation is losing sight of its responsibility to the
future of its people and to the future of the resources of the land, and

WHEREAS, Senator Stevens has already told the Alaska Legislature that he will not ask the U.S.
Congress to resolve the conflict on subsistence, and

WHEREAS, the proposed amendments to ANILCA will only further deplete the people of Alaska and
deplete the resources until there is nothing left.

NOW THEREFORE BE IT RESOLVED THAT THE DELEGATES TO THE ASSOCIATION OF
VILLAGE COUNCIL PRESIDENTS, INC. OPPOSES ANY ACTION TO AMEND ANILCA THAT
REMOVES THE PROTECTION OF RURAL SUBSISTENCE AND THE SUBSISTENCE WAY OF
LIFE OF THE PEOPLE OF RURAL ALASKA.

PASSED THIS 29TH DAY OF MARCH, 1995, WITH A DULY CONSTITUTED QUORUM OF
MEMBERS PRESENT AT BETHEL, ALASKA.

David O. David, Chairman

Myron P. Naneng, President

Distributed by:
Senator Lyman F. Hoffman
State Capitol Room #7
Juneau, AK 99811



BRISTOL BAY NATIVE CORPORATION

800 CORDOVA / PO BOX 100220 / ANCHORAGE, ALASKA 99510 / (907) 278-3602
TELECOPY (907) 278-3974

April 5, 1995

Senator Loren Leman, Chairman
Senate Resources Committee
Alaska State Legislature
State Capitol
Juneau AK 99801-1182

Dear Senator Leman,

Re: Senate Joint Resolution No. 19

This is to advise you that the Bristol Bay Native Corporation opposes Senate Joint Resolution No. 19 for various reasons.


First, the Governor of the State of Alaska and not the Alaska Legislature represents the State of Alaska on federal matters. The Ninth Circuit Court of Appeals recognized this principle when it denied the Alaska Legislature permission to intervene in the Katie John case. It was a Republican governor of the State of Alaska, Governor Hammond, who supported the provisions now included in Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). A Democratic governor, Governor Knowles, now supports the provisions of Title VIII of ANILCA.

Second, the subsistence provisions of Title VIII of ANILCA are supported by the Alaska delegation in Washington. Senate Joint Resolution No. 19 will be irrelevant in any discussion of the issue in Washington.

Third, the Alaska Legislature should allow the voters of Alaska to vote on the question whether they support state management of fish and game on federal land and waters. Why does the Alaska Legislature oppose the right of Alaska voters to vote on an issue of such importance? The Alaska Legislature will be responsible for the loss of state fish and game management on federal land and waters if the federal courts rule in favor of the Alaska Natives and the federal government in the Katie John litigation.

I would appreciate it if you would include this letter in the hearing record of Senate Joint Resolution No. 19.

Sincerely,


Hjalmar Olson
Chairman and President

Calista Corporation

MAR 31 1995

601 W. 5th Avenue, Suite 200 • Anchorage, AK 99501-2225 • (907) 279 5516 • FACSIMILE (907) 272 5060

SENT VIA FACSIMILE: (907) 465-3810

March 29, 1995

The Honorable Loren Leman
Chairman, Senate Resources Committee
Alaska Legislature
State Capitol
Juneau, AK 99801-1182

Dear Senator Leman:

I am writing to you in opposition to SJR19, which asks Congress to amend Title VIII of ANILCA to dispose of the rural preference provision.

Calista Corporation supports the rural preference as stated in Title VIII of ANILCA. The provisions of ANILCA must be implemented by the United States Courts and agencies, and the State of Alaska as agreed upon by the federal and state governments in 1980. The State of Alaska has not upheld its part of the agreement since the McDowell decision in 1989.

ANILCA is the only legal force protecting the economic and cultural survival of subsistence based rural communities. The federal preference is a humane, intelligent policy, that allows rural Alaskans to survive by their own self-sustaining economic base, which minimizes their dependency on government programs and welfare.

The continuance of the rural preference for subsistence resources is especially important in light of the predicted cutbacks in federal and state funding, which will have its most dramatic effect on rural Alaska. These cutbacks will increase the needs of rural Alaskans to depend on subsistence resources for survival.

In addition, rural Alaska does not have a developed economy in place, whereby people can "just go out and get a job and shop at the local grocery store," to meet their needs. For the most part there are no jobs to be had, and the people's primary survival skill is their ability to hunt, fish and gather wild edibles in order to put food on the table.

The Honorable Loren Leman
March 29, 1995
Page 2

The reality of the situation is that there is a limited amount of fish and game in Alaska, and the anti-subsistence groups' talk of "equality" basically takes food out of the mouths of rural Alaska's elders and children, in order to make it available to urban based guides and sports hunter/fishermen who list hunting and fishing on their resume as a hobby.

The intent of the founding leaders when they passed the Alaska Native Claims Settlement Act and ANILCA, was the preservation of fundamental human rights. Many rural communities are entirely dependent upon wild animals and fish for their physical survival, as well as fulfillment of their cultural and spiritual needs in a way no other group has ever been or will ever be.

The time is right for the State of Alaska to get in tune with the rural preference provision of ANILCA, and let the citizens of Alaska collectively decide at the voting booth whether a constitutional amendment is acceptable to them to resolve the subsistence preference issue, and bring the State back in compliance with ANILCA.

Sincerely,

CALISTA CORPORATION



Matthew Nicolai, President

cc: Alaska Federation of Natives, Inc.
Representative Ivan M. Ivan
Senator Lyman Hoffman
Governor Tony Knowles



Citizens' Advisory Commission on Federal Areas

April 6, 1995

SJR19

3700 Airport Way
Fairbanks, Alaska 99709-4699
(907) 451-2775
Fax: 451-2761

APR 11 1995

Senator Loren Leman, Chairman
Senate Resources Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Senator Leman:

Recently the Citizens' Advisory Commission on Federal Areas was invited by the Senate Resources Committee to give testimony regarding Senate Joint Resolution 19. Because the Commission members had not, at that point, had the opportunity to discuss SJR 19 and formulate a position, we were unable to present testimony at the March 29 hearing in Fairbanks. However, SJR 19 was placed on the agenda for our April 1 Commission meeting in Juneau. At that meeting, the Commission members present voted unanimously to endorse SJR 19.

This Commission believes that the language in the Alaska National Interest Lands Conservation Act (ANILCA) is very specific in applying the provisions of Title VIII of that statute. ANILCA Section 102(3) contains the following definition for the term "public lands:"

The term "public lands" means lands situated in Alaska which, after the date of enactment of this Act are Federal lands¹, except-

- (A) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State of Alaska under any provision of Federal law;
- (B) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and
- (C) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act

¹ The term "Federal land" means lands the title to which is in the United States after the date of enactment of this Act. (ANILCA Section 102(2))

Senator Loren Leman
April 6, 1995

2

Further, we believe that any attempt to extend management by the Federal Subsistence Board beyond federal public lands is unacceptable. The management and allocation of fish and game resources on all lands and waters of Alaska is the responsibility of the Board of Fisheries and the Board of Game. However, the conflict between the Constitution of the State of Alaska and the provisions of ANILCA Title VIII has resulted in the current dual management system. Until this conflict is resolved and the State Boards resume their management roles for all lands and waters in the state, every effort must be made to prevent further expansion of the federal management program.

Thank you for the opportunity to provide testimony on SJR 19. If you or the other committee members have questions regarding our position on SJR 19, or if we can clarify anything, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Stan Leaphart". The signature is written in dark ink and is positioned above the printed name and title.

Stan Leaphart
Executive Director

LINDA W. DEMIENTIEFF
3010 JILLIAN SQUARE, APT. 31
FAIRBANKS, ALASKA 99709

(3010 DAVIS Rd. Apt. B-31)

APR 4 1995

March 30, 1995

Senator Mike Miller
State Capitol
Juneau, Alaska 99801-1182

RE: SJR 19

Dear Senator,

I attended the hearing in Fairbanks but didn't get a chance to speak and I hope that my letter will help. I will begin by saying that I oppose the passage of SJR 19 by the Senate.

I am a full blooded Indian woman with two children who like to eat our native food. I was born and raised in Allakaket and went to high school in Mt. Edgecumbe. In Mt. Edgecumbe because of the nature of Alaskan Natives we learned a lot about the different cultures all over Alaska. One of our favorite pastimes was to get into a big group and take turns telling about the foods we miss.

As you heard time and time again yesterday that this bill as it stands does not say anything about subsistence but we know from past experience how the rural people have been treated as far as their subsistence rights are concerned. Unless you are a poor listener and only hear what you like you should have noticed the people who support SJR 19. These people spoke with vengeance, pure hatred, and have a very poor image of the native people. What will you think of us and more importantly what will we think of ourselves if we allow people to speak out like that against us without standing up for ourselves.

When I was a child we did not have any money in our family. But there was never a day that we went without food. Sam White the Game Warden at that time use to tell my Dad not to let his children get too hungry. Because we use to live on the South Fork of the Koyukuk River above Allakaket, Sam was worried that if Dad didn't get his moose that we would run out of food. Throughout our childhood we never received any outside assistance. When things got too rough Dad would guide anthropologists, work in a mine, or go firefighting. It was hard for him to leave us but my Mother would stay in camp with us and do all the hunting and fishing and gathering to feed us. Almost every summer while Dad was out working, a moose would come out near our camp and my Mother got out the gun and shot it so that we can have some meat again.

I will now tell you what our Dad told us when we were very small and when he started telling us how important it is to learn to hunt and fish and live off the land. He said that yes there is a being that is all over the world. It has a big Spirit. That Spirit is in all of us and that Spirit is also in all the animals and living things. The only reason we are allowed to kill is to feed ourselves and our families. We do not kill in anger and when we kill for food we say Thank You everytime. As long as we are good to all living things, the world will be good to us.

We moved to Allakaket when I was old enough to start first grade. That was the absolute worst year of my life. Because the village people's income was below poverty level the Territory School began a lunch program. They tried to force me to eat the white man's food at lunch. I cried and cannot eat and kept crying until they let me go home where my Mother had moose meat or fish waiting for me. After I ate I sometimes would go back to school. Today my daughters do not like the school lunch and ask me to pack a lunch every day. Throughout Alaska all our strongest family ties are based on food and the sharing of it.

You heard Malinda Chase yesterday when she said that a young man in Anvik was a changed man after he killed his first moose. In all the big events in our lives our Native food is shared. When a baby is born we share a big dinner, in Allakaket every Birthday is celebrated with a dinner, when that young man kills his first moose it is celebrated with dinner, when that young lady becomes a woman she is brought food, when a couple gets married food is shared, when there is a new building in the village food is shared and finally and most importantly when a person dies food is shared. I most recently went through some trying times and the first call I got was my friends bringing food.

I hope you also heard Margie Mayo speak yesterday when she talked about the use of public assistance in the village. I hope I never have to depend on public assistance because my goal in life to teach my children to provide for themselves. That is the reason I need to write this letter. I need to speak out and let people know when someone makes such degrading remarks about our people. If I sit quietly and let this happen I will be teaching my children to sit quietly and let people treat them bad.

This will end my testimony and hope you have learned a little about our lifestyle. Thank you.

Sincerely,



Linda W. Demientieff

cc: Senators Drue Pearce, Steve Frank, Rick Halford, Lyman Hoffman, Loren Leman, Georgeianna Lincoln, Robin Taylor

My name is Joanne Grace. I am an assistant attorney general in the Natural Resources Section. I have a brief statement to make about SJR 19 on behalf of the Department of Law.

The department presently is representing the state in litigation raising the issues addressed in SJR 19, and the state's position in this litigation generally corresponds to the resolution's requests for amendments. Nevertheless, the administration's position is that although amendments to ANILCA might be part of a final solution to the subsistence dilemma in Alaska, we need consensus among Alaskans about how to resolve the many problems rather than a solution imposed by lawmakers in Washington, D.C. The administration's goals are to regain state management of fish and wildlife for all lands in Alaska and to preserve the rural priority.

The amendments SJR 19 suggest differ in one respect from the issues in the litigation. SJR 19 addresses two issues, which we refer to as the "Where I" issue and the "Where II" issue. The "Where I" issue is the question of whether the subsistence priority and the FSR's management authority extend to navigable waters in Alaska. The plaintiffs in the Katie John litigation argue, and Judge Holland held, that they do, for this reason. The subsistence priority applies to "public lands." Generally "public lands" are understood to mean federal lands, but Congress can define this term

differently in different contexts. In ANILCA, Congress defined "public lands" as "lands, waters, and interests therein, title to which is in the United States." I believe that Congress thought it was defining "public lands" as federally-owned lands. The Katie John plaintiffs argued, however, that if the United States has any property interest in lands or waters, that converts them to "public lands" under this definition, regardless of who owns them. Thus, they argue, if the United States has a water right in a river, the river is "public lands" subject to federal management.

The United States does not claim to have title to these state and private lands, as SJR 19 seems to imply. Lines 21-22 on page two and 9-10 on page three refer to a claim of federal title to land and resources based on federal reserved water rights or the navigational servitude. The plaintiffs' claim is not that the United States owns the land and resources based on these doctrines, but that it has authority to regulate fish and wildlife on lands and waters subject to federal water rights, navigational servitude, or any other federal property interest. In other words, the existence of any federal interest mandates federal regulation.

The status of the litigation is as follows. The "Where I" issue, that I've described, was decided by the U.S. District Court last March. Judge Holland held that all navigable waters in Alaska are public lands subject to ANILCA because the United States has title to the navigational servitude. The state and the United

States appealed this to the Ninth Circuit. On appeal both the state and the United States argue that navigational servitude does not convert waters into public lands, but the United States argues that some waters are public lands by virtue of the United States' water rights. The court heard oral argument in February and has the case under advisement.

The "Where II" issue, that is the issue of whether the Departments of Agriculture and Interior have authority to regulate fish and wildlife on state and private lands to effect the subsistence priority on public lands, is currently before the district court in four different cases. The court has indicated that it will not address this issue while the U.S. considers a petition by the Northwest Arctic Regional Corporation to promulgate regulations to extend the FSB's authority off public lands.

Thank you for the opportunity to testify.

Executive Director
 Duke Bertke
 Chelona Lake Lodge
 (907) 243-7767

President
 Ken Dale
 Waterfall Resort
 (907) 225-9461

**ALASKA
 SPORTFISHING INDUSTRY
 ASSOCIATION**

Vice President
 Bud Hodson
 Tilchik Narrows Lodge
 (907) 243-8450

Executive Committee
 Bill Sims
 Newhalen Lodge
 (907) 522-3355

Loren Leman
 Chairman, Senate Resources Committee
 State Capitol
 Juneau, Alaska 99801

April 10, 1995

Dear Senator Leman,

The Alaska Sportfishing Industry Association supports Senate Joint Resolution No. 19.

This is Alaska's last stand to maintain management authority over Fish & Game.

As a past Chairman of the Alaska Board of Fisheries, I can attest that fisheries management decisions are complex matters where the input of all users must be considered to make decisions that are fair and in the best over all interest of the State.

If the authority granted to the Federal Government under ANILCA is extended to include State lands and waters, only the considerations of one user group will be considered.

We agree with the arguments set forth in SJR 19 and encourage that SJR 19 move forward.

Thank you,



Bud Hodson
 Vice President
 Alaska Sportfishing Industry Ass.



Alaska State Legislature

Please enter into the record my testimony to the Resource
 committee name
 committee on SJR 19 , dated April 8 1995
 bill/subject

Mr. Chairman, Senator Miller and Senator Ferguson,
 my name is David Martin. I'm Chairman of the Central Peninsula
 Advisory Committee in Wrangell. Thank you for sponsoring Resolution
 No. 19 and for providing this opportunity to testify. Our Advisory
 Committee unanimously supports SJR No. 19. The Advisory Committee is
 made up of 10 members and two alternates from the Wrangell area.
 Each member is elected by the local public, to serve a three year
 term. The duty of our advisory committee and the other Advisory Committees
 around the state is to be a channel to relay the local public's input
 including advice, recommendations, concerns, etc. to any and all State
 and Federal agencies on matters pertaining to Fish and Game issues.
 We live here and we first hand what is going on with our fish and
 game and know what's best for proper management of the resources.
 Most all people, families and communities livelihood and life style
 are dependent upon properly managed resources.

This system of local Advisory Committees, consists of Fish and Game
 and the opportunity for public involvement of our fish and game management,
 under State jurisdiction is for the most part working very well and in
 the survey of many places in the Lower 48, Alaska can boast record
 fisheries and abundant game. (over)

Signed: David R Martin
 Testifier
Central Peninsula Advisory Committee
 Representing (Optional)
HC-2 Box 860 Clem Gulch, Ak. 99568
 Address
567-3306
 Phone No.

Parker Recreational Services
4440 Columbia Blvd.
Juneau, Alaska 99801

April 10, 1995

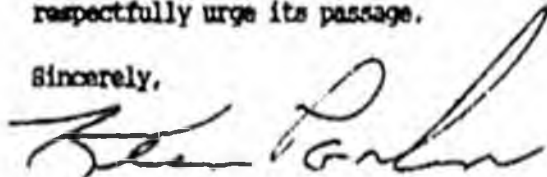
Senator Loren Leman
Chairman, Senate Resources Committee
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Leman:

I would like to take this opportunity to provide comments in support of Senate Joint Resolution No. 19. I originally intended to testify at today's Senate Resources Committee hearing but will now be unable to attend.

My comments are provided on behalf of the Juneau Charter Boat Owners and Operators Association to which I belong. I am also on the Board of Directors of the Alaska Sportfishing Industry Association, a newly formed association to address issues facing our industry. Clearly the issue addressed in SJR 19, the future direction of Fish and Game management in Alaska, is of the utmost importance to all of us involved in recreational fisheries. It is our unanimous position that the State of Alaska must at all cost remain solely responsible for the management of fish and wildlife on State and private lands as well as the navigable inland waters and marine waters out to the 12 mile limit. Federal preemption of Alaska's fish and wildlife management program is intolerable, illegal, and violates the intent of the Statehood Compact. During my 19 years as a State of Alaska fisheries manager, I witnessed first hand the serious problems and ineffectiveness of federal management of natural resources. Since statehood, our management program, guided by the Alaska State Legislature and the Alaska Board of Fisheries and implemented by the Alaska Department of Fish and Game has brought back the health and abundance to our fishery resources that were decimated by federal management. Lets not let history repeat itself and end up with Washington bureaucrats dictating what is right for Alaska. Senate Joint Resolution No. 19 is a good first step to turning this situation around and I respectfully urge its passage.

Sincerely,



Kenneth P. Parker

JOSEPH D. RIEDERER, M.D.
4600 NO. DOUGLAS
JUNEAU, ALASKA 99901
TELEPHONE 907 · 586-2900

4/10/95

TO SENATE RESOURCES COMMITTEE
FAR 465-3810

I strongly support SJR 19

that requests Congress to
clarify the ANILCA Act - so
that "public lands" refer only
to federal land/waters.

Joseph D Riederer
63 4R Alaska Resident
4600 NO Douglas Hwy
Juneau 99801

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6-98

Central Microfilm Services
Department of Education
State of Alaska



Alaska State Legislature

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 committee on SJR 19, dated April 8 1995
 bill/subject

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 Advisory Committee in Sitka. Thank you for passing Resolution
 No. 19 and for providing this opportunity to testify. Our Advisory
 Committee unanimously supports SJR No. 19. The Advisory Committee is
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 Each member is elected by the local public, to serve a three year
 term. The duty of our advisory committee and the other Advisory Committees
 around the state is to be a channel to relay the local public's input
 including advice, recommendations, concerns, etc. to any and all state
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 game and know what best for proper management of the resources.
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 and the opportunity for public involvement of our fish and game management,
 under state jurisdiction is for the most part working very well and in
 the survey of many places in the lower 48. Alaska can boast record
 fish and abundant game. (over)

Signed: David R Martin
 Testifier

Central Peninsula Advisory Committee
 Representing (Optional)

HC-2 Box 866 Chm Gulch, Ak. 99568
 Address

567-3300
 Phone No.

To maintain this effective fish and game management we must have State management on all land, waters and navigable waters within the State. This is not only a necessity but is also a Right given to the State at statehood. Even with the enactment of ANILCA it was never, ever the intent to apply Federal jurisdiction to State lands and waters.

Again we support SRS Sec. 19 and give you our wholehearted support in getting this resolution enacted. If we can be of any assistance please let us know.

Thank You.

Sincerely,
David R. Martin

Parker Recreational Services
4440 Columbia Blvd.
Juneau, Alaska 99801

April 10, 1995

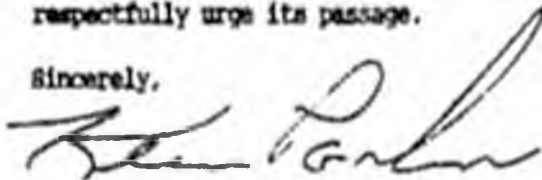
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Chairman, Senate Resources Committee
State Capitol
Juneau, Alaska 99801-1102

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Sincerely,



Kenneth P. Parker

JOSEPH D. RIEDERER, M.D.
4800 NO. DOUGLAS
JUNEAU, ALASKA 99801
TELEPHONE 907 • 586-2900

4/10/95

TO SENATE RESOURCES COMMITTEE
FAR 465-3810

I strongly support SJR 19

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clarify the ANILCA Act - so
that "public lands" refer only
to federal land/waters.

Joseph D Riederer
63 4R Alaska Resident
4800 NO Douglas Hwy
Juneau 99801

JOHN A. SANDOR

P O Box 21135

Juneau, Alaska 99802-1135

PHONE: (907) 586-2497

FAX: (907) 586-2490

STATEMENT FOR THE ALASKA STATE SENATE RESOURCES COMMITTEE HEARING ON SJR NO.19

I am John Sandor, a resident of Juneau, Alaska with over 28 years of professional resource management experience in Alaska. I am representing myself as an individual citizen.

I support Senate Joint Resolution No. 19, because it seeks assurance that the State of Alaska will retain its management responsibilities for fish and wildlife on state and private lands and navigable waters.

It is essential the Congress of the United States reaffirm the intent of the Statehood Compact and ANILCA that the State of Alaska retain this management responsibility.

The President of the United States and the Congress have expressed their support of returning rights and authorities to the States. Most Alaskans are surely in agreement with this principle, so hopefully a consensus can quickly be reached on this important issue.

It should also be noted that as Federal agencies continue to centralize more of their decision-making authorities in Washington, D.C. and in Regional Headquarters in the "lower 48" states, Alaska's people and resources will be at greater risk.

I urge adoption of SJR 19.

Thank you for giving Alaskans the opportunity to express their views on the management of fish and wildlife in our great State.

April 10, 1995

cc: House Speaker Gail Phillips
House Natural Resources Committee
Alaska's Congressional Delegation

*Filed
to Borough*

TO: SENATE RESOURCE COMMITTEE MARCH 29, 1995

FROM: PETER E. K. SHEPHERD, 1012 GALENA ST, FAIRBANKS, AK 99709

SUBJECT: SJR 19

I am testifying in favor of SJR 19 to amend ANILCA. I strongly believe this move is necessary to protect the Statehood Compact, our state constitution, state fish and game management authority, and state jurisdiction over navigable waters.

Since territorial days my entire livelihood has been based on renewable resource management and use. For the past fifteen years more than two thirds of my annual income has been from big game guiding and trapping on state lands. Pre-emption by federal authority over state owned resources would certainly impact the future of this lifestyle.

Management of renewable resources on state lands and federal public lands is a state prerogative. Such management should not be that by a distant body of Washington D.C. bureaucrats under the influence of non-resident pressure groups.

State owned resources should be managed primarily for the benefit of Alaskans--not at the pleasure and desire of non-resident environmentalists. Federal withdrawals have already set aside ample dedicated areas for hands-off management. Section 8 of ANILCA holds many contradictions and is contrary to the intent of equal use established by the state constitution.

Alaskans must be free to chart their own destiny unhampered by Federal intervention in life styles, use, and management of renewable resources.

Peter E.K. Shepherd

BONNIE WILLIAMS
freelance & other writings

March 27, 1995

Senae Resources Committee
Alaska State Senate
Juneau, Alaska 99801-1182

RE: SJR 19 - Amending ANILCA

Dear Senators:

I strongly urge your support of Senator Miller's SJR 19.

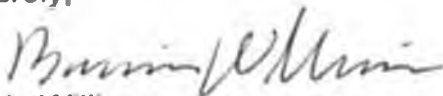
We must address and take action to resolve our subsistence problem, and we must regain State control of fish and game management.

The legal problem lies in the federal ANILCA statutes, which require that Alaska treat its citizens unequally and in blatant violation of Article VIII of the State constitution as well.

The alternative is to give up statehood, and revert to territorial status.

Please seize this opportunity and opening on the federal Congressional level.

Sincerely,



Bonnie Williams

Chairman
Senate Resources Committee
Dear Senator Leman,

30 March 1995

The founding fathers of our country sacrificed their lives and fortunes to form the greatest doctrine of government yet to be written. One of the basic principles of the Constitution of the United States was the separation of powers to keep the federal government from becoming a central totalitarian core. It was believed that the Executive powers would be balanced by the Legislative powers and both of these would be kept within the bounds of the constitution by the Judicial. Today we have courts who write legislation and the Executive doing the same. It was never intended that these separate powers would work together, particularly to raise one group over other groups in respect to rights accorded by the government. The preamble to our Constitution is quite clear on this. "..... the separate and equal Station to which the Laws of Nature and of Nature's God entitle them,"

The constitution was an attempt at the elevation of principles over institutions. But it appears that the government has lost touch with these founding principles and now offers institutional granting of rights to certain groups over others on the commonly held lands of the country.

The State of Alaska has carried the preamble of the U.S. further by including these founding principles in our own constitution: "This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the state." These words have the ring of a preamble (which is not, in a legal sense, a working part of a constitution). However, the section is a substantive part of the constitution and expresses important, legally enforceable rights. (Alaska's Constitution ...A Citizen's Guide...by Gordon S. Harrison).

It is clear here that we have a widening gulf between the principles of the founding of our nation and state and those of governmental institutions as they are presently composed.

The time for resolution of these dichotomies is rapidly approaching and will surely arrive in our life times. Whether the resolution will be in favor of the founding principles of our nation, or not, will have much to do with the stance of our elected representatives.

In the name of all of those who have sacrificed their lives and honor to uphold the principles of the Constitution of the United States over the past 200 years, I humbly ask you to work and vote for Senate Joint Resolution 19.

David L. Williams

1335 Sunny Slope Rd.
Fairbanks, Alaska 99709
(907) 455-6652

Rural Alaska Community Action Program, Inc.

March 28, 1995

Mr. Loren Leman, Chairman
Senate Resources Committee
Alaska State Legislature
Juneau, Alaska

RE: Senate Joint Resolution No. 19

Dear Senator Leman,

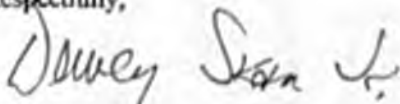
Over sixty rural Alaskan leaders are currently meeting in Juneau, Alaska at the Village Participation Conference at the Alaska Native Brotherhood Hall. A major concern of these rural leaders is the fact that the Senate Resources Committee will meet in Fairbanks on Wednesday, March 29, 1995 to hear testimony on the amendment of ANILCA, which rural subsistence users strongly oppose. These rural leaders are being denied the opportunity to testify face to face with your important legislative committee and to be heard because the hearing is being moved out of Juneau, even though these village leaders are in Juneau this week and this would provide an opportunity for input. Many leaders believe it is very important that the committee hear from those in Alaska who will be most affected if ANILCA is opened. Rural communities will be the last people from whom testimony will be taken by the Senate Resources Committee and it is to be taken by teleconferencing. Most communities do not even have teleconference sites, and are subjected to calling a toll free 800 number until they can get on. With over 200 communities which wish to testify, this is an incredible hurdle. It is extremely disconcerting to the 60 village leaders who are in Juneau this week that they are being put in this position.

The village leaders at the 1995 Village Participation Conference urge the Senate Resources Committee to hold hearings on this important matter in every regional hub of Alaska: Barrow, Kotzebue, Bethel, Dillingham, Nome, Copper Center, Tok/Tanacross, Ft. Yukon, Ketchikan, Kodiak and major urban area, Juneau so that all constituents in Alaska have an equal and fair opportunity to provide input.

Rural people unanionously oppose opening ANILCA which would radically divide our state. Rural Alaskans have few opportunities for economic development, and unemployment is more than 65% in most villages. The Subsistence take (around 2%) is vitally needed by rural Subsistence users.

Please reconsider your stand on opening of ANILCA; and, please reconsider your not allowing members of the 1995 Village Participation Conference to testify while they are in Juneau this week. Thank you.

Respectfully,



Dewey Skan, Jr.,
President RurAL CAP
Chair of the Village Participation Conference 1995

cc: Members Senate Resources Committee
Senator Ted Stevens
Representative Don Young



Alaska State Legislature

Please enter into the record my testimony to the Senate Resources
committee name

committee on SJR 19, dated April 10, 1995.
bill/subject

I support Senator Millers SJR 19. I feel we need to amend the ANILCA to clarify what public lands means. It should only mean federal land and water as pointed out in Senator Millers resolution, and mean hands off to adjacent land and water.

Signed: Don Shields
Testifier

Representing (Optional)
P.O. Box 7481 Nikiski, AK 99635
Address
776-5142
Phone No.

April 14, 1995

Senator Loren Leman
Alaska Senate
State Capitol Building
Juneau, AK 99801-1182

Dear Senator Loren Leman:

Yesterday the Senate passed a resolution regarding ANILCA purporting to address a state's rights issue which is allegedly clouded by the ANILCA wording. This resolution will come up, I understand, on a reconsideration vote next week. I urge you to reject it.

State's rights is nothing more than a red herring argument when it comes to this resolution. The real issue is clearly one of sports hunting and fishing vs subsistence and urban pleasures vs rural needs. I believe that this issue should be resolved in favor of subsistence.

Rep. Masek is absolutely correct when she indicates that this issue divides the state. However, her capitulation to urban pressures and subsequent abandonment of is not, in my estimation, the way this issue needs to be resolved. Changing ANILCA to eliminate a rural subsistence preference is wrong.

You and I, as urban dwellers, can walk in to any corner supermarket and purchase almost anything we might want or need. Our meat and produce comes prepackaged. We don't have to worry about spoilage because its all refrigerated, pasteurized, and processed. There are also, choices. If we don't like one, we can choose another. And the only shortages are when the strawberries, grapes, or oranges get frosted or flooded out in California or Florida and you don't get to choose between types and sizes.

The same is not true in Rampart, Stevens Village, or Allakaket. There choices are limited, prices are high, and cash paying jobs are very limited -- sometimes only four or five. Shortages mean you don't get to choose at all. Subsistence harvesting, however, is a way of life which is available even when the single store in town is closed. Salmon, moose, caribou, berries -- all may be harvested for the subsistence needs of the rural resident who, in reality, has very few other choices.

In times of shortages of subsistence resources, it is only realistic to make the limited resource available to those who really need it and rely on it and to limit access to those who have alternative food sources. This really

is a responsibility of a humane government. Alaska must either recognize this responsibility or bow to the pressure of a higher government which does recognize this responsibility. When a state government abrogates its responsibility to its citizens or when it refuses to recognize and meet the needs of its citizens it is appropriate for the federal government to intervene. This is one of those issues.

ANILCA established an appropriate policy which recognizes the unique needs and options available to Alaskan rural residents. This policy needs to be maintained, not abrogated. If you can not recognize this and support rural subsistence rights then, I am afraid that you find yourself in the position of the lawmakers described in Sister Goodwin's poem.

an eye for an eye

the ancient inuit ladies
eyed ravenously
the first tiny steel needles
at the trading post

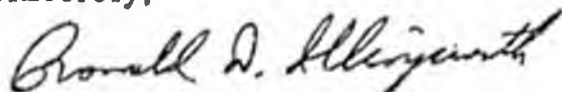
and now the lawmakers
eye ravenously
the land and the subsistence ways
they want to take it away
and give nothing in return

trading post my eye

from A Lagoon Is In My Backyard
by Sister Goodwin

I urge you to reject this resolution when it comes up for reconsideration.

Sincerely,



Ronald D. Illingworth
3046 Taxi Lane C
North Pole, AK 99705
488-0446

UNIVERSITY OF ALASKA FAIRBANKS

Interior-Aleutians Campus

College of Rural Alaska

Harper Building, Room 145 • P.O. Box 756720 • Fairbanks, Alaska • 99775-6720 • (907) 474-5439

FAX # (907) 474-5208

Facsimile Cover Sheet

To: Loren Leman

Company:

Phone:

Fax: 465-3810

From: Ron Illingworth

Company: Interior-Aleutians Campus

Phone:

Fax: 474-5208

Date: April 17, 1995

Pages including this
cover page: 3

Comments:



APR 18 1995

Sent Via Facsimile & 1st Class Mail

April 12, 1995

The Honorable Loren Leman
Chairman, Senate Resources Committee
Room 113, Alaska State Capitol
Juneau, Alaska 99801

Dear Mr. Chairman:

Thank you for inviting me to submit testimony to Senate Joint Resolution 19.

The Aleut Corporation does not support adoption of SJR 19. Its passage will not bring Alaska one step closer to solving the real subsistence issue: the continued existence of Native villages throughout the bush. On the contrary, SJR 19 proposes that the Congress deliver a death blow to the villages by reducing current federal subsistence protections to an empty rhetorical shell.

Alaska must not destroy its rural areas in order to serve a vocal urban minority which is so afraid of the majority that it will do anything to keep the question from going to the voters. Rural Alaskans (Native and non-Native) must be guaranteed nutritional resources for family and community survival in times of resource shortage. That is all that Title VIII does, despite the frenzied attempt in Juneau to redefine the issue as "management," "states' rights," or "equality."

Title VIII is a reasonable, justifiable policy enacted by the Congress and agreed to by the state in 1980. By trying to reverse it, SJR 19 proposes to pull the economic and cultural rug out from under rural Alaska - and to pass along the enormous cost of its collapse to every future governor, legislator, and taxpayer.

CORRECTION

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Rev. 698

Central Microfilm Services
Department of Education
State of Alaska



APR 10 1995

Sent Via Facsimile & 1st Class Mail

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Chairman Leman
April 12, 1995
Page 2

We at The Aleut Corporation strongly object to SJR 19 - not only because it advocates a disastrous social policy - but because it asks the wrong people to decide the issue. We agree with Senator Stevens that subsistence must be decided in Alaska, by Alaskans, not in Washington D.C.

Sincerely,

THE ALEUT CORPORATION



Alice Petrivelli
President

/kgd

Kotlik Yupik Corporation
P.O. Box 20207
Kotlik, Alaska 99620-0207
April 13, 1995

APR 20 1995

Alaska State Legislature
Senate Resource Committee
State Capitol Building
Juneau, Alaska 99811

Dear Members:

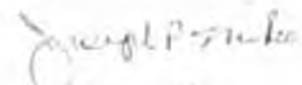
We the people of Kotlik are adamantly opposed to the passage of House Resolution 33, and Senate Resolution 19, both of which are designed to do away with subsistence protection under Title VII of ANILCA.

As you may be aware, Title VIII remains our only hope to restore and maintain our right to hunt and fish as we have since time immemorial. Our people here in Kotlik depend on subsistence hunting and fishing to survive. It is also an important part of our culture.

Thank you for your time and consideration.

Sincerely,

KOTLIK YUPIK CORPORATION



Joseph P. Mike,
President



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112
Juneau, Alaska 99801
907/586-2820
Fax: 907/463-2545

Testimony on SJR 19
by
Jerry McCune
United Fishermen of Alaska
May 2, 1995

My name is Jerry McCune. I am President of United Fishermen of Alaska. United Fishermen of Alaska is composed of 21 member organizations plus individual members representing about 18,000 fishermen. United Fishermen of Alaska is Alaska's only statewide commercial fishing organization. We have 17 committees that gather information, analyze it, and recommend actions necessary to safeguard the fishing industry. We promote the Alaska commercial fishing industry as a whole and that is why we are supporting SJR 19.

United Fishermen of Alaska strongly supports SJR 19 as both a statement of state's rights and as a statement as to who has the ability to best manage fish and game for all Alaskans.

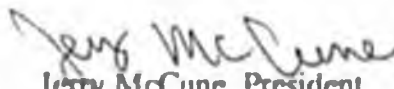
United Fishermen of Alaska does not view SJR 19 as a challenge to subsistence.

Alaskan fish and game resources should be managed by Alaska.

Perhaps memories are fading--but federal management prior to statehood in 1959 brought our industry to its knees. Immediately prior to statehood, federal mismanagement resulted in Alaska's salmon catch plunging to a 60-year low of about 25 million salmon. Alaska's fisheries resources and the 18,000 fishermen that UFA represents cannot survive history being repeated. The people of Alaska were stuck picking up the remnants of this abused resource. Through responsive management by Alaska and a lot of belt tightening by fishermen, myself included, Alaskans brought the salmon resource back to provide the record 194 million salmon harvest we saw last year. This was a spectacular conservation achievement.

You be the judge -- two different agencies, the same resource. One agency almost destroyed it; the other agency rebuilt it. Our fisheries resource and the thousands of subsistence, sport, and commercial fishermen who depend on it need to have management by Alaskans for Alaskans. Pass SJR 19.

Respectfully submitted,


Jerry McCune, President

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Longline Fishermen's Association • Alaska Trollers Association • Area K Seiners Association
Bering Sea Fishermen's Association • Bristol Bay Driftnetters Association • Concerned Area "M" Fishermen
Cook Inlet Aquaculture Association • Cordova District Fishermen United • Kenai Peninsula Fishermen's Association
North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Peninsula Marketing Association
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association
Seafood Producers Cooperative • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
United Cook Inlet Drift Association • Western Alaska Cooperative Marketing Association

April 11, 1995

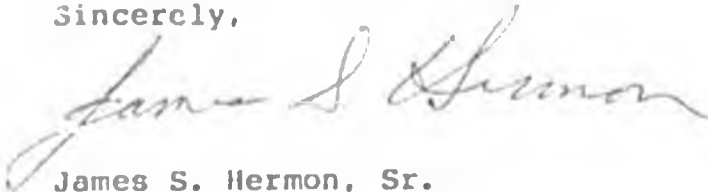
APR 18 1995

Senate Resource Committee
Senator Loren Lemman

Dear Senator,

The Federal Government's threat to take over our Dept. of Fish & Game is just another way of stirring unrest in the American people. The Federal Government is the worst abuser of causing racial hatred. ANILCA is another lawyers holiday. The Federal Government has enough other problems to solve as it is. Why duplicate Fish & Game management? They need not control the Alaskan fish & wildlife. The bottom line is, all people are created equal! My congratulations to Beverly Masek for speaking out as a honest American citizen.

Sincerely,



James S. Hermon, Sr.
P.O. Box 451
Palmer, AK 99645

ph. # (907) 745-3558

Mr. Hermon was unable to attend
the hearing because he wanted
this entered as part of the testimony
if possible. The card arrived at
the law office the following day
Thank you
Nat - Du L 10

SJR 19
Soldotna Hearing
April 8, 1995

NAME	ORGANIZATION	CONFIRMED	SIGNATURE
✓ Sterling Elde	Cook Inlet Sportfishing Assoc.	X	<i>S. Elde</i>
✓ Dick Bower	AK Board of Fisheries	X	<i>D. Bower</i>
Bud Hodson	Tikchik Narrows Lodge		
Larry Van Ray			
Mika Chihuly			
✓ Tim Evers	Deep Creek Charters Assoc.	X	<i>Tim Evers</i>
Joe Haines	Cook Inlet Professional Sportfishing Assoc.		
✓ Lyman Nichols	Cooper Landing Advisory Committee	X	<i>Lyman Nichols</i>
Ephim Moonin	English Bay/ Port Graham Advisory Comm.		
✓ Dave Martin	Central Peninsula Advisory Committee	X	<i>Dave Martin</i>
Lynn Whitmore	Homer Advisory Committee	X	
Carl Gravogal	Mal-Su Valley Advisory Committee		
Warren A. Brown	Soldotna Advisory Committee		
Willard Dunham	Seward Advisory Committee		
Adam Groio	Tyonek Advisory Committee		
Howard Davis	Cook Inlet Fisherman Fund	X	
Jeff Hetrick	Alaska Shellfish Growers Association		
Theo Mathews	United Cook Inlet Drill Association	X	
Charles Walkden, Sr.	Cook Inlet Seiners Association		
✓ Loren Flagg	Kenai Peninsula Fishermen's Association	X	<i>Loren Flagg</i>
Jere Murray	The Alliance Against IFO's	X	
Drew Scatzi	North Pacific Fisheries Association		
Brad Dickey	Ketch Seafoods, Inc.		
<i>TOM WALKER</i> ✓ Tom Mears	Cook Inlet Aquaculture Association	X	<i>Tom Mears</i>
Beaver Nelson			
Deborah Euf	Women's Fisheries Network		
✓ Chris Moss	North Pacific Fisheries Assoc.	X	<i>Chris Moss</i>
Jamie Ross			
	Kvichak Seiners Association		
Scott Highleyman	Alaska Marine Conservation Council		
Fish McGahn			
	Northern District Seiners		

SOLDOTNA
d. f. h. s.

SJR 19
 Soldotna Hearing
 April 8, 1995

Mako Haggerty	North Pacific Fisheries Association		
Drew Sparlin			
Halmar Nelson	Bristol Bay Native Corporation		
Michael Brown	Chugach Alaska Corporation		
John Merrick	Koniag Inc.	X	
Sandra Moller	The Aleut Corporation		
Jacob Adams	Arctic Slope Regional Corporation		
Plo Y. Park	Calista Corporation		
Carl Marrs	Cook Inlet Region Inc.		
Charlie Curtis	NANA Regional Corporation		
✓ Richard Link	Safari Club International, Kenai Peninsula Chapter	X	<i>Richard Link</i>
✓ Dan Haskins	Alaska Bowhunters Association	X	<i>Dan Haskins</i>
✓ Leon Katz <i>MFR</i>	Alaska Trappers Assoc. Kenai Chapter	X	<i>Leon Katz</i>
✓ Merle Wallford	Home Charter Assoc.	X	<i>Merle Wallford</i>

✓ Ed Kishin Kenai Soldotna ACFPA AC X *Ed Kishin*
 ✓ Lynn Whitmore Homer F.I.C. NUIS. X *Lynn Whitmore*
 Eddie GRASSER *ADAMS VALLEY SPANISH* X *Eddie Grass*
 Jim Roarby Homer, Self-invited by Son. M.I.L.C. Jim Roarby



COOK INLET PROFESSIONAL SPORTFISHING ASSOCIATION

P.O. Box 151
Kenai, AK. 99611

Testimony on SJR 19
Presented by Sterling Eide
April 8, 1995

Mr. Chairman, distinguished members of the Senate Resources Committee, my name is Sterling Eide. I am here today representing the Cook Inlet Professional Sportfishing Association. Our Association has approximately 120 members. Most members are professional guides, but some are operators of Bed and Breakfasts, or both.

Activities which our members conduct each year include an annual clean-up of the Kenai River, organization of the Soldotna Silver Salmon Derby and the operation of a childrens Fishing Pond at the Local Sportsmans Show. We are also a Chapter of Trout Unlimited and our members are active on the local fish and game advisory committee and the Kenai River Special Management Area Board.

Each year we participate in the Fish Board process and other public hearings such as this one. However, our primary activity is to take people fishing. This is becoming more difficult to do, as each year new regulations further restrict our ability to preserve our livelihoods. For this reason we must and do pay attention to as many facets of fisheries management and regulation as we can.

Recently one of our Congressman was quoted as saying that the Federal Government may take over management of fish and game in Alaska; including state land and waters. Since most of our fishing activities occur on the state waters of nearby rivers and the Cook Inlet, we felt that this could bring additional demands on our time to attend meetings. Consequently, when Senate Joint Resolution 19 was introduced we felt it was our responsibility to express support for SJR 19. Our reasons for supporting this legislation are fairly simple.

First, we believe that the state management is bound to be superior to federal management, since the state already has personnel and technical equipment such as sonar counters in place. Just last week our members attended a demonstration

by the Alaska Department of Fish and Game on the state of the art sonar counter that will be used on the Kenai River. The personnel operating these counters are experienced not only with counters, but with the problems of the Kenai River.

Second, the State of Alaska already has a system for making management decisions at the local level. The State's emergency regulation authority may cause us short term problems, but it does allow for timely management decisions that are designed to protect the resource in the longer view. Day to day management decisions will probably take longer and resource damage would probably occur under federal management.

Third, the state regulatory system starts with local advisory committees making and commenting on proposed regulatory changes. Then the Boards of Game and Fish distribute these proposed changes and provide for public comment. Even to the extent of paying travel per diem for local advisory committees to attend the Board meetings. After the Boards have met and regulations have passed, then the State distributes these regulations to fish and game offices and licensed vendors. The federal government does not have a system in place that is as fair or as thorough. The members of CIPSA do ask we to mention for those managers who are listening, not to become to complacent because even the state system is not always perfect.

Fourth, our association believes the federal managers already have traditional roles involving fish and wildlife management in Alaska that may exhaust all of their financial resources. We are aware of thousands of King Salmon being taken as by-catch in groundfish trawls on the high seas. We know the Stellar Sea Lion populations are dangerously low and may be listed as endangered.

In summary, the Cook Inlet Professional Sportfishing Association strongly supports SJR 19. We urge the Congressional delegation to amend ANILCA so we, our children and their children can continue to hunt and fish, at least on State lands. We thank you for the opportunity to make these comments.



COOK INLET
AQUACULTURE ASSOCIATION

HC 2, BOX 849
SOLDOTNA, AK 99689-9707
(907) 283 5781

April 8, 1995

The Honorable Loren Lemam, Chairman
Senate Resources Committee
Alaska State Senate
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Lemam:

We appreciate the opportunity to comment on Senate Joint Resolution 19 because the management of our resources, particularly our anadromous salmon resources, is a matter which goes to the core of the purposes for which our organization was formed nearly twenty years ago.

Because the long-term strength of our salmon resources is so dependent on effective management, the experience and philosophy of the management agency and its personnel is a matter of substantial concern. It is our belief that the State of Alaska through its Department of Fish and Game is best suited to manage these resources. They have a long history of fishery management and a demonstrated capability to carry out that management with balanced concern for both the health of the resource and the needs of the various user groups.

To the extent that clarification of the term "public lands" will help to assure state management of the resources at least on State-owned and non-public lands it has our support.

Our experience has been that the federal agencies and their personnel have a perspective which is narrow in focus and sufficiently inflexible to accommodate the day-to-day and season-to-season management adjustments which are necessary for the optimum protection and use of the resource.

We encourage passage of Senate Joint Resolution 19 by the Alaska State Legislature and are hopeful that the Alaska delegation to the United States Congress will take up this issue and resolve it successfully.

Sincerely,

Thomas P. Walker



Alaska State Legislature

Please enter into the record my testimony to the S Res
 committee name
 committee on SJR 19 , dated 4-8-95
 bill/subject

Please Support The Above Resolution

No Federal Control of Fish + Wildlife

Signed: Allen J. McHardy
 Testifier

Representing (Optional)

110 Third Ave. Nena AK 99611

Address

(907) 293-7558

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Senate Resource Committee
 committee name
 committee on SJR 19, dated 4/8/95
 bill/subject:

I'd like to add my support for SJR 19.

Signed: [Signature]
 Testifier

Representing (Optional)

2000 2nd Kenai - Ak 99610

Address

262-3943

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Resource
 committee name
 committee on SPR 19 , dated 4-8-95
 bill/subject

We are a state in name only if we can't
 manage our own resources.

Whether the states constitution is amended or not,
 laws not under the fact that the language in Alaska
 needs to be changed. If there is confusion now
 there always will be until "public lands" is clarified.
 we don't want the courts to define Public lands.

Signed: Stephen Vornick
 Testifier

Representing (Optional)

163 N. Mitchell Tr. 99639
 Address

47-567-3470
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the _____
 committee name
 committee on SUR 19 , dated April 9, 1995
 bill/subject

Signed: [Signature]
 Testifier

Representing (Optional)

P.O. Box 499 Pitmea, Alaska AK 99568

Address

207-266-3778

Phone No.

SJR 19
Invitational Testimony List

Organization	REPRESENTATIVE	FAIRBANKS	SOLDOTNA	JUNEAU
AHTNA, Inc.	Roy Ewan, President			
(1) ✓ DOYON Limited	Morris Thompson, Pres.	X		
(3) ✓ Tanana Chiefs Conference	Mitch Demientieff	X		
Alaska Federation of Natives	Julie Kitka			X
Greater Fairbanks Chamber of Commerce				
Citizen's Advisory Commission on Federal Areas	Stan Leaphart, Exec. Dir.			X
Alaska Miners Association	Mary Nordale	X		
(4) ✓ Alaska Outdoor Council	Dick Bishop, Exec. Dir.	X		
Alaska Dog Musers Association	Dave Lambert, Pres.			
Fairbanks Industrial Development Co.	Ron Ricketts, Exec. Dir.			
Alaska Trappers Association	Pete Bulst	No Position
(5) ✓ Alaska Wildlife Conservation Association	Ralph Seekins	X		
Resource Development Council	Becky Gay, Exec. Dir.			
Fairbanks North Star Borough				

FDX 3-29-95

SJR 19
Invitational Testimony List

ORGANIZATION	REPRESENTATIVE	FAIRBANKS	SOLDOTNA	JUNEAU
(2) ✓ Fish & Game Advisory Committees	Lynn Levengood	X		
(6) ✓ Alaska Independence Party	Lynette Clark	X		
(7) ✓ Alaska Reclamation Crew	Dexter Clark	X		
Fairbanks Native Association	John Regitano			
(8) Golden North Archery Assoc.	Ken Vorisek	X		
(10) Interior Wildlife Association	Chuck Gray Bud Weise	X		
(11) Fairbanks Republican Party	David Wilson Bonnie Williams	X		
Fairbanks Democratic Party	David Guitenberg			
Fairbanks Green Party	Lane Thompson			
Clear Skies Sportsman Assoc.	?	X		
(12) Tanana Valley Sportsman Assoc	Tom Scarborough	X		
(13) Alaska Sportfishing Association	Dennis Petre	X		
(14) Delta Sportsman Club →	Joe Strunka Gally Burris	X		
(15) Fairbanks Snow Travelers	Scott Heldorn	X		Greg MacLurek

(16) Chitina Depositions

Byron Haley

(17) (18) (19)

(2) DENIED

Jerry Sam



Alaska State Legislature

Session:
State Capitol
Juneau AK 99801-1182

Interim:
716 W 4th Avenue
Anchorage AK 99501-2133

TO: Senator Loren Leman
Chairman, Senate Resources Committee
VIA FAX: 456-3346

FROM: Annette E. Kreitzer, Aide to
Senate Resources Committee

A handwritten signature in dark ink, appearing to be "AK", written over a circular stamp or mark.

THROUGH: Melba Piispanen, Fairbanks LIO

DATE: March 29, 1995 11:25 a.m.

RE: Village Participation Conference Testimony in JUNEAU

Due to the unfortunate scheduling conflict between the Village Participation Conference in Juneau, and the Senate Resources hearing in Fairbanks, the Senate Resources Committee Chairman and Senate President extended an invitation to the Village Participation Conference attendees to participate via teleconference in the hearing on SJR 19.

Five or six representatives of the village regions will be selected by conferees, according to Dewey Skan. They will participate from the Juneau teleconference site.

A reminder that statewide testimony on SJR 19 will be taken from 3:30 p.m. to 7:00 p.m. on April 10.

BRIEFING BY ATTORNEY GENERAL BRUCE BOTELHO
MARCH 8, 1995

This transcript was prepared without using a tape log as a tape log was not prepared for this briefing. People testifying were determined to the best ability of the transcriber and may not be correct.

SENATOR PEARCE:

I'll call the briefing to order. For the record, we're going to record this. It is not an official meeting of any committee, instead it is a briefing that the Attorney General agreed to provide to us about status of ongoing litigation that the state is taking part in. I will, for the record, name those legislators who are here at the moment, myself, Senator Pearce, Speaker Phillips, and then going around the room, at the table we have Representative Kay Brown, Representative John Davies, Senator Randy Phillips, Representative Brian Porter, Representative Bettye Davis, Representative Cynthia Toohey, Representative Irene Nicholai, Representative Beverly Masek, Representative Jeannette James, Representative Scott Ogan. Pete, I almost called you a representative. Representative Carl Moses, Senator Rick Halford, Senator Mike Miller, Senator Steve Rieger, Senator Bert Sharp, Senator Taylor, Senator Tergerson, Representative Ivan, Senator Lemar, Representative Austerback. Most everybody, Senator Hoffman, Representative Grussendorf, Senator Green, Representative Navarre, Senator Lincoln, Senator Adams and Representative Williams, Representative Kohring, and others probably. We would like, Mr. Attorney General -- we do very much appreciate your offering to do this for us and we understand that what we're going to be receiving is a briefing on those cases so that have a feel for where we're at. If we'll go and whatever format you're prepared for and works best for you within the cases. What I'd would like to be able to do is let Bruce go through his portion and then questions, and Bruce, if a question is asked for which an appropriate answer should be in executive session, if you will just tell us, then we'll set that question aside. Continue with whatever public questions there can be and then at the end, if necessary, go into executive session, because it certainly make sense to go in and out. I think everybody is prepared. Thank you and I believe that everybody has a copy of the briefing materials that you had sent us, along with your letter.

BRUCE BOTELHO:

Thank you, Madam President and Madam Speaker. First, for the opportunity to make this report to you and also your sensitivity about trying to do as much of this as we can in open session and to

the extent that we do touch on questions that are best left to closed session to operate in the manner you suggested, that is to allow me to suggest that the question be held. With your permission, Madam President, I'd like to invite two assistant attorneys general to join me at the counsel table. First Ms. Joanne Grace who leads our federal/state subsection in our Natural Resources Section in Anchorage. And section -- and second, Mr. Marty Weinstein who has done -- his primary work in the Endangered Species Act cases that are ongoing. I also, Madam President, have prepared a two page summary of the cases dealing with federal/state relations that are encompassed by work done in Joanne Grace's section so that rather than having to go through the entire sheaf of papers you have, something you can write little notes on, and with your permission, I will circulate.

SENATOR PEARCE:

Do you think you have enough or should we have...

BRUCE BOTELHO:

I think we have sixty copies on the assumption that there would be a fairly good turnout today, and I appear not to be wrong on that assumption.

Senator Taylor, I've had the opportunity to appear in front of others since the legislature has convened. I think it's important to point out that we have litigation ongoing with the federal government in several of our sections and they run the gamut of activities from challenges to funding by the U.S. Department of Education example, you won't find listed here, the Beaufort Sea litigation we have challenging federal government's assumptions about what constitutes the territorial waters of Alaska. Those are important federal cases that we have that are not being handled specifically by the sections we have -- working on specific federal challenges. With that, I am going to ask Joanne Grace to begin running you through the cases that are listed on the two page sheet that I passed out. We'll make a brief summary on the assumption that several of you had the chance to read through the more detailed status reports and we'll take questions after that. Joanne, if you would join me and Marty if you (indisc.).

JOANNE GRACE:

I'll try to speak loudly so everyone can hear me. Probably the most -- the best known case that the federal relations group handles is what we call the compact case. This is the case that we filed in 1993, against the United States claiming a breach of the statehood compact. One of the major objections of statehood for Alaska was that Alaska was economically immature and wouldn't be able to afford statehood. So to compensate for this, Congress put some provisions in the Statehood Act to give us the resources to

fund state government. One, of which is what we call the 90/10 provision, the grant to the state of 90 percent of revenues from oil and gas development on federal land. The state's position is that the Statehood Act constitutes a compact because the people of Alaska relied on these provisions in the Statehood Act in agreeing to accept the social and financial and political responsibilities of statehood, and the Statehood Act provided that it would not become effective unless the people of Alaska ratified it with a vote. So upon ratification, the Statehood Act became a compact where the United States could not unilaterally amend essential provisions of that compact without state permission. So the state filed suit alleging breach of compact of the 90/10 provision for breach of the covenant of good faith and fair dealing, fraudulent inducement and a taking without compensation. The state has filed a motion for summary judgement in that case, which is before the Court of Federal Claims. The United States is slated to its brief in opposition, in April, and we expect briefing to be complete on this by the end of the summer, I think it's July, I believe.

The Federal Relations Section also handles the oil export ban litigation. In 1992, the state filed two lawsuits against the United States challenging the oil export ban. We filed one in Federal District Court in Anchorage alleging that the export ban violated the Tenth Amendment and the court preference clause of the constitution. The District Court ruled against us on that issue about a year ago, in March of 1994. We have appealed that to the Ninth Circuit Court of Appeals. Briefing is complete in that case, but we haven't argued it yet. I would expect that we'll probably argue it in August, and get decision sometime thereafter.

The second case was filed in the Court of Federal Claims alleging a taking. That case was stayed for a couple of years for procedural reasons, but recently the court granted a United States motion to dismiss in that case -- dismissing the case because, based on the statute of limitations, the court ruled that the state's cause of action accrued in 1979 when Congress passed the Export Administration Act, and the statute of limitations for cases of this kind is six years. We have until April to appeal that decision to the Court of Federal -- the Federal Court of Appeals.

We have a couple of submerged lands case. We filed suit in 1987, to quiet title to the submerged lands in Northern Alaska. When the state enters the Union, title to all the submerged lands underlying navigable waters passes to the state automatically as a matter of constitutional grace. But the United States claimed that title to the submerged lands in this 48 million acre area of land 'n Northern Alaska did not pass to the state because it was reserved at statehood. Public Land Order 82, which in 1943 reserved 48 million acres of land to preserve oil and gas in prosecution of World War II, and that reservation was revoked in 1960. But the United State's position is that because it was reserved at statehood, we didn't take title to all the submerged land. And

about 25 percent of the state was reserved.

[A SIGNIFICANT GAP IN JOANNE'S TESTIMONY AND THE FIRST PART OF THE QUESTION AND ANSWER PERIOD OCCURS AT THIS POINT. THE GAP IS ON THE ORIGINAL TAPE. AT THIS POINT THE TAPE SKIPS TO THE MIDDLE OF THE QUESTION PERIOD FOLLOWING DEPARTURE OF THE HOUSE MEMBERS]

SENATOR HALFORD:

...we've got a problem. If you'd give us a report back on those two cases, and do it now, I'd like to know what -- you know what they mean in terms of federal law.

BRUCE BOTELHO:

Madam Chair. We'd be delighted to do that. I think it's also very important to recognize the same conundrum exists, obviously, in the state court system as well, and virtually every court system. There are plethoric -- plethoric of decisions. The way to be given depend on the circumstances and also the level of the courts. To the extent we're talking about district court decisions that have not been appealed. Judge Singleton is not obligated to follow a Judge Holland in Alaska. What it does mean is the - the possibility and, in fact, the likelihood in any given general area that you will have inconsistent decisions, hence the ability to take appeal or the decision not to in certain cases. That will leave the law ambiguous. And Senator Halford has certainly pointed out precisely that kind of conundrum we have here

SENATOR PEARCE:

Are there further questions? Representative... Oh, I'm sorry, Senator Halford did you have a follow up?

SENATOR HALFORD:

No.

SENATOR PEARCE:

O.K., Representative James.

REPRESENTATIVE JAMES:

Yes, a number of western states have filed amicus briefs in support of the state's position on preemption on state navigable waters. What will the impact of an adverse ruling on the definition of "public lands" as it affects the established interpretations of navigational servitude and reserve water rights in the west.

JOANNE GRACE:

It's not very clear what the affects would be on other western states because the argument that was made in this case, was made as an interpretation of ANILCA that only applies to Alaska. But, just as a general proposition, it's alarming to western states to think that the existence of small right in navigable waters renders those waters public land subject to sweeping regulations or statutes. Also, the western states felt that Judge Holland's decision violated the clear statement doctrine which says that if Congress intends to exercise its commerce -- that authority to its fullest, it makes that intent clear. The court will not assume that Congress intended to infringe on traditional state areas unless Congress makes that plight clear in this legislation.

SENATOR PEARCE:

Further questions? Senator Halford.

SENATOR HALFORD:

Thank you, Madam Chair. You were the attorney that was assigned to the Babbitt case. When the Governor made the decision to drop the appeal for the Babbitt case, what was the discussion with regard to whether it be dropped with prejudice or (indisc.) not argued. You know that's first part of the question (indisc.).

JOANNE GRACE:

We dropped the with prejudice only to that issue, in that case, because the United States was concerned that this was in a lockatory(ph), meaning it is not a final judgement. The United States was concerned that we would go back down to the district court, litigate the rest of the case, and then appeal that issue again. So we did -- we withdrew only as to that issue in that case.

SENATOR HALFORD:

You say, "that issue" in the McDowell case. You're saying the issue of who does the federal (indisc.), it's done by a federal management system versus by a federal court system.

JOANNE GRACE:

Right.

SENATOR HALFORD:

What about the other portions of Babbitt that were incorporated in one court room, were they argued on February 8th.

JOANNE GRACE: