ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9400 HOUSE RESOURCES

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DIFFERENT THAN THE STATE OR FEDERAL GOVERNMENTS REASON FOR A SEASON. JIMMY WALKER OF HOLY CROSS.

The fish and moose we eat, that's pretty much our diet, like up north they got to have their whale. Same thing you know, that's our regular diet. If we're restricted to hunting seasons, you know, and that's making it hard on the village. We'd like to see more local control. For the elders and middle aged, it's really a problem. Some went out and got arrested when they had nothing, nothing to eat. They were just scrounging for the next meal. What are you going to do? You going to leave your family hungry when there's a big healthy moose running by and somebody else tell you what you can eat, can't eat, when to eat that meat? Our culture is not based on beef. It's not based on corn. SHELDON KATCHETAG OF UNALAKLEET. It's based on those resources which have gotten us from primitive times to where we are today. And even now, in this very modern age, we still derive approxi- mately 70% of the food we need from the land and not from the supermarket.

THE CASH ECONOMY IS NOW PART OF REMOTE ALASKA, BUT TO A LIMITED DEGREE. ELDERS TEND TO DEPEND MORE ON SUBSISTENCE THAN YOUNGER PEOPLE WHO ARE MORE ACQUAINTED WITH WESTERN FOODS. FOOD IS ONLY ONE PART OF SUBSISTENCE LIVING AFFECTED BY RELATIVELY NEW REGULATIONS. ELLIE STICKMAN OF NULATO.

Before the land claims came, my people before me used to go out into the woods and get whatever they want from the land for free. It's there to use, the wood, the fish in the river, the moose, the berries, tea, everything. it was there to be used. And now the way it is, we have to find out whose land it is first before we can do anything, before we can go out and get logs, be- fore we can even go out and get wood to burn for our winter heat.

JUDGE THOMAS BERGER TRAVELLED TO VILLAGES IN ALL REGIONS OF ALASKA TO ASK PEOPLE ABOUT THE EFFECTS OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT. BERGER RECOMMENDED THAT TRIBAL GOVERNMENTS SHOULD HAVE EXCLUSIVE JURISDICTION OVER FISH AND WILDLIFE TAKEN ON NATIVE LANDS, AND SHARE MANAGEMENT WITH THE FEDERAL AND STATE GOVERNMENTS ON OTHER LANDS.

In Alaska, Native societies large and small were erected on a subsistence base. Today subsistence gives continuity to village life, and given the limited opportunities for wage or salaried employment in rural Alaska, it is seen to be the key to the survival of village life in village society. Although ANCSA extinguished aboriginal hunting and fishing rights, Alaska

natives still regard subsistence as their birthright. Even those not engaged in subsistence regard it as essential to their future well- being.

We're really concerned about our lifestyle in the villages, due to no development and jobs for our young people, (JIMMY WALKER) in this immediate area, it looks pretty glum. So it's, getting back to the issue of subsistence, we've got to have that, otherwise we're not going to survive.

THROUGHOUT THE WORLD, NATIONS HAVE TAKEN STRONG MEASURES TO PROTECT THE SUBSISTENCE LIFESTYLES OF INDIGENOUS PEOPLES. CANADA HAS GIVEN EXCLUSIVE RIGHTS TO FUR-BEARING ANIMALS AND SHARED JURISDICTION OF MOOSE AND CARIBOU TO THE NATIVES OF QUEBEC AND THE WESTERN ARCTIC. IN ALASKA, NATIVES HAVE TAKEN THE LEAD TO PROTECT SEVERAL SPECIES THAT ARE USED FOR SUBSISTENCE. IN 1977, THE IN- TERNATIONAL WHALING COMMISSION SUPPORTED BY THE UNITED STATES GOVERNMENT, BANNED BOWHEAD WHALING. MARIE ADAMS.

When they were asked to stop whaling, it was incomprehensible, and people were deeply hurt.

BURTON REXFORD IS A BARROW WHALING CAPTAIN ...In spite of the Native people's knowledge of the great bowhead whale, the Eskimos have been repeatedly put on a chopping block by the world scientists and regulatory government agencies.

ESKIMO WHALING CAPTAINS FORMED ALASKA ESKIMO WHALING COMMIS- SION AND CONVINCED THE U.S. GOVERNMENT THEY SHOULD HAVE SOME WHALES. A STRINGENT QUOTA SYSTEM WAS DEVISED BY THE INTERNATIONAL WHALING COMMISSION. IN 1981, THE FEDERAL GOVERNMENT SIGNED OVER MANAGEMENT AUTHORITY TO THE ALASKA ESKIMO WHALING COMMISSION. THE NORTH SLOPE BOROUGH SET UP A SCIENTIFIC ADVISORY COMMITTEE AND HELPED COORDINATE RESEARCH ON THE BOWHEAD WHALE. IN 1985, THE IN- TERNATIONAL WHALING COMMISSION RECOGNIZED THE WHALING CAPTAINS RE- QUEST FOR AN ENLARGED BOWHEAD QUOTA.

IN 1975, OIL DEVELOPMENT ON ALASKA'S NORTH SLOPE BROUGHT NATIVE POEPLES TOGETHER ON BOTH SIDES OF THE ALASKA-CANADA BORDER. THE ALASKANS NEGOTIATED A POSITION TO SECURE THE ARCTIC WILDLIFE RANGE, AND THEN GOT TOGETHER AGAIN WITH THE CANADIANS FROM EIGHT VILLAGES IN 1982. JONATHON SOLOMAN.

Indigenous people met in Arctic Village and we formed what is known today as the International Porcupine Caribou Commission. And we filed it with the United Nations. We did not file it with the United States, we filed it with the United Nations under their agreement in Stockholm.

VICTOR MITANDER IS A LAND CLAIMS NEGOTIATOR FOR THE COUNCIL OF YUKON INDIANS.

We want to ensure that there is cooperation in terms of the management of the herd and its habitat, and to first of all insure that there is conservation of the herd itself with the view of providing ongoing subsistence needs of the Native users. Secondly is to provide for the Native users to participate in the Porcupine Caribou management. Thirdly is to recognize and protect certain harvesting rights of the Porcupine Caribou for the Native users, while at the same time acknowledging that there are other users, non-Native users of the herd itself. Also to provide communica- tion amongst governments and government to Native users and amongst Native user communitites.

THE STATE OF ALASKA HAS WORKED DIRECTELY WITH THE INTERNATIONAL PORCUPINE CARIBOU COMMISSION AND IT LED TO A MEETING WITH THE ALASKA GOVERNOR IN OCTOBER OF 1983. JONATHON SOLOMAN.

The governor of the state of Alaska called us into his office and said "You guys been working on this caribou treaty for many years" he says, "It's about time we move on with it" and he formed a task force. And today with the Fish and Game of State of Alaska we have worked out the wording.

THE REMAINING STEPS WILL BE WORKED OUT WITH THE U.S. FISH AND WILDLIFE SERVICE, AND THEN THE U.S. STATE DEPARTMENT WILL NEGOTIATE THE TREATY WITH THE CANADIAN GOVERNMENT.

IN 1984, NATIVES LIVING IN THE YUKON-KUSKOKWIM DELTA DEVE- LOPED INTERNATIONAL AGREEMENTS TO PROTECT GEESE POPULATIONS. HAROLD SPARCK HEADS NUNAM KITLUTSISTI, A NONPROFIT CORPORATION WHICH REPRESENTS NATURAL RESOURCE ISSUES FOR 56 VILLAGES IN SOUTHWEST ALASKA.

The federal Fish and Wildlife Service showed up and said,"the sky is falling, the sky is falling" and the Native people of the Yukon-Kuskokwim Delta are responsible for it, solely responsible for the loss of all these geese. The first thing that came out of several of the elders

mouths was "Wait a minute, they're talking about these animals that we eat. Now, when we were young, when these animals were strong in numbers, the little birds that fly around like clouds were very strong too. Nobody eats them, how come they are very few in number too? They go to the very same places that these big birds go. And maybe what these guys are saying is that they're looking for somebody to blame all this problem on. So our concern is number one, we gotta make sure we're not stuck with the onus of being responsible for this whole thing, but number two, we have to watch out for our children.

THE VILLAGERS DISCOVERED THERE WERE PROBLEMS IN DIFFERENT PARTS OF THE FLYWAY.

[Harold Sparck] We linked take in the Yukon Delta to conver- sion of wetlands in the Central Valley of California to the take by gringos out of Los Angeles going down into Mexico and hunting without any enforcement whatsoever.

HELICOPTER INTERFERENCE WAS STOPPED AT ONE FEEDING GROUND IN ALASKA, CALIFORNIA BOUGHT BACK WETLANDS IN CALIFORNIA'S CENTRAL VALLEY, AND THE MEXICAN GOVERNMENT AGREED THEY WOULD PAY ATTENTION TO HABITATS AND RECORD THE TAKE OF WATERFOWL THERE.

[Harold Sparck] Our villages voluntarily agreed to lay down their guns and to stop taking eggs, in exchange for California reducing their take by 50 per cent. So we went around the federal government in order to get this taker-to-taker agreement, and then California supported our habitat concerns. Lo and behold, our villages complied, California's complied and again the guiding principle was birds at the turn of the century, that's what they wanted, our villages wanted.

PEOPLE ARE WATCHING CLOSELY TO SEE IF THIS TAKER-TO-TAKER AGREEMENT WILL ALLOW GEESE POPULATIONS TO INCREASE FOR PEOPLE WHO DEPEND ON THEM. SUBSISTENCE USERS SAY THAT STATE AND FEDERAL AUTHORITIES SHOULD RELY MORE ON THEIR KNOWLEDGE AND EXPERIENCE IN GAME MANAGEMENT. WOODROW MORRISON JR. OF HYDABURG.

The people's lives are governed by these natural cycles, that seasons do change, sometimes you have an early winter here in Anchorage, sometimes you don't. Well, the animals' lives are geared to those changes, rather than to dates on the calendar. And if people are going to be able to live in a time-honored way,

and be able to pay respect to their relatives in a proper way, then they sould be able to follow those cycles.

WHILE THE STATE SUBSISTENCE LAW IS CURRENTLY IN TURMOIL, THERE ARE SUCCESS STORIES TO BE FOUND WHERE SUBSISTENCE USERS HAVE MADE THEIR CASE TO THE STATE GAME BOARD. FRED BISMARCK IS CHAIR- MAN OF THE FISH AND GAME BOARD FROM TYONEK.

This year, I spent 21 days at the hearings and we finally got our winter moose hunt, but the winter moose hunt depends on the snow. We have a different herd of moose that live up on the hills. They don't come off the hills until there is heavy snow. The board made it flexible for us. If the heavy snow came in November, they could of had their season in November, but if the snow don't come 'til January, then we got the last fifteen days in January for the January moose hunt.

NON-SUBSISTENCE HUNTERS HAVE ACCESS TO THE SAME MOOSE DURING A REGULAR FALL SEASON. LOCAL CONTROL OF RESOURCES IS IMPORTANT TO PEOPLE WHEREVER THEY LIVE. NEXT WEEK A LOOK AT HOW ALASKA NATIVE PEOPLES EXERT THOSE GOVERNMENTAL POWERS IN A PROGRAM CALLED SOVEREIGNTY: HOW IT WORKS. PLEASE JOIN US. FOR HOLDING OUR GROUND, THIS IS ADELINE RABOFF.

[PRODUCTION AND FUNDING CREDITS]
THIS PROGRAM IS PRODUCED BY JIM SYKES, WRITTEN BY BILL DUBAY AND SUE BURRUS. ALSO EDITED AND RESEARCHED BY SUE BURRUS. SPE- CIAL THANKS TO THE COMMUNITY OF GAMBELL FOR DANCING, SINGING, AND DRUMMING. AND ALSO TO THE INUIT CIRCUMPOLAR CONFERENCE. FOR MORE INFORMATION ABOUT THIS AND OTHER PROGRAMS IN THE SERIES, WRITE TO WESTERN MEDIA CONCEPTS, P.O. BOX 215, ANCHORAGE, ALASKA 99510. HOLDING OUR GROUND IS A PRODUCTION OF WESTERN MEDIA CONCEPTS WHICH IS SOLELY RESPONSIBLE FOR THE CONTENT.

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[Western Media Concepts no longer exists. Please Contact TapeAlaska, P.O. Box 240001, Anchorage, AK 99524-0001 for information about Holding Our Ground.]

Noel & Jean Woods
Mar.1, 1998

Ph: (907) 745-3027
Fax: (907) 745-5019

To: Scott Ogan
Fax:(907)465-3265

Re: H.B. 406

In spite of the Anc.News Sunday article, we agree that the great majority favored a solution that keeps the Feds out of Alaska.

Thank you for bringing forward a bill to work with that intends to do that very thing. All intelligent people in this area are very concerned we keep equal access to our natural resources in our constitution.

As changes occur to your draft of H.B.406 please keep us up-to-date.

We appreciate very much your work on this.

Noel Jean Woods

Noel Jean

copy Kathleen

THOMAS PITCKE
1408 HYDER ST. APT.
ANCHORAGE, AK. 99501.

Letter 3/2/98
DR

Dear Representative Ogan,

First of all I would like to thank you for your stand taken on the subsistence issue in your committee, and the sell-out some members of the legislature want to take to the Federal Government. The elected government officials of Alaska take an oath to uphold the Constitution of the State, anyone who doesn't support the fur suit against the Federal Government is violating his or her oath to defend it. (CONSTITUTION). Any kind of preference should only be set on need and no other criteria because how about the "Natives" that live in the Urban areas, or the many poor of all ethnic stripes that live in the big cities as well. Pursuer there are some folks that live out in the "Bush" that are better off financially than

2

So why should I be penalized for living in Anchorage etc.
The only way I would consider supporting some kind of preference is only if the Rural Residents hunted and did fishing the Old-fashioned way before the White-Man came. With Spears, Bows, Arrows and by Sled Dog. Because you can't have one foot set in the Rural Lifestyle and one in the modern world. You can't have it both ways.

Sincerely Yours,

Thomas [illegible]

Testimony from Mary Bishop. 1555 Gus's Grind, Fairbanks, AK 99709 – 907-455-6151
Thursday, March 5, 1998.

To the House Resources Committee Re HB406 Version P

I'm sorry I could not stay to testify. However I do want to leave you with these comments before your final committee deliberations. Even though I have only had about two hours to contemplate this bill, I've spent two decades working with the issue.

1. The bill looks like an acceptable vehicle for working toward an Alaskan solution. I particularly feel it is important to have a public vote and I'm pleased that addition has been made.

2. Your bill appears to provide what Alaskans probably wanted and thought they had all along:

- a preference for resource dependent people
- in times of shortage.
-

Many people insist that is what ANILCA gives us right now – but most of us here in this room know differently – the federal law gives ALL rural residents a strong priority for customary and traditional use ALL THE TIME.

Back when the state was in compliance, one village had a 6 month moose and 8 month caribou season. The federal judge in this 1989 Bobby case, ruled that was not consistent with the federal law. He required the Board of Game to submit new regulations. The judge finally allowed almost year round, no bag limit seasons because – (quote) "Need is not the standard. Again, it matters not that other food sources may be available... The standard is customary and traditional use of game". (unquote) And customary and traditional use meant opportunistic year round hunting.

We cannot continue to have a law that allows that type of judicial interpretation.

In summary, I like the direction, I like the public vote. It would be okay by me to add a refutable presumption for all members of very small communities that have limited job opportunity to have the preference. This was done in the Hickel bill – but it gave it to too many larger communities.

I have problems with the idea of Regional Boards and the "eat-it-where-you-shoot-it" provisions – I've got to think a lot more about that.

It may not be necessary to change the Subsistence Division although you might consider putting that division in Community and Regional Affairs rather than in the Fish & Game Department. Senator Lincoln often says, and I agree with her, that subsistence is far more than just hunting and fishing. I can't exactly say what subsistence is – I just know that the concept is very important, and almost spiritual. I know it involves more than just hunting and fishing.

But what we are debating is a priority for hunting and fishing – not all of subsistence. I agree, subsistence is a basic human right – and I don't want to take it away from anyone. I certainly don't want to take it and give it on the basis of ZIP code.

But I am perfectly willing to realistically limit those people who have a hunting and fishing priority to those who are truly resource dependent,

Thank you – you're moving in the right direction.

Mary L Bishop
3/5/98

Matilda K. Kushnick
Rt. 2 Box 7 Saxman
Ketchikan, Alaska 99901
Ph. (907)247-2059
Fax (907)247-2058

DATE: March 5 1998

TO: COMPANY House Resources Comm.

ATTENTTION Ramona Barns + Bill Williams

FAX# 465-4265

FROM: SENDER Matilda Kushnick

FAX# 907-247-2058

NUMBER OF PAGES TO FOLLOW: 8

MESSAGE:

Call back if you miss any pages

September 11, 1997

Three Choices

To House Resource Committee

The Native Peoples of Alaska (the Indigenous Peoples only), have three choices to make. Only the Indigenous Peoples can make these choices and no one else can make it for them. The choices have everything to do with your "Traditional Tribal Lands, Waters and Resources." You will choose who controls and manages everything. The three choices are:

1. You and your Tribe can stay just as everything is now with the state of Alaska with it's agencies and the United States Government and it's agencies controlling everything and telling you what to do.

2. You and your Tribe can choose to become like the Commonwealth of Puerto Rico where all the people run their country just like the United States of America with no Tribal control of any kind. You and your Tribe will have no right to manage any agreements with any other nations and the United States of America is still in control and the big boss.

3. You and your Tribe can choose to completely control everything in your Traditional Lands, Waters and Resources. No outside people can tell you and your Tribe what to do. This third choice completely gets rid of any control, rules, laws and regulations from both the state of Alaska and the United States of America. All of their powers will be returned to you and your people and no one else. This third choice is for Total Independence – Sovereignty.

The right for the Indigenous Peoples of Alaska to make any of these choices is guaranteed by INTERNATIONAL COVENANTS, AGREEMENTS AND LAWS.

- Article 27 of the International Covenant on Civil and Political Rights.
- GAR 1514 (XV) of 14 December 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples (2)"All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."
- Convention on the Elimination of all Forms of Racial Discrimination Protects rights to the utilization of their resources from the land and waters.
- Draft Convention and Declaration on the Rights of Indigenous Peoples.

To add power and strength to the Covenants given above, the Indigenous Peoples of Alaska also have copies of the "SMOKING GUN." This document from the United States archives in Washington D.C. clearly says that Russia never owned the Region of Alaska. Therefore, Imperial Russia could not sell what it did not

Matilda Kushnick

own. You and your Traditional Tribe still own all of your Traditional Lands, Waters and Resources.

The Smoking Gun consists of a series of letters and documents from the United States archives in Washington, D.C. created between 1821 and 1824 during the negotiation of a convention between the US and Russia brought about by an edict published by the Tsar of Russia in 1821.

What are the next steps to take?

1. All of the Indigenous Peoples will have to make a choice by voting. Only they can vote, no immigrants will be allowed to vote or campaign for or against these three choices.
2. A special time for voting will be set aside. Maybe in a year or so, it will depend on you and your Traditional Tribal Leaders and or your Traditional Tribal Elders Councils.

Dear Tribal Brothers and Sisters.

The immigrant peoples and their governments and agencies are causing a lot of trouble and problems for a lot of our People. It is no use to list them, because all of you know terrible the things that are happening. These problems can be taken care of and swept away by choosing to take complete control of all of your Lands, Waters and Resources. We urge you to choose INDEPENDENCE! Only you and no one else can make the needed changes. Feel free to make copies of this document and make sure that all of our Peoples know that they have a right to choose how they and their future generations are going to live.

Kindest Regards,

Rudy James, Spokesman
Kuiu Kwaan Tribal Council

George S. James, Jr.
Tribal Council Member

Franklin H. James, Sr.
Tribal Council Member

For additional information, you may contact the KUIU KWAAN TRIBAL COUNCIL: Ph/Fax 425-483-9251 or Ph/Fax 206-362-7725 or 425-778-0560.

Get your copy of the *Smoking Gun* video featuring Atty James P. Bailey speaking before an Indigenous Tribunal. Please send $15.00 (which includes video, postage and handling) with your request to: Kuiu Legal Research Office, PO Box 1546, Woodinville, WA 98072.

Contributions are welcome.

Diplomatic Communique from the Thleenadih Tlingit Nation Kuiu Tlingit Nation

January 29, 1998

Federal Subsistence Commission
Meeting in Ketchikan 29 January 1998

The Members of the Board,

We, the Tribal Members of the Kuiu Kwaan and the Thleenadih, attest that the following statements are correct and true:

- We are not happy or have any measure of contentment with the state of Alaska exercising control of the fisheries resources.
- Since the inception of statehood the Indigenous Peoples have suffered grievous harm principally because of the policies of the Limited Entry Fisheries Commission of the state of Alaska.
- Before statehood approximately 90% of the commercial fishermen were Indigenous Alaskans. Presently, 10% or less of the commercial fishermen are Indigenous and 90% are non-Native, significant numbers non-Alaska residents and many non-U.S. citizens.
- The stated preference of the Thleenadih and the Kuiu Kwaan is for complete Tribal control of all of our traditional lands, waters and resources.
- Of the two non-Native governments (ie: the state of Alaska and the United States) we suffered less harm and fewer human rights abuses with the United States government.
- The ultimate goal of our two tribal nations is for complete control of our traditional lands, waters and resources.
- We have repeatedly challenged the U.S. government to produce a valid title to the region of Alaska. To date, they have not been able to produce a valid title.
- Documents exist in the U.S. Federal Archives which we call the Smoking Gun. These documents prove that Imperial Russia never owned Alaska. They cannot sell what they did not own. Allodial title rests solely with the Indigenous Peoples of Alaska.

The attached document further clarifies the official position of the Thleenadih and Kuiu Tribal Governments and the bank of Tribal and International attorneys who work with our Nations for the continuation of our peoples.

Dated this 29th day of January, 1998.

Ohgi, Franklin H. James, Sr.
Spokesman of the Thleenadih
Tribal Council

ThlauGooYailthThlee, Rudy James
Spokesman of the Kuiu Kwaan
Tribal Council

KooGhaith, Charles M. James, Sr.
Tribal Council Member

WhatStaw, George Suckinaw James, Jr.
Tribal Council Member

Matilda Kushnick

Diplomatic Communiqué and Position Paper
Kuiu Thling-git Nation, Kuiu Island, Alaska
and
Thleenadih Nation, Shakan, Alaska
Indigneous Holders of Allodial Title

Date: January 29, 1998

Re: Federal Subsistence Meeting
In Consultation With:
Dr. Y.N. Kly, Specialist in International Law
Dr. James P. Bailey, Kuiu Kwáan Attorney

It is the position of the *Kuiu Kwáan* and the *Thleenadih* that our cultural identity must be preserved and that the continuation of our *Thling-git' People* as a people be insured. Our cultural rights are protected by Article 27 of the International Covenant on Civil and Political Rights, which has been ratified by the US, and our right to self-determination, is protected by Article 1 of both International Covenants, which must be interpreted to include our right to control our resources. We again assert and insist upon our Human Rights and the right to utilize the resources from our ancestral lands and waters to which we own absolute title. The *Kuye'di* and *Thleenadih* have already initiated proposals designed to do just that. We continue to strive to notify the world's peoples of our ownership. Under *Traditional Kwáan Law*, no one can speak for the *Kuiu Kwáan* or the *Thleenadih* except their respective Tribal Councils and chosen Spokesmen.

The *Kuiu Kwáan* and *Thleenadih* call on all of the *Thling-git People* of Southeast Alaska to also assert their rights to their ancestral lands and waters, guaranteed to them under the Law of Nations. The title to the lands and waters of Southeast Alaska is in the *Thling-git People*. We urge the People to unite and assert title to their lands.

We urge them to adopt the position that in any solution to the current problems in Alaska, that the Indigenous Peoples be recognized as having equal status to the Government of the United States in any negotiations. Any deal must preserve Indigenous rights to the utilization of their resources from the land and waters of Southeast Alaska, as guaranteed and recognized in Article I of both United Nations International Covenants which must be interpreted in relation to the draft Convention and Declaration on the Rights of Indigenous Peoples.

Prior to Alaska statehood, the US Government "assumed" management over fish and wildlife of the region of Alaska and recognized the inherent rights of every Indigenous person to continue fishing for subsistence and customary trade. After statehood was assumed, the migrants created the Limited Entry Commission, which has been nearly successful in cutting the Alaska First Nations out of the commercial

fisheries and violating their fundamental Human Rights. The state of Alaska has nearly reached its' obvious goal of completely denying us "Customary Use and Trade."

We quote from *Kuye'di* Tribal Attorney, Mr. James P. Bailey:

"The efforts of the state of Alaska to obtain management authority over the resources of Southeast Alaska have one clear objective – the denial of any priority rights of the Natives to the resources, including the Right of Customary Trade. The historical preservation of the Alaska *Thling-git* is, without a doubt, dependent on the utilization of resources from the land and sea in particular."

Dr. Y.N. Kly, Specialist in International Human Rights Law, states "this also means that failure to provide priority rights or what is called Special Measures in International Law to the Thling-git' Nations, leading to their extinction would be a grave violation of International Criminal Law, particularly as it relates to the Genocide Convention, to which the US is also a party."

Mr. Bailey explains, "If the United States supports the idea that "public lands" does not include the waters and lands of Southeast Alaska Indigenous Peoples, the *Thling-git* are doomed, because that is where they get their subsistence and where they engage in customary trade. They will perish, as will all species of fish and game that live in the sea, which the *Thling-git* historically husbanded for thousands of years.

"The historical conflict over the lands and waters, all of which initially belonged to, and still belong to the Indigenous Peoples of Southeast Alaska, began with Alaska Native Claims Settlement Act.

Dr. Kly adds that, "if this act violates the Human Rights of the Indigenous Peoples, ANCSA must be seen as illegitimate." In relation to this point, Mr. Bailey further explains that the legislative history of the struggle has been to place the Natives in second class citizenship at the mercy of the greed of those who would arrogate unto themselves the power and right to utilize and distribute the resources of the waters and lands of Southeast Alaska.

"Look at the record of the US in dealings with Natives. The federal government abandoned the Natives with statehood. Whenever the US got into situations involving land and resources it wanted to open to settlers, they would cut a deal and the Natives would lose more. The dealmakers will always come forward to cut a deal that will cut your throats. That is the history of the United States, the history of White Man versus Native.

"The *Kuye'di* are in the courthouse because they were entitled to subsistence priority and Customary Trade under ANILCA and the state of Alaska denied that right. *Lavina Boe's case* (A91-013 Criminal) and before that, the Katy John situation (A90-484 Civil Consolidated), clearly demonstrate that there has been a concerted effort on the part of the state of Alaska to deny the priority rights of nations to resources to which they are entitled and to deny them completely. The Boldt Decision is the only reason the Indians in Washington state received access to a percentage of the fishery stocks. The state of Alaska is cutting another deal because they want the resources. I predicted six years ago that they would come forward to offer deals. Unless the *Thling-git* retain their priority right, they will perish."

Mr. Bailey continues: "The state of Alaska has taken the position that it cannot apportion resources on a racial basis – that they cannot prefer Natives over regular people. But what they really mean is that that want to cut you out. The *Thling-git* do not occupy the same position as non-Natives. "Rural preference" is the state of Alaska's way of saying all people stand on the same footing. That is not true. You stand on a different plateau. The *Thling-git* are entitled to priority because what you do, you do by necessity. What the non-Native does, he does by choice. For the *Thling-git there is no other way to preserve the traditional life, unless you have access and priority to your traditional lands, waters and resources without being forced to integrate into White Man's society."*

Dr. Kly adds that "the argument used by the state of Alaska has been used over and over by the US in relation to its resistance to the accession to UN conventions including the Convention on the Elimination of all Forms of Racial Discrimination and most of the UN efforts dealing with the rights of minorities. However, on no occasion were they able to limit the international legal interpretation of discrimination to equality before the law and non-discrimination, and on all occasions the majority decision called for non-discrimination to include the requirement of special measures, special rights and self-determination in situations where they were warranted."

We urge the Subsistence Commission to consider that apart from the inherent fundamental rights of the Thling-git to their resources and self-determination as recognized in International Law, Dr. James Bailey also discovered the *Smoking Gun*. He reported to the Tribunal in Anchorage in January 1997 that a series of documents exist in the archives of the United States which demonstrate that the *Thling-git Peoples* of Southeast Alaska have absolute title (sometimes called *Allodial Title*) to the lands and waters of Southeast Alaska. We will be happy to make the documents and a videotape of James Bailey's presentation available to anyone interested in the upcoming subsistence negotiations.

We urge the Alaska Native Brotherhood, Alaska Native Sisterhood, Alaska

Federation of Natives, Central Council of Thlingit and Haida Indians of Alaska, and others to deeply study the principles of International Human Rights as well as the legal significance of the *Smoking Gun* so that they can become fully aware of the international legal responsibilities of the US Government in relation to *Thling-git Peoples*: the rights of the Indigenous Peoples in and to the lands and waters of Southeast Alaska. We can give you the location and/or copies of the documents. Dr. Kly is willing to be available for consultation. Our attorney, James Bailey, is also willing to discuss his findings with anyone interested. We invite you to visit our WebPages and see our Coastal Management Plan.

We want to take this opportunity to warn our brothers and sisters that if they deal with the White Man, they must insist on their right to priority use as it pertains to their right in International Law and their rights to self-determination. Fairness is the issue, the recognition of the right of Indigenous Peoples to exist as a society. It has nothing to do with race. The United States and Alaska must recognize that Indigenous Peoples have the right to maintain their cultural identity and control over their resources. From the United States speeches before the Human Rights Commission, they appear to be aware of these rights in relation to other states. So therefore, it is time now for the US to dialogue with the Indigenous Peoples on an equal status basis as opposed to talking down to them as if they did not know what their international legal rights were.

It is interesting to note that the Indian Tribes of Puget Sound of Washington state lament the fact that they gave up 50% of the fish resources to non-Natives and the Indians now are left with insufficient fishery stocks to provide a way of living for their young people and for future generations. We appeal to all the Alaska Indigenous Peoples and organizations to not let that happen in Southeast Alaska.

We trust that the best interests of our Peoples motivate you. But we must all take care that the welfare of our future generations is safeguarded.

Professor Orlan Svingen, of Washington State University, who specializes in Indian History, predicts that the US government would do everything it can to avoid a legal wrangle over the land ownership issue. "Let's face it, the last thing they will want to do is delve deeply into that issue," he said. "Call it predestination, superior soil rights, or territorial imperative, big countries have taken land from Indians and others for years with little justification. If James (Rudy James) is correct, stolen land is stolen land and cannot be sold." (Cleveland Plain Dealer, 01/04/97)

Dr. Kly notes that 'the issue of Indian land ownership has become a difficult issue for Americans to deal with in international fora. If the US can quietly deal with such issues in Alaska, they have less risk of international condemnation.

Now that the Convention on the Rights of Indigenous People is in progress and the fundamental rights of Indigenous Peoples have been recognized world wide, and with regards to the *Thling-git' People* in particular, the *Smoking Gun* has been exposed, the cat is out of the bag. What is to be done? The *Kuiu Kwáan* and *Thleenadih* goals include self-determination, strengthening tribal governments, reestablishing tribal control over the land, waters and resources, and preserving traditional spirituality, culture, heritage and traditional life style of the Indigenous nations.

As Justice Berger concluded in his report about the Alaska Natives, "Alaska Natives now realize that ANCSA has failed them and that its goals are at cross-purposes with their own. Today they are tying to strengthen their subsistence economy and to restore their tribal governments...It is their profound desire to be themselves, to be true to their own values, that has led to the present confrontation. Far from deploring their failure to become what strangers wish them to be, we should regard their determination to be themselves as a triumph of the human spirit."

Signed this 29th day of January 1998

Thlauguu Yailth Thlee
Rudy James

ThlauGooYailthThlee, Rudy James,
Spokesman for the Kuye'di Tribal Council
Thleenadih Council Member

Ongi, Franklin H. James, Sr.

Ongi, Franklin H. James, Sr.
Spokesman for the Thleenadih
Tribal Council

Koo Ghairh, Charlie W. James Sr.
Wheat Straw Berger A James 1-29-98

MANIILAQ ASSOCIATION
TESTIMONY ON CSHB 406

Good morning Mr. Chairman and committee members. My name is Barbara Janitscheck. I am providing testimony on behalf of Maniilaq Association and its member villages.

Our region speaks in opposition to Committee Substitute HB 406.

As you are aware, this region supported a federal takeover. HB 406 only adds to our justification why we believe a federal system is the system for us.

Soon after ANCSA, rural Alaska experienced enormous problems created by urban users – thus the reason for the federal act of ANILCA Title 8, which in our view Congress did the right thing.

We believe that HB 406 will bring us right back to this issue for the protections rural Alaska enjoyed in Title 8 of ANILCA are not found in HB 406.

This bill does not include customary and traditional use of fish & game resources. Food from the land is a everyday mainstay of our families. Local hunters continue to provide food for their families, extended families and community. The food that is caught is always shared. Cultural sharing is one of the most important function for maintaining healthy families and communities. The reduced level of participation, lack of language for customary & traditional use and its definitions and the lack of a rural preference are enough reasons for our area to conclude that HB 406 does not satisfy the current requirements of Title 8 of ANILCA.

In times of shortage, HB 406 fails to address a clear solution for rural Alaska. The proposed language, "<u>if</u> the boards determine there is a shortage then they <u>may</u> establish a preference", are not adequate to ensure that rural Alaska has a preference.

HB 406 is clearly a needs based system, the bureaucracy proposed is huge, it does not take into consideration our cultural use of fish and game, it will only bring damage to our culture and is also inconsistent with ANILCA Title 8.

HB 406 proposed management structure is not set-up for effective "hands-on" management by local people. Only recommendations are expected from an advisory board who will submit their recommendations up the ladder to a regional board for their review. The regional board will consider the advisory board's recommendations and in turn submits its own recommendation to the Boards of Fish & Game. Finally, only the Boards of Fish & Game will have the authority to make a decision.

Our villages already face major problems such as challenges to welfare reform, lack of enough jobs, lack of economic development, cuts from the State in a lot of service areas and/or access to funding and services. HB 406 will only add to these hardships, making it more difficult to provide healthy meals to families (Native and non-Native) alike. These families will begin to suffer again like they did before ANILCA Title 8 was passed.

HB 406 is not the solution and should not go further than this committee. We ask that you not support this bill. I'll be happy to entertain any questions from the committee.

The Alaska Outdoor Council

P.O. Box 73902
Fairbanks, Alaska 99707-3902

March 3, 1998

Honorable Gail Phillips / Speaker of the House
Room 208 State Capital
Juneau, Alaska 99801

Dear Speaker Phillips,

We would like to request that the House Resources Committee hold hearings on the subsistence issue in Fairbanks on March 14th at our annual meeting. As you know the interest is high on this issue and your leadership in keeping our members informed is most appreciated.

Please advise as soon as practical of your decision in this request so that I may make the necessary arrangements and provide the notification to all our members throughout the Interior and South Central Alaska.

Thank you so much for your timely consideration in this important endeavor.

Sincerely,

Rod Arno
President of the Alaska Outdoor Council

Oganbill

Feb. 24, 1998

To: Rep. Scott Ogan
Juneau

From: Wayne E. Heimer
1098 Chena Pump Road
Fairbanks, AK (907)-457-6847 email: weheimer@alaska.net

Re: Proposed subsistence solution

To really fix the subsistence mess we have to deal with the federal program.

To deal with the federal program, we have to identify its practical and philosophical failures. It's important that we don't confuse one with the other. I fear your draft plan may do that. It makes a good start at dealing with the ***practical failures*** of the federal system. Movement from "subsistence" (which is a lifestyle, not a beneficial use) toward "human consumptive use" (an actual use) is a great step forward. However, I find use of "sustenance" a problem because it simply sounds too much like "subsistence." I fear this potential confusion will cause problems. After all, if it's been possible to argue for religious and cultural subsistence, it will be equally viable to argue for religious and cultural "sustenance." I suggest clearly "locking in" what we mean, ***wildlife use for human consumption***, will limit the damage and further distance us from the demand for some sort of group rights.

Also, I can't get behind any sort of regional or hyper-local control. Abuse of local control is one of the most striking, but unappreciated, flaws in the federal system. I'd avoid any replication of it in an actual solution. Abuse of local input, in fact its conversion from input to management, is an emerging problem in resource management. When the federal system elevated the function of the Regional Subsistence Advisory Councils from "advisory" to "managerial" we got the Kenai C&T mess. When Frank Rue and ADF&G elevated the planning advisory team for the Fortymile caribou herd to managerial status we ended up with wolf sterilization. Hence, I think regionalizing anything is a dangerous road to travel.

This takes me to the philosophical deficiency I infer in your draft plan. Discrimination is never a good thing. Hence, we should not be in the preference i.e. the discrimination business. Your draft plan not only regionalizes preference in times of shortage, it remains discriminatory. . . just not quite as frequently discriminatory. . . as the federal system. I'd recommend staying away from this because it seems to stem from regionalization.

If we are to come together as a people, Alaskans must share the responsibility for managing wildlife to abundance. This means we all share when we've done well, and we

all pay the price of inaction or failure. Allowing a local (or on a broader scale-a regional or on an even broader scale a "rural" preference) preference for those who have to be most involved in rehabilitating a mismanaged wildlife or fish population (the local people) decreases their incentive to push for restoration of the population. After all, why should they get out and trap wolves or push for predator management just to provide use opportunity for folks they really don't want "in their area" in the first place.

I think Alaskan unity is the key, both to resisting the feds, and making management work. Regionalizing and providing preference are both counterproductive to good conservation.

I fear there will doubtless be a melding of your preliminary ideas with those of the intensive wildlife management bill. These bills are, as I see it, at cross purposes. One seeks to provide abundance, the other fosters local reluctance to manage.

You've made a good start, but I don't think you're quite "there" yet.

I suggest simply redefining the highest priority use of wildlife as human consumptive use and working with local input as advisory (and functional when predation must be managed) will go further than any sort of graded system of discrimination.

Keep up the good work, and stand fast under the pressure from Interior, Stevens, and AFN. We're all supporting you in the very best way!

Wayne E. Heimer

3012 Riverview Drive Fairbanks, Alaska 99709 Fax/Tel 907-474-0700 akimpact@mosquitonet.com

Alaska IMPACT

March 10, 1998

Dear Member of the Twentieth Alaska State Legislature:

You know the old saying *How time flies when you're having fun*? Well, it is also true, apparently, *when you're procrastinating*.

Since a serious legislative effort to solve the Subsistence conflict remains the most needed work before the Alaska State Legislature, I recently went back to see what our organization has been saying over its 9-year existence.

It was exactly 8 years ago that our first major background paper addressed the very important issue of Subsistence. In that PREPARE, I did my best honest research and experiential recollection in giving a *Raven's-eye view* of the big picture. That paper has been reprinted and accompanies this letter.

Very little has changed since that paper was written. Many, many bills have been introduced; and a hard-working Task Force, established by Governor Tony Knowles and Lt. Governor Fran Ulmer, produced a serious proposal for resolving the destructive conflict over the use of Alaska's fish and game.

Recently the work of the Task Force has been snubbed by those who support the greedy effort to secure equal access to all these bountiful resources in Alaska for urban as well as rural residents. If they are ultimately successful, of course, the historic and traditional lifestyles of Alaska's Native and Rural peoples will become only memories; and one more broken promise will be added to the long string of promises made to the first inhabitants, and then broken, by European immigrants to this Great Land (and their descendants).

In the interest of fairness and fundamental decency, I hope you will read this historic paper. And then communicate your own honest convictions about Subsistence to your fellow legislators. If you need any assistance along the way from Alaska IMPACT, please ask and it shall be given!

All the best as you work to provide for the best possible life for ALL Alaskans!

Faithfully,

Richard K. Heacock, Jr.

CS FOR HB 406

An Act Relating to fish and Game

Summary Points

2/27/98

1. Establishes that the ability to take fish and game for personal and family use for sustenance is a fundamental right under the Constitution of the State of Alaska.

2. Establishes that the harvest of fish and game for personal and family use for sustenance by residents is the highest and best use of fish and game.

3. Authorizes the Boards of Fisheries and Game to establish fish and game dependent use areas where dependence on fish and game for personal and family use for sustenance is the principal characteristic of the economy and way of life of the area.

4. Authorizes the Board of Fisheries or Board of Game, after determining that a shortage exists, to establish a preference for fish and game dependent uses.

5. In times of shortage, the Boards may require that the flesh or meat of fish and game must be consumed within the region where the fish or game was taken.

6. Defines a dependent fish and game user as one who:

- possesses a $5 resident hunting, trapping and sport fishing license.
- is dependent on fish and game for personal and family use for sustenance or has no alternative means of sustenance or has decided to adopt a fish and game dependent life style.
- has consumed a variety of species of fish and game as decided by the Boards
- has shared fish and game with a minimum number of households as established by the Boards

7. Provides for Local Advisory Committee participation in the individual eligibility for a preference within their area.

8. Establishes 5 Regional Boards consisting of 9 members appointed by the Governor and confirmed by the legislature.

9. Requires regulation proposal to go through Local Advisory Committees and newly established Regional Boards.

10. The Regional Boards are required to give deference to Local Advisory Committee recommendations and the Statewide Boards of Fisheries and Game are required to give deference to recommendations of the Regional Boards. Several

criteria are established to guide when and how recommendations of the Advisory Committee's and Regional Boards can be overturned or rejected.

11. Provides for non-commercial bartering .

12. Provides a two year transitional period.

Author: frenesa@ktn.net (Mar French) at CC2MHS1
Date: 2/7/98 5:01 PM
Priority: Normal
TO: Representative Scott Ogan at LAA_TRANS
Subject: Re: Rights and Sovernty

Letter 2/11/98

PO box 1591
Ward Cove, Ak 99928

Representative Scott Ogan wrote:

> Please send us your mailing address and we will send you information.
> Thank you,
>
>
>
> _____ Reply Separator _____
> Subject: Rights and Sovernty
> Author: frenesa@ktn.net (Mar French) at CC2MHS1
> Date: 2/5/98 9:00 AM
>
> The subsistence issue should be named "Rights and Sovernty". It is not
> subsistence since none of us subsist. We augment our existence, but we do
> not subsist. It is not about race since this bill pits Sitka against Ktn
> and East against West Saxman. I want to encourage you to not ammend our
> constitution or the States Rights. Thanks for taking a stand. Grussendorf
> said, We must avoid "slamming head on into the Great iceberg of Federal
> Management". I say " I would rather take the risk of dieing in frigid
> water under the Titanic than to stand on the rail and put a bullet in my
> head. You have a chance of survival if you ride it out (of the people who
> ended up in the water, 7 lived). You greatly diminish your chances of
> survival if you elect to pull your own trigger. Pulling your own trigger
> =ammending our constitution.
> (Much of this letter are issues I hit while testifying)
>
> I identify with the concept of "rural subsistence priority"
> I am for preserving the fish and the game for generations to come.
>
> The feds idea clumped under the above label is not what it sounds like.
>
> Here is a scenerio:. maybe some can identify with this and draw a
> correlation between this and what Federal involvement is doing to us.
> I went to school with a native buddy from grade school through college.
> We had no real differences. In college, I got loans and he recieved
> grants and free money. We applied to Vet school together. After the
> results came out, and he was accepted and I wasn't, we compared our
> scores. The significant difference that seperated us was the points
> given to him for being a native. No merit, just skin color. We are still
> friends, and he feels what was done is wrong. It is kind of a joke
> btween us, however we would be together as colleagues if it weren't for
> the Government driving a wedge between us. Our friendship has survived,
> however others don't.
>
> We must avoid more of this sort of friction here in Ak---Fed programs
> have done this and we know it. Why would we choose to welcome more of
> it?
>
> We are one Nation --- and one alaska--- and one people--- We have the
> same Father.
> I testified at the hearing here. I heard native proponents refering to
> the USA and me as "They". This is wrong. The right for him to calmly
> testify was given to him by OUR nation. I also heard pple say that it
> really doesn't effect us b/c of the lack of stream fishing we have here.
> This is wrong, I dip net in the Karta regularly. The idea was that it
> effects the folks up North and not us. Why should we worry. I am an
> Alaskan and I will fight for ALL.
> My parents were ran out of England. I hold no grudge. If we choose to
> live together, we may as well get along.
>
> If we want to work through these problems we must be one. A divided
> house will not stand.
>
> AS I mentioned earlier:
>

This hearing serves no purpose other than allowing us to vent our frustrations.

>
> Could be billed as a conspiracy: The ambiguous document brought here. No
> definition of terms---no solid comment---ktn is not informed enough to
> comment.
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> I don't see this as a conspiracy at all.
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> This is an example of what you get with a big bueaurocracy
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> Will we elect to accept more of this?
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> Value of this hearing: What the men say in their debriefing to their
> superiors when they return to Anch. The bulk of testimony will not be
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> on---Ktn is united on opposing more division caused by the federal
> Government.
>
> Ktn will not condone anything that erodes each citizens rights granted
> by the Constitution or the Statehood compact.
>
> Ktn wants to do the deciding and arm wrestling and debating within the
> State to insure fish and game for longevity.
>
> Ktn wants to set an example for the other Western States who are being
> oppressed and bribed by the Feds
>
> Ktn says we oppose any ammendment and solemly say to the Feds that you
> will have to take us over. We will not do it to ourselves. Let the chips
> fall.
>
> Ktn says to bring a managable document next time, but even if you do we
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> someone who is using his body against my will for monetary gain .
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> in sending a resolution to the national contingent if he would have used
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> Mark French
> Ketchikan

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Send e-mail Reg. [illegible]

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Mark French
Ketchikan

Author: frenesa@ktn.net (Mar French) at CC2MHS1
Date: 2/10/98 10:28 AM
Priority: Normal
TO: Representative Scott Ogan at LAA_TRANS
Subject: Subsistence

Please don't ammend our constitution for this. Let them(Feds) take us over if it comes to that. I would rather they take us over than we do it

to ourselves.

Mark French
PO Box 1591
Ward Cove, Ak 99928

DOWNES MACDONALD & LEVENGOOD

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

1008 16th AVENUE • SUITE 200
FAIRBANKS, ALASKA 99701

ROBERT B. DOWNES
MICHAEL A. MACDONALD
LYNN E. LEVENGOOD

TELEPHONE: (907) 452-5196
FAX: (907) 456-7058

JULIAN C. RICE
OF COUNSEL

December 31, 1997

Representative Scott Ogan
600 East Railroad Avenue, #1
Wasilla, Alaska 99654

Re: *Consensus Points of Expert Wildlife Resource Panel*

Dear Representative Ogan:

I was indeed honored when asked to serve as a member of your expert resource panel. I was certainly humbled by the vast expertise and knowledge contained on the panel which collectively represented over 300 years of policy-making experience dealing with Alaska's wildlife resources. As the assigned scribe for our discussions, below you will find, briefly stated, the unanimous consensus points reached by the panel:

1. First and foremost, the panel agreed that Alaska's Constitution should not be changed in any way that would violate the equal rights of Alaskans.

2. That the highest and best use of the wildlife resources of Alaska is to put food on the tables of Alaskans (A.S. 16.05.255 and .251 should be amended to reflect this change.).

3. Alaskans sustenance and the ability to put food on one's table is an inalienable right of all Alaskans.

4. That Alaska should not compromise on Alaskan State lands in any manner which would provide either federal court oversight over Alaskan lands or subject State lands to the wildlife management/harvest priorities mandated on federal lands.

5. That the cash sale of any resources harvested for subsistence uses should be prohibited and that it only extremely limited barter of subsistence resources should be allowed.

with the support of biological data and then approved by the appropriate Board and/or Commissioner.

16. That "reasonable opportunity of expectation of success" to harvest should be the single requirement to satisfy subsistence uses, not an actual allocation of a wildlife population and not determined by customary and traditional expectations/language.

17. That "subsistence" be defined as the inalienable right of all Alaskans to sustenance and the ability to put food on their tables, through the consumptive use of Alaska's wildlife resources (Requires change to A.S. 16.05.258 and .940).

Once you receive this correspondence, should you have any questions or concerns, please call me at your convenience.

Sincerely,

Lynn E. Levengood

LEL:nan

CORRECTION

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

DOWNES MACDONALD & LEVENGOOD

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

1008 16th AVENUE • SUITE 200
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5. That the cash sale of any resources harvested for subsistence uses should be prohibited and that it only extremely limited barter of subsistence resources should be allowed.

6. That the management of Alaska's wildlife resources should be changed to provide greater efficiency in the regulatory process, as well as to provide an enhancement of local advisory committee participation and authority. One suggestion to create greater efficiency, is to require all proposals to be addressed by either the Board of Fisheries or Board of Game, to have been passed by at least one local advisory committee before consideration. (This would require amendment to A.S. 16.05.255.) Another suggestion was that the Game Board could/should make and consider regulations on a regional basis.

7. That expansion of the ability of Alaskans to hunt/fish via proxy may be advisable, however, it should not be expanded based on race, residency nor place of up-bringing or family relationships.

8. That the issue as to whether Alaska should allow for or provide special treatment for wildlife management and/or harvest on Alaska Native Claims Settlement Act lands should not be addressed until after the U.S. Supreme Court decides the Venetie lawsuit.

9. That when the Board of Game establishes a Tier II subsistence season, that the customary and traditional reliance be established and once that harvest level has been met or exceeded or the game population recovers such that reasonable opportunity exists, the subsistence season be automatically curtailed. (This requires amendment to A.S. 16.05.258.)

10. That the customary and traditional terminology/criterion for subsistence uses or harvest preference should be non-expanding and limited (i.e., no "traditional" use of transplanted/introduced wildlife populations).

11. That any subsistence preferences, as they apply to the preferential harvest of fish and game resources, must be predicated by insufficient wildlife resource to allow for all consumptive uses.

12. Subsistence consumptive use preferences should be limited to fish and wildlife resources and not include other renewable resources.

13. That Alaska's wildlife resources must be managed for an abundance of wildlife allocated to human consumptive uses (requires change to A.S. 16.05.255).

14. That there not be permitted under Alaska law, any co-management, dual management, or cooperative management of Alaska's wildlife resources.

15. That any preference permitted for the harvest of wildlife resources should occur only in times of shortage. Whether a shortage of a wildlife population exists, should be determined only when a wildlife population is nominated/designated by a local advisory committee

with the support of biological data and then approved by the appropriate Board and/or Commissioner.

16. That "reasonable opportunity of expectation of success" to harvest should be the single requirement to satisfy subsistence uses, not an actual allocation of a wildlife population and not determined by customary and traditional expectations/language.

17. That "subsistence" be defined as the inalienable right of all Alaskans to sustenance and the ability to put food on their tables, through the consumptive use of Alaska's wildlife resources (Requires change to A.S. 16.05.258 and .940).

Once you receive this correspondence, should you have any questions or concerns, please call me at your convenience.

Sincerely,

Lynn E. Levengood

LEL:nan

I apologize if you have already received this participant list, but I am not receiving any moderator printouts.

Ron Long wishes to testify

Thank you.

Seward LIO

Reggie, Mary - OTZ LIO called

KOTZEBUE, Barrow, Nome &

OTHER LIO's have people setting

[illegible] working [illegible]

[illegible]

[illegible]

[illegible] that they

haven't called on us [illegible]

Nome might have [illegible]

SITE	= ON LINE	# TO SPEAK	NAME OF FIRST FEW TO SPEAK	
Anaktuvuk Pass				
no computer				
Anchorage	✓	2		
Barrow	✓	2		
Bethel	✓			
Cordova				
Dillingham				
✓ Dot Lake	✓	1	~~Bill Miller~~	
no computer				
Fairbanks	✓	3	BONNIE THERRIAULT - WOLDSTAD	*See list
Glennallen				
Homer	✓	1	Jim Reardon	
Kenai				
Kodiak	✓	1	NICK SZABO	
Kotzebue	✓	1	BARBARA JANITSCHEK - MANILAQ	
Ketchikan	✓		ERIC MUENCH	*see list*
Mat-Su	✓	~~5~~ 6	CHEE JUDKINS	*see list*
Nome	✓	4	Leona Kenick	*see list*
TOK	✓	1	CONNIE FRIEND	
Petersburg				
Call-In (no computer)				
KOTZ Radio	✓		also McGrath Radio	
9 - 9:30				
Unalaska Kiest			~~Weiver Raymond IVANOFF~~ ~~Stanton Ketchitag NET~~	
Quinahawk			Joshua Clevelan	
9:30-10 am				
~~Allakaket~~		10	~~Millie Bergman~~	
* ~~Galena~~	✓	1	~~S. Huntington~~	
10-10:30				
~~Hughes~~			~~Gerald Oldman~~ *	
Kwethluk			Raymond Nikolai	
10:30-11				
Anvik			Carl Jerue	
Sheevak (Chevak?)			R.B. Slats	

02/28/98 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
09:50:37 PARTICIPANT LIST (ALL PARTICIPANTS) BY:COR
TCN:80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00 FOR:COR
PUBLIC HEARING HOUSE RESOURCES

LOCATION:CORDOVA

HB 406	MR	VICTOR	JONES	Not there	OBSERVE
HB 406	MR.	MIKE	BOWEN		TESTIFY
HB 406	MR.	JOHN	RENNER	Not there	TESTIFY

02/28/98 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
10:54:19 PARTICIPANT LIST (ALL PARTICIPANTS) BY:HOM
TCN:80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00 FOR:HOM
PUBLIC HEARING HOUSE RESOURCES

LOCATION:HOMER

HB 406	MR	JIM	REARDEN	SELF	TESTIFY
HB 406	MR	PATRICK	CHURCH	JACK POLSTER	TESTIFY

UD PAT 8?

02/28/98 11:00:05 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1120
MESSAGE FROM: LIOCDEB IN JUNEAU JNU

RE TCN: 80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00
SPONSOR: HOUSE RESOURCES PURPOSE: PUBLIC HEARING

MESSAGE TEXT: *CALL-IN* EMMONAK: TED HAMILTON

NOTE: CORDOVA PARTICIPANTS HAD TO LEAVE

02/28/98 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
09:41:28 PARTICIPANT LIST (ALL PARTICIPANTS) BY:BET
TCN:80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00 FOR:BET
PUBLIC HEARING HOUSE RESOURCES

LOCATION:BETHEL

HB 406	DAVID	AMIK	SELF	TESTIFY
HB 406	MYRON	NANENG	AVCP	TESTIFY
	Hubert	ENOTAK		

02/28/98 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
11:26:29 PARTICIPANT LIST (ALL PARTICIPANTS) BY:BET
TCN:80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00 FOR:BET
PUBLIC HEARING HOUSE RESOURCES

LOCATION:BETHEL

HB 406	DAVID	AMIK	SELF	TESTIFY
HB 406	MYRON	NANENG	AVCP	TESTIFY
HB 406	HUBERT	ANGAIAK	SELF	TESTIFY

NEW

02/28/98 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
11:00:22 PARTICIPANT LIST (TESTIFIERS ONLY) BY:JNU
TCN:80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00 FOR:MAT
PUBLIC HEARING HOUSE RESOURCES

LOCATION:MATSU

HB 406	MR	~~CLIFF~~	~~JUDKINS~~		TESTIFY
HB 406	MR	~~NOEL~~	~~WOODS~~		TESTIFY
HB 406	~~MR~~	CLARENCE	FURBUSH		TESTIFY
HB 406	~~MS~~	~~KATIE~~	~~HURLEY~~	~~Testified~~	TESTIFY
HB 406	MR	RON	WILSON		TESTIFY
HB 406	MR	DONALD	~~BROADWATER~~	BROAD WATER	TESTIFY
ALL ITEMS	~~MR~~	~~BRUCE~~	~~KNOWLES~~	~~Testified~~	TESTIFY

next

02/28/98 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
11:18:37 PARTICIPANT LIST (ALL PARTICIPANTS) BY:MAT
TCN:80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00 FOR:MAT
PUBLIC HEARING HOUSE RESOURCES

LOCATION:MATSU

HB 406	MR	CLIFF	JUDKINS	TESTIFY
HB 406	MR	NOEL	WOODS	TESTIFY
HB 406	MR	HAS LEFT	F	OBSERVE
HB 406	* MS	KATIE	HURLEY	TESTIFY
HB 406	MR	HAS LEFT	W	TESTIFY
HB 406	* MR	ROBERT	HALL	TESTIFY
ALL ITEMS	* MR	BRUCE	KNOWLES	TESTIFY

* UPDATE

02/28/98 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
09:09:01 PARTICIPANT LIST (ALL PARTICIPANTS) BY:KTN
TCN:80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00 FOR:KTN
PUBLIC HEARING HOUSE RESOURCES

LOCATION:KETCHIKAN

HB 406	MR.	ERIC	MUENCH	SELF	TESTIFY
HB 406	MR.	RICHARD	ANDREW	SELF	TESTIFY
HB 406	MS.	KAY	ANDREW	SELF	TESTIFY

02/28/98 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
09:22:08 PARTICIPANT LIST (ALL PARTICIPANTS) BY:NOM
TCN:80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00 FOR:NOM
PUBLIC HEARING HOUSE RESOURCES

LOCATION:NOME

HB 406	MS.	LEONA	KENICK	SELF	OBSERVE
HB 406	MR.	CALEB	PUNGOWIYI	KAWERAK	TESTIFY
HB 406	MR.	PERRY	MENDENHALL	SITNASUAK	TESTIFY
HB 406	MS.	LORETTA	BULLARD	KAEWRAK	TESTIFY

opposed to this bill.

Rural Families rate Nome + have rate

02/28/98 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
09:09:29 PARTICIPANT LIST (ALL PARTICIPANTS) BY:FBX
TCN:80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00 FOR:FBX
PUBLIC HEARING HOUSE RESOURCES

LOCATION:FAIRBANKS

HB 406	MS.	BONNIE	THERRIAULT-WOLDSTAD		TESTIFY
HB 406	MR.	GABE	SAM		TESTIFY
HB 406	MR.	LYNN	LEVENGOOD		TESTIFY

Homer Outdoorsmen

Ms Seldin

Mr. Bailey

02/28/98 09:35:15 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1120
MESSAGE FROM: LIOCDEB IN JUNEAU JNU

RE TCN: 80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00
SPONSOR: HOUSE RESOURCES PURPOSE: PUBLIC HEARING

MESSAGE TEXT: ALLAKAKET: MILLIE BERGMAN
~~ALEX SIMON, SR.~~ *CALL-IN*

Warren Bergman

02/28/98 10:33:17 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1120
MESSAGE FROM: LIOCDEB IN JUNEAU JNU

RE TCN: 80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00
SPONSOR: HOUSE RESOURCES PURPOSE: PUBLIC HEARING

MESSAGE TEXT: ~~*CALL-IN* CHEVAK RICHARD SLATS~~

02/28/98 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
13:02:48 PARTICIPANT LIST (ALL PARTICIPANTS) BY:KTN
TCN:80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00 FOR:KTN
PUBLIC HEARING HOUSE RESOURCES

LOCATION:KETCHIKAN

HB 406	MR.	ERIC	MUENCH	SELF	TESTIFY
HB 406	MR.	RICHARD	ANDREW	SELF	TESTIFY
HB 406	MS.	KAY	ANDREW	SELF	TESTIFY
HB 406	MR.	DONALD	WESTLAND	SELF	TESTIFY

14 Dale
Turnagain
a Tanner
W. Williams

02/28/98 14:04:53 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1120
MESSAGE FROM: LIOCJAS IN ANCHORAGE JNU

RE TCN: 80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00
SPONSOR: HOUSE RESOURCES PURPOSE: PUBLIC HEARING

MESSAGE TEXT: ONE LEFT IN ANCH DALE BONDURANT TO
TESTIFY

02/28/98 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
09:44:36 PARTICIPANT LIST (ALL PARTICIPANTS) BY:ANC
TCN:80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00 FOR:ANC
PUBLIC HEARING HOUSE RESOURCES

LOCATION:ANCHORAGE

HB 406	~~JIM~~	~~SYKES~~	TESTIFY
HB 406	~~DON~~	~~SHERWOOD~~	TESTIFY
HB 406	✓ ~~CHARLES~~	~~MCKEE~~	TESTIFY
HB 406	✓ ~~DONNA RAE~~	~~HARRIS~~ 1 ANAHA Chrys Conf.	TESTIFY

UPDATE?

02/28/98 13:44:51 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1120
MESSAGE FROM: LIOCJAS IN ANCHORAGE JNU

RE TCN: 80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00
SPONSOR: HOUSE RESOURCES PURPOSE: PUBLIC HEARING

MESSAGE TEXT: 4 LEFT IN ANCH TO TESTIFY

02/28/98 13:49:06 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1120
MESSAGE FROM: LIOCJAS IN ANCHORAGE JNU

RE TCN: 80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00
SPONSOR: HOUSE RESOURCES PURPOSE: PUBLIC HEARING

MESSAGE TEXT: BART AHSOGEAK IS ON LINE FROM BARROW
THIS IS AN OFFNET CALL-IN

only one F & W. person in Barrow?

02/28/98 13:55:19 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1120
MESSAGE FROM: LIOCJAS IN ANCHORAGE JNU

RE TCN: 80341 SCHEDULED FOR:02/28/98 09:00 TO 13:00
SPONSOR: HOUSE RESOURCES PURPOSE: PUBLIC HEARING

MESSAGE TEXT: ELUSKA JOHN JR. IN SHAGELUK IRA
IS ON LINE CALL-IN OFFNET

Phillip Arab.

TO: Committee Members

FROM: Rep. Nichols

Please replace the version handed out with this corrected/revised version.

UNITED FISHERMEN OF ALASKA

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

September 26, 1997

Senator Rick Halford
Chair, Senate Resources Committee
P.O. Box 670190
Chugiak, AK 99507

Subject: State/Federal Subsistence Issue

Dear Senator Halford:

The United Fishermen of Alaska (UFA) is celebrating its 25th year and has always been active in subsistence issues. Since 1992, UFA has held a position calling for technical amendments to ANILCA, a constitutional amendment, and minor statutory changes - all linked together through 'effective date' provisions.

Every year, in anticipation of some possible breakthrough in this long standing dilemma, UFA has renewed this position, only to be told by one "side' or the other that either ANILCA amendments were impossible or a constitutional amendment was impossible. Now that the Governor has convened a special Subsistence Task Force and the Legislature is holding hearings on this issue, UFA has been and will continue to be active.

Attached to this letter you will find a copy of the comments UFA submitted to the Governor's Subsistence Task Force in Anchorage on September 13, 1997. On page 2, we stated that:

> "UFA notes that (their) efforts are but the first significant efforts in a process for public and legislative consideration. Our comments (to the Task Force) are, therefore, not all inclusive but address issues that we sincerely request you consider prior to forwarding any "final" package to the public and legislature."

The Task Force accommodated some, but not all of our concerns. At this time UFA respectfully requests that the legislature consider what we have termed the "package" concept advanced by the Task Force as the basis for building a solution to the current state/federal impasse.

UFA looks forward to working with the legislature on this issue.

Sincerely,

Theo Matthews

Theo Matthews, President
United Fishermen of Alaska

TM/ra

In conclusion, UFA finds that while this legislation may indeed "revolutionize" our current process, it creates many new problems and resolves none that we can identify.

UFA respectfully requests that the legislature consider what we have termed the "package" concept as the basis for building a solution to the current state/federal impasse. i.e.

a) Technical amendments to ANILCA that clarify the intent of the federal law and make it as similar to state law as possible, and

b) a rural constitutional amendment, linked to the passage of the agreed technical amendments in ANILCA.

To further clarify our positions on subsistence related issues we have attached to our comments:

1) UFA's comments to the Senate Resources Committee, September 26, 1997, and
2) UFA's comments to the Governor's Subsistence Task Force, Sept. 12 , 1997.

If you have any questions regarding UFA's comments, please contact me at (907) 283-3600. We appreciate the opportunity to comment.

Sincerely,

Theo Matthews CA

Theo Matthews, President
United Fishermen of Alaska

Attachments: Letter dated 9/26/97 to Senator Rick Halford, Chair, Senate Resources Committee
Letter dated 9/12/97 to Governor's Subsistence Task Force

cc: Senator Ted Stevens
Senator Frank Murkowski
Representative Don Young
Governor Tony Knowles
Senator Mike Miller, Senate President
Representative Gail Phillips, Speaker of the House
Senate Resources Committee members
House Judiciary Committee members
Alaskan's Together
Charlie Cole

TM/ra

HB

414

Authority: AS 16.05.255 AS 16.20.039
AS 16.20.031 AS 16.20.041
AS 16.20.036 AS 16.20.076
AS 16.20.036

5 AAC 92.530. MANAGEMENT AREAS.
The following management areas are subject to special hunting restrictions:

(1) the Fort Richardson Management Area:

(A) the area consists of the Fort Richardson Military Reservation;

(B) the area is open to the taking of big game by permit only; the department will set conditions under 5 AAC 92.050;

(2) the Eagle River Management Area:

(A) the area consists of the Eagle River drainage upstream from the Glenn Highway in Unit 14(C);

(B) the area is closed to hunting, except

(i) sheep hunting by permit;

(ii) black bear hunting by permit; before hunting black bear, a person wishing to hunt must complete a hunter safety course for which a certification of completion is issued;

(3) the Anchorage Management Area:

(A) the area consists of all Cook Inlet drainages south of the Elmendorf and Fort Richardson military reservations and north of and including Rainbow Creek, but excluding the Anchorage Coastal Wildlife Refuge;

(B) the Anchorage Management Area is closed to hunting, except that

(i) moose hunting is allowed by permit only;

(ii) small game and waterfowl may be taken by falconry, except that waterfowl may not be taken in the Ship Creek drainage west of Post Road;

public safety & viewing

(4) the Eklutna Lake Management Area:

(A) the area consists of the drainages of Eklutna River and Eklutna Lake in Unit 14(C) upstream from the Glenn Highway, excluding those drainages flowing into the East Fork of Eklutna River upstream from the bridge above the Lake and Thunderbird Creek;

(B) the area is closed to hunting, except that

(i) small game may be taken by bow and arrow only, from the day after Labor Day through April 30;

(ii) moose hunting is allowed by permit with bow and arrow only;

(iii) black bear may be taken by bow and arrow only, from the day after Labor Day to May 20, for one bear only;

(iv) sheep may be taken by permit, and by bow and arrow only, from the day after Labor Day through September 30;

(5) the Chugach State Park Management Area:

(A) the area consists of that portion of Chugach State Park outside of the Eagle River, Anchorage, and Eklutna Management Areas;

(B) the area is open to hunting under regulations governing Unit 14(C), except as follows:

(i) black bear hunting is open from the day after Labor Day through May 20 for 1 bear only;

(ii) no hunting is allowed for brown bear, mountain goat, squirrel, wolf, wolverine, coyote and unclassified game;

(iii) small game hunting is prohibited in the Tokle Creek drainage (Arctic Valley Ski Area);

public safety & viewing

(6) the Skilak Loop Management Area:

(A) the area consists of that portion of Unit 15(A) bounded by a line beginning at the easternmost junction of the Sterling Highway and the Skilak Loop (milepost 76.3), then due south to the south bank of the Kenai River, then southerly along the south bank of the Kenai River to its confluence with Skilak Lake, then westerly along the north shore of Skilak Lake to Lower Skilak Lake Campground, then northerly along the Lower Skilak Lake Campground Road and the Skilak Loop Road to its westernmost junction with the Sterling Highway, then easterly along the Sterling Highway to the point of beginning;

(B) the area is closed to hunting and trapping except that small game may be taken only from October 1 through March 1 by bow and arrow only, and antlerless moose may be taken by permit only;

(7) the Dalton Highway Corridor Management Area:

(A) the area consists of those portions of Units 20 and 24 — 26 extending five miles from each side of the Dalton Highway from the Yukon River to the Prudhoe Bay Closed Area;

(B) the area is closed to hunting; however, big game, small game, and fur animals may be taken in the area by bow and arrow only; no motorized vehicle, except aircraft, boats, and licensed highway vehicles may be used to transport game or hunters within the Dalton Highway Corridor Management Area; any hunter traveling on the Dalton Highway must stop at any check station operated by the department within the Dalton Highway Corridor Management Area;

(8) the Minto Flats Management Area:

(A) the area consists of that portion of Unit 20 bounded by the Elliott Highway beginning at Mile 118, then northeasterly to Mile 96, then east to the Tolovana Hotsprings Dome, then east to the Winter Cat Trail, then along the Cat Trail south to the Old Telegraph Trail at Dunbar, then westerly along the trail to a point where it joins the Tanana River three miles above Old Minto, then along the north bank of the Tanana River (including all channels and sloughs except Swanneck Slough), to the confluence of the Tanana and Tolovana Rivers and then northerly to the point of beginning;

(B) the area is open to moose hunting except that aircraft and airboats may not be used for

FAX # 465 2332

(C) Unit 26(C) consists of the remainder of Unit 26. (Eff. 8/20/89, Register 111)

Authority: AS 16.05.255

Article 12.

Restricted Areas.

Section
510. Areas closed to hunting
520. Closures and restrictions in state game refuges
530. Management areas
540. Controlled use areas
550. Areas closed to trapping

5 AAC 92.510. AREAS CLOSED TO HUNTING.

(a) The following areas are closed to hunting as specified:

(1) Unit 1(A)

(A) in the Ketchikan area, a strip one-fourth mile wide on each side of the Tongass Highway system, including the Ward, Connel, and Harriet Hunt Lake Roads, is closed to the taking of big game;

(B) in the Hyder area, the Salmon River drainage downstream from the Riverside Mine, excluding the Thumb Creek drainage, is closed to the taking of bears;

viewing

(2) Unit 1(B)

(A) the Anan Creek drainage within one mile of Anan Creek downstream from the mouth of Anan Lake, including the area within a one mile radius from the mouth of Anan Creek Lagoon is closed to the taking of black bears and brown bears;

viewing

(3) Unit 1(C)

(A) Unit 1(C) is closed to the taking of snow geese;

safety & viewing

(B) in the Juneau area, that area between the coast and a line one-fourth mile inland of the following road systems is closed to the taking of big game: Glacier Highway from Mile 0 to Mile 24 at Peterson Creek, Douglas Highway from the Douglas city limits to Milepost 7 on the North Douglas Highway, Mendenhall Loop Road, and Thane Road;

(C) the area within one-fourth mile of Mendenhall Lake, the U.S. Forest Service Mendenhall Glacier Visitor's Center, and the Center's parking area, is closed to hunting;

viewing

(D) the area of Mt. Bullard bounded by the Mendenhall Glacier, Nugget Creek from its mouth to its confluence with Goat Creek, and a line from the mouth of Goat Creek north to the Mendenhall Glacier, is closed to the taking of mountain goat;

(E) Auke Lake is closed to the taking of waterfowl;

viewing

(F) Mt. Juneau drainage, bounded by the Glacier Highway, Salmon Creek and its reservoir, a line from the head of the Salmon Creek drainage to the head of Granite Creek, and down Granite Creek and Gold Creek to the Glacier Highway, is closed to the taking of mountain goat;

(4) Unit 1(D)

(A) a strip one-fourth mile wide on each side of the Lutak Road between Mile 7 and Chilkoot Lake, and from the Chilkoot River bridge to the end of the Lutak Road spur at the head of Lutak Inlet, is closed to the taking of big game;

(5) Unit 3

(A) a strip one-fourth mile wide on each side of the Stikine (Zimovia) Highway from the Wrangell city limits to the Tongass National Forest Boundary is closed to the taking of big game;

viewing & safety

(B) in the Petersburg vicinity, a strip one-fourth mile wide on each side of the Mitkof Highway from Milepost 0 to the Crystal Lake campground is closed to the taking of big game, except wolves;

(C) the Petersburg Creek drainage on Kupreanof Island is closed to the taking of black bears;

(D) Blind Slough, draining into Wrangell Narrows, and a strip one-fourth mile wide on each side of Blind Slough, from the hunting closure markers at the southernmost portion of Blind Island to the hunting closure markers one mile south of the Blind Slough bridge, are closed to all hunting; the remainder of Blind Slough and its drainage is closed to the taking of snow geese only;

(6) Unit 4

(A) in the Sitka area, a strip one-fourth mile wide on each side of all state highways is closed to the taking of big game;

(B) the Seymour Canal Closed Area (Admiralty Island), including all drainages into northwestern Seymour Canal between Staunch Point and the southernmost tip of the unnamed peninsula separating Swan Cove and King Salmon Bay, and including Swan and Windfall Islands, is closed to the taking of bears;

(C) the Salt Lake Bay Closed Area (Admiralty Island), including all lands within one-fourth mile of Salt Lake above Klutchman Rock at the head of Mitchell Bay, is closed to the taking of bears;

(D) Port Althorp (Chichagof Island), that area within the Port Althorp watershed south of a line from Point Lucan to Salt Chuck Point (Trap Rock), is closed to the taking of brown bears;

(E) Mitchell Bay (Admiralty Island), that area including Mitchell Bay, Kootznahoo Inlet, Kanalkoo Bay, and Favorite Bay, and all adjacent land within 660 feet of mean high tide, is closed to the taking of brown bears;

(7) Unit 6

(A) the Goat M
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(C) that portion
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to the taking of snow

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e Bay, and all adja-
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vn bears;

(A) the Goat Mountain Goat Observation Area, which consists of that portion of Unit 6 bounded on the north by Miles Lake and Miles Glacier, on the south and east by Pleasant Valley River and Pleasant Glacier, and on the west by the Copper River, is closed to the taking of mountain goat;

(B) the Heney Range Goat Observation Area, which consists of that portion of Unit 6(C) south of the Copper River Highway and west of the Eyak River, is closed to the taking of mountain goat;

(8) Unit 7

(A) the Portage Glacier Closed Area in Unit 7, which consists of Portage Creek drainages between the Anchorage-Seward Railroad and Placer Creek in Bear Valley, Portage Lake, the mouth of Byron Creek, Glacier Creek and Byron Glacier, is closed to hunting; however, migratory birds and small game may be hunted with shotguns after September 1;

(B) the Seward Closed Area in Unit 7, which consists of the south side drainage of the Resurrection River downstream from the Kenai Fjords National Park's eastern boundary, and Resurrection Bay drainages between the mouth of the Resurrection River and the mouth of Lowell Creek, are closed to the taking of big game;

(C) the Cooper Landing Closed Area, which consists of that portion of Unit 7 bounded by Juneau Creek, beginning at its confluence with the Kenai River, then upstream to the confluence of Juneau Creek and Falls Creek, then easterly along Falls Creek and the north fork of Falls Creek and over the connecting saddle to Devils Creek, then southeasterly along Devils Creek to its confluence with Quartz Creek, then southwesterly along Quartz Creek to the Sterling Highway, then westerly along the Sterling Highway to the Kenai River, and then westerly along the Kenai River to the point of beginning at the mouth of Juneau Creek, is closed to the taking of Dall sheep and mountain goat;

(D) the Resurrection Creek Closed Area, which consists of the drainage of Resurrection Creek downstream from Rimrock and Highland Creeks, including Palmer Creek, is closed to the taking of moose;

(9) Unit 9

(A) in Unit 9, the McNeil River State Game Sanctuary and contiguous tidelands are closed to hunting and trapping; access to the sanctuary is by permit only under 5 AAC 92.065;

(B) Unit 9(E) is closed to the taking of Canada Geese;

(C) that portion of Unit 9 extending south and east of McNeil River State Game Sanctuary to the boundary of Katmai National Park and Preserve, and including any state land within the boundaries of Katmai National Park and Preserve, is closed to brown bear hunting;

(10) Unit 10

(A) Unit 10, except Unimak Island, is closed to the taking of Canada Geese; and

(B) Otter Island in the Pribilof Islands is closed to hunting;

(11) Unit 13

(A) the Paxson Closed Area in Unit 13(B), which consists of the eastern drainage of the Gulkana River lying west of the Richardson Highway and the western drainage of the Gulkana River between the Denali Highway and the north end of Paxson Lake where the Gulkana River enters Paxson Lake, is closed to the taking of big game;

(B) the Sheep Mountain Closed Area which lies along the Glenn Highway in Unit 13(A) and is bounded by a line from Caribou Creek, Milepost 107 Glenn Highway, then easterly along the Glenn Highway to Milepost 123, then north to Squaw Creek, then downstream to Caribou Creek, then down Caribou Creek to the point of beginning, is closed to the taking of mountain goat and Dall sheep;

(12) Unit 15

(A) the Moose River Closed Area near Sterling in Unit 15(A), which consists of the area on and within one-quarter mile of the Moose River between the Kenai National Moose Range boundary and the Sterling Highway, is closed to the taking of waterfowl;

(B) the Kenai Moose Research Center Closed Area in Unit 15(A), which consists of that area within the outer boundary fences of the Kenai Moose Research Center, located west and south of Coyote and Vixen Lakes is closed to hunting;

(13) Unit 17

(A) all islands and adjacent waters within one-half mile of each island in the Walrus Islands State Game Sanctuary, as described in AS 16.20.092, except for those islands known as the Twins and their adjacent waters are closed to hunting; however, hunting may occur on Round Island and its adjacent waters from September 20 — October 20;

(14) Unit 20

(A) Birch Lake and the area within one-half mile of Birch Lake (Mile 56 Richardson Highway) is closed to the taking of big game;

(B) Harding Lake and the area within one-half mile of Harding Lake (Mile 44 Richardson Highway) is closed to the taking of big game;

(C) Lost Lake and the area within one-half mile of Lost Lake (Mile 56 Richardson Highway) is closed to the taking of big game with firearms and crossbows;

(D) repealed 8/10/90;

(E) repealed 6/28/96;

(15) Unit 26

(A) the Prudhoe Bay Closed Area is closed to the taking of big game; this closed area consists

of the area bounded by a line beginning at 70° 22′ N. lat., 148° W. long., then running south approximately 14 miles to a point at 70° 10′ N. lat., 148° W. long., then west approximately 15 miles to a point at 70° 10′ N. lat., 148° 40′ W. long., then north approximately two miles to a point at 70° 12′ N. lat., 148° 40′ W. long., then west approximately eight miles to a point at 70° 12′ N. lat., 148° 56′ W. long., then north approximately two miles to a point at 70° 15′ N. lat., 148° 56′ W. long., then west approximately 12 miles to a point at 70° 15′ N. lat., 149° 28′ W. long., then north approximately 12 miles to a point at 70° 26′ N. lat., 149° 28′ W. long., then east approximately 14 miles to a point at 70° 26′ N. lat., 148° 52′ W. long., then south approximately 2 miles to a point at 70° 24′ N. lat., 148° 52′ W. long., then east approximately 16 miles to a point at 70° 24′ N. lat., 148° 11′ W. long., then south approximately 2 miles to a point at 70° 24′ N. lat., 148° 11′ W. long., then east approximately 6 miles to the point of beginning.

(b) Proposed regulatory changes to or affecting this section, either to add or eliminate an area closed to hunting, or to expand or reduce the size of an area closed to hunting, will not be accepted for consideration outside the board's published schedule for "Areas Closed to Hunting," unless the board first approves an agenda change. (Eff. 8/20/89, Register 111; am 8/10/90, Register 115; am 7/1/92, Register 122; am 7/16/95, Register 135; am 6/28/96, Register 138; am 7/1/96, Register 138; am 7/1/97, Register 142; am 7/26/97, Register 143)

Authority:	AS 16.05.255	AS 16.20.160
	AS 16.20.041	AS 16.20.162
	AS 16.20.075	

5 AAC 92.520. CLOSURES AND RESTRICTIONS IN STATE GAME REFUGES.

(a) Unit 1

(1) The Mendenhall Wetlands State Game Refuge, as described in AS 16.20.034, is closed to hunting, except for waterfowl (including snipe and crane) during established seasons. No person may use any off-road or all-terrain vehicle, motorcycle, or other motorized vehicle (except a boat) within the refuge. Hunters 15 years old or younger must be accompanied by an adult, or demonstrate, upon request, completion of a certified hunter safety and waterfowl identification course before hunting in the refuge.

(b) Unit 14

(1) The Anchorage Coastal Wildlife Refuge (formerly the Potter Point State Game Refuge) in Unit 14(C), described in AS 16.20.031,

(A) is open to small game hunting with shotguns, bowhunting, and falconry only, except for that portion between the Alaska Railroad and the Old Seward Highway;

Potter Marsh proper

(B) is closed to the use of motorized vehicles;

(C) is closed to the discharge of all firearms except that shotguns may be used in those areas open to hunting north and west of a line extending south from the radio tower located at the Kincaid Park motorcross area and south and east of a line extending from an ADF&G regulatory marker at the point where Furrow Creek enters the refuge through a second ADF&G regulatory marker west of Furrow Creek from September 1 through March 31, before hunting, a person wishing to hunt with a shotgun must complete a certified hunter safety course and must register annually with the department; a person convicted of a hunting violation in one year is not eligible to register to hunt in the Anchorage Coastal Wildlife Refuge the following year; a hunter using a shotgun shall present in the field, upon request, the registration permit;

(D) in addition to the prohibitions set out in (A) — (C) of this paragraph, no person may intentionally distribute bread scraps, cereal grains, corn, or other waterfowl foods; or otherwise feed waterfowl, in the Anchorage Coastal Wildlife Refuge.

(2) The Susitna Flats State Game Refuge in Units 14 and 16, which is described in AS 16.20.036, is open to hunting under the following conditions:

(A) the use of a motorized vehicle for hunting is allowed from November 9 through March 31;

(B) from April 1 through November 8, the use of a motorized vehicle, except an aircraft, hovercraft, boat, and snowmachine, is restricted to existing road surfaces, and to use within 1/8 mile of mean high tide or as designated by the department;

(C) notwithstanding (A) and (B) of this paragraph, the department may issue an access permit, allowing an activity otherwise prohibited by this subsection, for

(i) access by a person who has a physical impairment;

(ii) movement of equipment or supplies; or

(iii) refuge administration and management.

(c) Unit 20

(1) In the Creamer's Field Migratory Waterfowl Refuge, hunting and trapping are allowed only after registering with the department; the department may use its discretionary authority under 5 AAC 92.051 to implement the management plan for the refuge developed by the department.

(d) Unit 9

(1) The McNeil River State Game Refuge is closed to brown bear hunting. (Eff. 8/20/89, Register 111; am 8/10/91, Register 119; am 7/1/92, Register 122; am 4/25/96, Register 138; am 7/1/96, Register 136; am 7/26/97, Register 143)

ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Resource
Committee Name

Committee on 414 Dated 3/19/98
Bill / Subject

This bill makes a mockery of the Idea that the game board should be independent of Pollotics

Also these intensive game management idea killing wolves and bears hurts the tourism industry because it Gives Animal right ligitimate calls for tourism bycotte, I believe Most Alaskan hate the Idea of killing wolves and bears off to create More Moose & caribou

SIGNED.

Testifier

Representing Self

Address / Phone Number # 351 cloudberry dr
FBKS AK — 99708

Alaska Wilderness Recreation & Tourism Association

P.O. Box 22827
Juneau, AK 99802
Phone (907) 463-3038
Fax (907) 463.3280
Email awrta@alaska.net
Web www.alaska.net/~awrta

March 23, 1998

Chairman Scott Ogan,
House Resources Committee
Alaska State Legislature

Thank you for giving me the chance to testify on HB 414 on March 19. I know time was short, and I appreciated the chance to share my association's views on the bill.

We are concerned that HB 414 is both poor public policy and unconstitutional because it arbitrarily discriminates between Alaskan tourism businesses that rely on wildlife.

The Alaska Wilderness Recreation & Tourism Association (AWRTA) is a trade association representing 300 members statewide, mostly Alaskan owned and operated nature-based tourism businesses. Our members range from wilderness lodges to B&B's, from sport fishing charter businesses to hunting guides, and from small cruise boat companies to wilderness rafting/kayaking outfitters. They share a common interest in protecting the quality of Alaska's unique outdoor recreation resources and experiences upon which their businesses depend.

Nature-based tourism, including wildlife viewing, is one of the fastest growing industries in Alaska. Wild lands and abundant wildlife are one of Alaska's unique attractions and competitive advantages. They bring significant benefits to communities and businesses around the state. People coming to Alaska specifically to view wildlife spend more than twice as much in the state as general visitors, for all kinds of goods and services that benefit Alaskan businesses. This applies well beyond our members, to the more than 3000 businesses in the state that rely on tourism.

It appears to us that HB 414 poses four significant problems for sensible wildlife management:

1) It favors one set of businesses at the expense of another, by establishing a new hierarchy of statutory preferences for uses of game, and requiring the Board of Game to give one set of commercial uses (guided hunting and trapping) a preference over another (guided wildlife viewing).

2) It establishes a statutory preference for consumptive over non-consumptive uses of wildlife, which seems to make it difficult to provide for any restrictions on hunting in order to provide for wildlife viewing opportunities.

2) It requires the Board of Game to promote reductions in some of the wildlife populations that are of most interest to Alaskan visitors, including wolves and brown bear.

3) It eliminates Alaska's game manager's traditional discretion and flexibility to balance the full range of different uses of wildlife.

We do not see any basis for discriminating between commercial uses and users of wildlife. Does guided hunting or trapping create greater economic benefits for the state than wildlife viewing? This seems unlikely. Many other tourism businesses are just as dependent upon wildlife as

hunting guides are. This distinction between commercial uses seems to us to be an arbitrary and irrational classification. We do not see why such a preference is needed or even useful.

Statutory preferences for uses of wildlife, as the 20 year history of the subsistence law shows, are difficult, contentious, and expensive to administer, and should only be used as a matter of real public need. Otherwise, the Board of Game is in the best position to balance the wide range of competing demands on wildlife.

Equal protection provisions in the Alaska Constitution require that similar uses must be treated similarly. Guides provide similar services in both consumptive and nonconsumptive commercial uses of game -- expertise and assistance to clients in getting close to wildlife. We fail to see how a preference for one over the other can be supported under the equal protection clauses.

Finally, the bill seems overbroad. The finding indicate it is intended to address a few local areas where there are major problems with moose and caribou abundance, but the statute seems to require that the new preferences apply in all cases. It would be a real detriment to our member businesses, and to the economy of the state, to preclude the Board of Game from providing any special provisions for wildlife viewing.

We urge you not to pass the bill in its current form. It will harm one of the state's major industries, and is not supported on either public policy or legal grounds.

Please feel free to call me if additional information about our members' businesses and their needs would be useful.

Sincerely,

Steven Behnke

Steven Behnke
Executive Director

ARTICLE 12
RESTRICTED AREAS

5 AAC 92.510

AREAS CLOSED TO HUNTING.

(a) The following areas are closed to hunting as specified:

(1) Unit 1(A)

(A) in the Ketchikan area, a strip one-fourth mile wide on each side of the Tongass Highway system, including the Ward, Connel, and Harriet Hunt Lake Roads, is closed to the taking of big game;

(B) in the Hyder area, the Salmon River drainage downstream from the Riverside Mine, excluding the Thumb Creek drainage, is closed to the taking of bears;

(2) Unit 1(B)

(A) the Anan Creek drainage within one mile of Anan Creek downstream from the mouth of Anan Lake, including the area within a one mile radius from the mouth of Anan Creek Lagoon is closed to the taking of black bears and brown bears;

(3) Unit 1(C)

(A) Unit 1(C) is closed to the taking of snow geese;

(B) in the Juneau area, that area between the coast and a line one-fourth mile inland of the following road systems is closed to the taking of big game: Glacier Highway from Mile 0 to Mile 24 at Peterson Creek, Douglas Highway from the Douglas city limits to Milepost 7 on the North Douglas Highway, Mendenhall Loop Road, and Thane Road;

(C) the area within one-fourth mile of Mendenhall Lake, the U.S. Forest Service Mendenhall Glacier Visitor's Center, and the Center's parking area, is closed to hunting;

(D) the area of Mt. Bullard bounded by the Mendenhall Glacier, Nugget Creek from its mouth to its confluence with Goat Creek, and a line from the mouth of Goat Creek north to the Mendenhall Glacier, is closed to the taking of mountain goat;

(E) Auke Lake is closed to the taking of waterfowl;

(F) Mt. Juneau drainage, bounded by the Glacier Highway, Salmon Creek and its reservoir, a line from the head of the Salmon Creek drainage to the head of Granite Creek, and down Granite Creek and Gold Creek to the Glacier Highway, is closed to the taking of mountain goat;

(4) Unit 1(D)

(A) a strip one-fourth mile wide on each side of the Lutak Road between Mile 7 and Chilkoot Lake, and from the Chilkoot River bridge to the end of the Lutak Road spur at the head of Lutak Inlet, is closed to the taking of big game;

(5) Unit 3

(A) a strip one-fourth mile wide on each side of the Stikine (Zimovia) Highway from the Wrangell city limits to the Tongass National Forest Boundary is closed to the taking of big game;

(B) in the Petersburg vicinity, a strip one-fourth mile wide on each side of the Mitkof Highway from Milepost 0 to the Crystal Lake campground is closed to the taking of big game, except wolves;

(C) the Petersburg Creek drainage on Kupreanof Island is closed to the taking of black bears;

(D) Blind Slough, draining into Wrangell Narrows, and a strip one-fourth mile wide on each side of Blind Slough, from the hunting closure markers at the southernmost portion of Blind Island to the hunting closure markers one mile south of the Blind Slough

bridge, are closed to all hunting; the remainder of Blind Slough and its drainage is closed to the taking of snow geese only;

(6) Unit 4

(A) in the Sitka area, a strip one-fourth mile wide on each side of all state highways is closed to the taking of big game;

(B) the Seymour Canal Closed Area (Admiralty Island), including all drainages into northwestern Seymour Canal between Staunch Point and the southernmost tip of the unnamed peninsula separating Swan Cove and King Salmon Bay, and including Swan and Windfall Islands, is closed to the taking of bears;

(C) the Salt Lake Bay Closed Area (Admiralty Island), including all lands within one-fourth mile of Salt Lake above Klutchman Rock at the head of Mitchell Bay, is closed to the taking of bears;

(D) Port Althorp (Chichagof Island), that area within the Port Althorp watershed south of a line from Point Lucan to Salt Chuck Point (Trap Rock), is closed to the taking of brown bears;

(E) Mitchell Bay (Admiralty Island), that area including Mitchell Bay, Kootznahoo Inlet, Kanalkoo Bay, and Favorite Bay, and all adjacent land within 660 feet of mean high tide, is closed to the taking of brown bears;

(7) Unit 6

(A) the Goat Mountain Goat Observation Area, which consists of that portion of Unit 6 bounded on the north by Miles Lake and Miles Glacier, on the south and east by Pleasant Valley River and Pleasant Glacier, and on the west by the Copper River, is closed to the taking of mountain goat;

(B) the Heney Range Goat Observation Area, which consists of that portion of Unit 6(C) south of the Copper River Highway and west of the Eyak River, is closed to the taking of mountain goat;

(8) Unit 7

(A) the Portage Glacier Closed Area in Unit 7, which consists of Portage Creek drainages between the Anchorage-Seward Railroad and Placer Creek in Bear Valley, Portage Lake, the mouth of Byron Creek, Glacier Creek and Byron Glacier, is closed to hunting; however, migratory birds and small game may be hunted with shotguns after September 1;

(B) the Seward Closed Area in Unit 7, which consists of the south side drainage of the Resurrection River downstream from the Kenai Fjords National Park's eastern boundary, and Resurrection Bay drainages between the mouth of the Resurrection River and the mouth of Lowell Creek, are closed to the taking of big game;

(C) the Cooper Landing Closed Area, which consists of that portion of Unit 7 bounded by Juneau Creek, beginning at its confluence with the Kenai River, then upstream to the confluence of Juneau Creek and Falls Creek, then easterly along Falls Creek and the north fork of Falls Creek and over the connecting saddle to Devils Creek, then southeasterly along Devils Creek to its confluence with Quartz Creek, then southwesterly along Quartz Creek to the Sterling Highway, then westerly along the Sterling Highway to the Kenai River, and then westerly along the Kenai River to the point of beginning at the mouth of Juneau Creek, is closed to the taking of Dall sheep and mountain goat;

(D) the Resurrection Creek Closed Area, which consists of the drainage of Resurrection Creek downstream from Rimrock and Highland Creeks, including Palmer Creek, is closed to the taking of moose;

(9) Unit 9

(A) in Unit 9, the McNeil River State Game Sanctuary and contiguous tidelands are closed to hunting and trapping; access to the sanctuary is by permit only under 5 AAC 92.065;

(B) Unit 9(E) is closed to the taking of Canada Geese;

Register 116; am 6/16/91, Register 118; am 8/10/91, Register 119; am 7/1/92, Register 122; am 7/1/93, Register 126; am 7/7/94, Register 131; am 4/25/96, Register 138; am 6/28/96, Register 138; am 7/1/97, Register 142
Authority -
AS 16.05.255

5 AAC 92.550

AREAS CLOSED TO TRAPPING.
The following areas are closed to the trapping of furbearers as indicated:

(1) Unit 1(C) (Juneau area):

(A) a strip within one-quarter mile of the mainland coast between the end of Thane Road and the end of Glacier Highway at Echo Cove;

(B) Auke Lake and the area within one-quarter mile of Auke Lake;

(C) that area of the Mendenhall Valley bounded on the south by the Glacier Highway, on the west by the Mendenhall Loop Road and Montana Creek Road and Spur Road to Mendenhall Lake, on the north by Mendenhall Lake, and on the east by the Mendenhall Loop Road and Forest Service Glacier Spur Road to the Forest Service Visitor Center;

(D) a strip within one-quarter mile of the Douglas Island coast along the entire length of the Douglas Highway and a strip within one-quarter mile of the Eaglecrest Road;

(E) that area within the United States Forest Service Mendenhall Glacier Recreation Area;

(F) a strip within one-quarter mile of the following trails as designated on United States Geological Survey maps: Herbert Glacier Trail, Windfall Lake Trail, Peterson Lake Trail, Spaulding Meadows Trail (including the loop trail), Nugget Creek Trail, Outer Point Trail, Dan Moller Trail, Perseverance Trail, Granite Creek Trail, Mt. Roberts Trail and the Nelson Water Supply Trail, Sheep Creek Trail, and Point Bishop Trail;

(G) the area described as the Mendenhall Wetlands State Game Refuge in AS 16.20.034 is closed to trapping; the use of off-road or all-terrain vehicles, motorcycles, or other motorized vehicles (except boats) within the boundaries of Mendenhall Wetlands State Game Refuge is prohibited at all times;

(2) Unit 9: the drainages of McNeil River, Mikfik Creek and all other drainages into McNeil Cove which extends from Akjemguiga Cove on the north to McNeil Head on the south, located at the head of Kamishak Bay, in the lower Cook Inlet are closed to trapping; access to the McNeil River State Game Sanctuary is by permit only;

(3) Unit 14(C) (Anchorage Area):

(A) the drainages into Eklutna River and Eklutna Lake, within Chugach State Park except Thunderbird Creek and those drainages flowing into the East Fork of the Eklutna River upstream from the bridge above the lake;

(B) the Eagle River Management Area;

(C) that portion of Chugach State Park outside of the Eagle River, Anchorage, and Eklutna Management areas is open to trapping under Unit 14(C) seasons and bag limits, except no trapping of wolf, wolverine, land otter, or beaver is allowed;

(D) all land and water within the Anchorage Management Area as described in 5 AAC 92.530(3);

(E) in the Anchorage Coastal Wildlife Refuge in Unit 14(C), described in AS 16.20.031: all land and water south and west of and adjacent to the toe of the bluff that extends from Point Woronzof southeasterly to Potter Creek;

(F) the Fort Richardson Management Area, except for beaver, muskrat, mink,

weasel, and coyote on Fort Richardson, and except for beaver and coyote on Elmendorf Air Force Base;

(4) Unit 15:

(A) within the city limits of Homer (Unit 15) as those limits existed in November 1987;

(B) the Skilak Loop Wildlife Management Area, consisting of that portion of Unit 15(A) bounded by a line beginning at the easternmost junction of the Sterling Highway and the Skilak Loop Road (milepost 58.0), then due south to the south bank of the Kenai River, then southerly along the south bank of the Kenai River to its confluence with Skilak Lake, then westerly along the north shore of Skilak Lake to Lower Skilak Lake Campground, then northerly along the Lower Skilak Lake Campground Road and the Skilak Loop Road to its westernmost junction with the Sterling Highway, then easterly along the Sterling Highway to the point of beginning;

(C) that portion of Unit 15(B) east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier is closed to the trapping of marten;

(D) the Kenai Moose Research Center Closed Area in Unit 15(A), which consists of that area within the outer boundary fences of the Kenai Moose Research Center, located west and south of Coyote and Vixen Lakes is closed to trapping;

(5) Unit 17: all islands within the Walrus Islands State Game Sanctuary as described in AS 16.20.110 are closed to trapping;

(6) Unit 2: Joe Mace Island Marine Park, a small island off Point Baker on Prince of Wales Island, is closed to trapping.

History -
Eff. 8/20/89, Register 111; am 7/1/92, Register 122; am 7/9/95, Register 135; am 7/26/97, Register 143
Authority -
AS 16.05.250
AS 16.05.255
AS 16.20.040
AS 16.20.120
AS 16.20.170

ARTICLE 13
- 18.

ARTICLE 19
ENDANGERED SPECIES

Editor's Notes -
Effective 8/20/89, Register 111, the substance of former 5 AAC 92.800 is contained in 5 AAC 93.020.

ARTICLE 20
DEFINITIONS

5 AAC 92.990

DEFINITIONS.

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 414

1 Page 3, line 7, following "**game.**":
2 Insert "(a)"

3 Page 3, line 8, following "family":
4 Delete all material.
5 Insert "consumption. The other"

6 Page 3, following line 11:
7 Insert a new subsection to read:
8 "(b) Notwithstanding (a) of this section, the Board of Game may maintain a
9 regulatory closure of an area to hunting or trapping that is in effect on the effective
10 date of this subsection if the repeal of the closure would
11 (1) create a significant risk to public safety;
12 (2) pose a risk to continued sustained yield management of a game
13 population;
14 (3) not significantly enhance opportunities for personal and family use
15 of game for human consumption; or
16 (4) interfere with the rebuilding of a big game prey population to a
17 level of abundance that would support a high level for human harvest."

Response to House Resources concerning HB364. March 18, 1998

Peter E.K. Shepherd, 1012 Galena St. Fairbanks, AK

My credentials are those of a graduate wildlife biologist, big game guide, and trapper with nearly 47 years of experience in Alaska. However, those that oppose my views refer to me as an " out of touch dinosaur". To which I reply " no I'm a shark, they proceeded the dinosaurs and survive to this day".

HB364 addresses several symptoms of a resource conservation problem resulting from political, social, and management actions occurring over several decades These actions are the subsistence priority issue, deregulation of the air taxi industry, pitting the highly regulated guiding industry against unregulated commercial hunting services, and a philosophy of passive (hands off) wildlife management. Solution of this multi-faceted problem will be difficult, and may antagonize certain interest groups, but it needs immediate attention if we are to maximize the economic, recreational, and subsistence values of moose.

Some of you believe this legislation is a special interest gimmick; well, believe it or not, many guides are genuinely concerned about wildlife conservation, resource use conflicts, impacts on land use, meat salvage, and a regulatory double standard. Conversely, the Alaska Department of Fish and Game position paper downplays the waste issue, threatens revenue loss, speciously uses the fear of a legal challenge to the entire nonresident guide requirement law, and ignores the possibility of a growing conservation problem.

First, wanton waste to any degree is not acceptable. Any change in law or regulation which lowers the probability of game waste should have the departments support. The departments point that wanton waste is not specific to nonresident hunters, is accurate, but fails to recognize that most (75%) are unaccompanied, drop off clients with no experience in packing, handling, and preserving large amounts of game meat. Many have no notion of the physical exertion required to pack a huge bull moose great distances and some wouldn't be able to even tell you where they had hunted.
Once this meat reaches a major airline terminal it is often rotten and abandoned. Useful to no one.

The department estimates it would loose $885,000 in nonresident license and moose tag fees if HB 364 was to pass. This calculation is based on the assumption that 70 per cent of the nonresidents not choosing guide services would hunt elsewhere. I question if it is possible to hunt Alaska/Yukon moose anywhere without a guide? In addition, this 70 per cent figure is a little shaky, because it was derived from the mountain goat experience--- a species that was lightly hunted by nonresidents.

If one combines the percentage of nonresident hunters expected to employ guides with the 30 percent converting to guide services, or 1,652 hunters the annual nonresident pool is reduced by over one half Moreover, in the department position paper it was not demonstrated what guided hunts contribute to the state economy.

By using current costs it is simple to calculate this contribution. An average guided nonresident hunt leaves about $10,585 , including about $1085 in license and tag fees. Using ADF&G figures there

would be about 1652 guided clients contributing about $1,793,320 in license and tag fees, with $15,694,000 into the state economy .

Essentially one guided hunt is equivalent to three unaccompanied nonresident hunts This suggests that it is foolhardy for the state to sell this resource to the lowest bidder Most western states place a higher value on their big game resources.

The department is patently incorrect when it is stated that the nonresident guide requirement for hunting brown/ grizzly bear, Dall Sheep,and mountain goats was based on safety. Title 16 mandates that legislatures must first determine that the requirement is for conservation reasons, and secondarily for safety reasons. Under the departments view point it may not be long before someone challenged the guide requirement law!

It appears that ADF&G welcomes nonresident license and tag revenue, but doesn't wish to actively manage moose populations, providing a reasonable opportunity for these hunters to harvest a moose Unaccompanied nonresident hunters consistently have lower rates of success, which is further exacerbated by the 50 inch minimum moose antler requirement, short seasons, and closed sub-units.

The department fails to admit the 50 inch minimum moose antler requirement is difficult for nonresidents to judge. In fact in areas where the antler requirement effects residents there seems to be an associated problem of undersized, illegal moose kills i.e Kenai Peninsula. It would be a wise conservation move (in the case of nonresidents) to put the responsibility of identification of legal bull moose and salvaging meat in the hands of regulated professionals.

In addition to identifying a legal bull moose and salvaging meat there are other conservation and socially based reasons, under present management goals, to justify the hiring guides by nonresident moose hunters as follows:

1.Hunters are being overly concentrated in those Game Management Units where moose are still relatively abundant, such as G. M.U. 's 19,21, and17 in direct competition with residents

2. Nonresident moose hunters are being dropped off in the few areas accessible to village hunters, directly competing with local residents.

3. Low moose populations and lack of hunting opportunities in adjacent urban areas has led to increasing expansion into distant G.M U.'s , which without active game management will eventually not be capable of sustaining increased hunting pressure

The greatest change in the commercial big game hunting industry in the past 10 years has been the proliferation of transporter operations into the hunter service industry. These operations are now using the same techniques and transport means as guides, but have virtually no regulatory constraints Particularly drop camp operators are not required to account the nonresident hunters salvage of meat, camping fees, or field violations.

This begs the question as to why should one type of operation be highly restricted while another can furnish virtually the same services without need to comply ? This certainly doesn't provide a "level playing field" for competing industries. Eventually without regulatory changes, the transporter services will dominate all hunts except where a guide is required.

Personally, I have all the moose and other hunts that I can handle and must turn away clients every year. Many of my clients first hunt in Alaska was a drop camp experience---which they found unsatisfactory I spend up to $25,000 per year on air charter, seat fares, freight hauls, supercub time, and meat dispersal ; my clients contribute another $20,000 on seat fares, charter, meat hauling, and cape and antler transport. The combined expenditures amount to an average of $2812 per guided hunter, all paid to air taxi services, or about what a combo drop hunt costs. Moreover, once the Part 135 requirement goes into effect, many guides will have to rely on air services or quit guiding. This suggests that conversion to guided hunts may not cause undo losses to the transporting industry

The overcrowding situation in the upland areas of G.M.subUnits 17B and 19B has become chaotic. By mid-August there is a tent camp on virtually every hilltop accessible by wheel equipped aircraft. These camps are left out until late September as drop hunters are rotated. Any semblance of courtesy or ethical behavior has been forgotten in order to accommodate volume business. This phenomenon has progressed to the point where drop camp operators are placing hunters by boat or raft in close proximity to local hunting activity. The permanent structures of one large operation near Sleetmute on the Holitna River mysteriously burned to the ground in the fall of 1997. Rural people are justly asking for some accountability or control of this runaway exploitation.

In conclusion, moose are a highly desired and valuable resource which in the case of commercial service activities should return maximum benefits to the state, residents, and the participating industries Present management practices are based on the ecosystem concept, resulting in minimal harvest goals, and permitting virtually no active management. This leaves only a small segment of many remote moose populations available for human use harvest. Under these conditions nonresident participation in moose harvest should be cautiously limited, and more so as rural and urban resident game demands increase. Therefore, considering previously expressed reasons, a viable alternative would be to pass HB364, resulting in the reduction of nonresident moose hunters, increasing sales of big game tags, and providing millions of dollars more than was previously injected into the state economy

Peter E. K. Shepherd

REPRESENTATIVE
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Fairbanks, Alaska 99701
(907) 456-8161

Alaska State Legislature

While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-2327

House District 31

House Of Representatives

Sponsor Statement

HB 414

Game Management

House Bill 414 provides guidance for the management of game resources in A'aska. The bill requires the Board of Game to establish game population and harvest objectives to promote a high level of harvest by humans.

HB 414 establishes the preferences among beneficial uses of game resources. Personal and family use for human consumption is the highest and best use of game, commercial use, including trapping and guiding are next, and the last preference is for nonconsumptive commercial or noncommercial use of game.

Alaska State Legislature

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House District 31

House Of Representatives

Sectional

HB 414

An act relating to game management.

Section 1. Findings. Explains the public trust responsibility of the state for the management of game resources to ensure they remain available for use by the public. Identifies some of the areas of the state where active management is needed to prevent further damage to citizens dependent on game resources.

Section 2. Adds the sustained yield concept to the existing definition of intensive management.

Section 3. Definitions providing for high levels of harvest for human consumption are intended to assist the Department of Fish and Game and the Board of Game.

"harvestable surplus" includes the growth of a game population, and places harvest by humans on equal footing with predators.

"high level of human harvest" is defined in terms of a hunter success rate of 25% for a given population of game.

"sustained yield" means achieving and maintaining a high level of human harvest.

Section 4. Requires the Board of Game to establish game population objectives and objectives for the harvest by humans.

Section 5. Requires the Commissioner of the Department of Fish and Game to cooperate with the Board of Game in the implementation of regulations, management plans and programs established by the Board of Game.

Section 6. Provides the Department and the Board with clear priorities in the management and uses of Game. The highest and best use of game is for personal and family use for human consumption. The next highest use is commercial use including trapping and guiding, the lowest priority use is nonconsumptive use, commercial or noncommercial.

0-LS1437\H
Utermohle
3/6/98

CS FOR HOUSE BILL NO. 414( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE KELLY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to management of game and to the duties of the commissioner
2 of fish and game."

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

4 * Section 1. FINDINGS. The legislature finds that
5 (1) the state has a duty to its citizens to manage its renewable natural
6 resources, such as game, to maintain the quantity of those resources so they remain available
7 for use by residents of the state;
8 (2) rural and nonrural residents of the state have expressed, in legislative
9 hearings and other public forums throughout the state, concerns about the decline of game
10 populations and the loss of the opportunity to successfully participate in hunting activities;
11 (3) the loss of opportunity to hunt successfully in hunting areas contributes to
12 increased friction and tension between user groups;
13 (4) an abundant supply of game is essential to continuance of the subsistence,
14 personal use, and general hunting lifestyle in the state;

1 (5) an abundant supply of game to provide food for human consumption is
2 essential for residents to maintain their traditional reliance on wild food sources and is best
3 achieved by active scientific management of game populations and habitats;
4 (6) chronically low populations of moose in Interior Alaska have placed
5 economic stresses on residents of the region who have traditionally relied on moose as a major
6 food source; some populations of moose in the Interior region of the state are reported to be
7 only a fraction of the population levels that existed in the 1960s and early 1970s;
8 (7) moose populations in game management units 12, 19C, 19D, 20C, 20D,
9 20E, 20F, 21, 24, 25, and 26 have been reduced to the extent that the welfare of residents of
10 these units and the economic health of these areas have been adversely affected;
11 (8) at the time of statehood for Alaska, the Steese-Forty Mile caribou herd
12 numbered over 60,000 animals and sustained a harvest of thousands of caribou each year; at
13 the present time, the herd numbers about 22,000 animals and has a maximum allocation of
14 150 animals each year for harvest by humans;
15 (9) the Steese-Forty Mile caribou herd is not able to provide for the needs of
16 Alaska residents while the herd is present in Alaska and is rarely available for harvest by
17 humans in the Canadian portion of its range;
18 (10) modern scientific management must be implemented to restore the
19 biological health of the state's game resources.
20 * Sec. 2. AS 16.05.255(g)(2) is amended to read:
21 (2) "intensive management" means management of an identified big
22 game prey population <u>for sustained yield through active management measures</u> to
23 enhance, extend, and develop the population to maintain high levels or provide for
24 higher levels of human harvest, including control of predation and prescribed or
25 planned use of fire and other habitat improvement techniques.
26 * Sec. 3. AS 16.05.255(g) is amended by adding new paragraphs to read:
27 (3) "harvestable surplus" means the number of animals that is estimated
28 to equal the number of offspring born in a game population during a year less the
29 number of animals in the population that die from all causes, other than predation or
30 human harvest, during that year;
31 (4) "high level of human harvest" means the achievement of a

1 minimum rate of success by hunters of at least 25 percent;
2 (5) "sustained yield" means the achievement and maintenance in
3 perpetuity of a high level of human harvest of game, other than mammalian predators,
4 on an annual or periodic basis.
5 * **Sec. 4.** AS 16.05.255 is amended by adding a new subsection to read:
6 (h) The Board of Game shall establish population and harvest objectives and
7 adopt other regulations to promote a high level of harvest by humans of identified big
8 game prey populations.
9 * **Sec. 5.** AS 16.05.270 is amended to read:
10 **Sec. 16.05.270. Delegation of authority to commissioner.** (a) For the
11 purpose of administering AS 16.05.251 and 16.05.255, each board may delegate
12 authority to the commissioner to act on [IN] its behalf.
13 **(b) If a board delegates authority to the commissioner to act on its behalf,**
14 **the commissioner shall cooperate with and assist the board by implementing**
15 **regulations, management plans, and other management programs as requested by**
16 **the board.**
17 (c) If there is a conflict between the board and the commissioner on proposed
18 regulations, public hearings shall be held concerning the issues in question. If, after
19 the public hearings, the board and the commissioner continue to disagree, the issue
20 shall be certified in writing by the board and the commissioner to the governor, who
21 shall make a decision. The decision of the governor is final.
22 * **Sec. 6.** AS 16.05 is amended by adding a new section to article 7 to read:
23 **Sec. 16.05.911. Preferences among beneficial uses of game.** The highest and
24 best use of game is personal and family use for food. The other beneficial uses of
25 game, in order of preference, include
26 (1) commercial use, including trapping and guiding; and
27 (2) nonconsumptive use, for commercial and noncommercial purposes.

HOUSE BILL NO. 414

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KELLY

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to management of game and to the duties of the commissioner
2 of fish and game."

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

4 * Section 1. FINDINGS. The legislature finds that
5 (1) the state has a duty to its citizens to manage its renewable natural
6 resources, such as game, to maintain the quantity of those resources so they remain available
7 for use by residents of the state;
8 (2) rural and nonrural residents of the state have expressed, in legislative
9 hearings and other public forums throughout the state, concerns about the decline of game
10 populations and the loss of the opportunity to successfully participate in hunting activities;
11 (3) the loss of opportunity to hunt successfully in hunting areas contributes to
12 increased friction and tension between user groups;
13 (4) an abundant supply of game is essential to continuance of the subsistence,
14 personal use, and general hunting lifestyle in the state;

(5) an abundant supply of game to provide food for human consumption is essential for residents to maintain their traditional reliance on wild food sources and is best achieved by active scientific management of game populations and habitats;

(6) chronically low populations of moose in Interior Alaska have placed economic stresses on residents of the region who have traditionally relied on moose as a major food source; some populations of moose in the Interior region of the state are reported to be only a fraction of the population levels that existed in the 1960s and early 1970s;

(7) moose populations in game management units 12, 19C, 19D, 20C, 20D, 20E, 20F, 21, 24, 25, and 26 have been reduced to the extent that the welfare of residents of these units and the economic health of these areas have been adversely affected;

(8) at the time of statehood for Alaska, the Steese-Forty Mile caribou herd numbered over 60,000 animals and sustained a harvest of thousands of caribou each year; at the present time, the herd numbers about 22,000 animals and has a maximum human harvest allocation of 150 animals each year;

(9) the Steese-Forty Mile caribou herd is not able to provide for the needs of Alaska residents while the herd is present in Alaska and is rarely available for harvest by humans in the Canadian portion of its range;

(10) modern scientific management must be implemented to restore the biological health of the state's game resources.

*** Sec. 2.** AS 16.05.255 is amended by adding a new subsection to read:

(h) The Board of Game shall establish population and harvest objectives and adopt other regulations to promote a high level of harvest by humans of big game prey populations.

*** Sec. 3.** AS 16.05.270 is amended to read:

Sec. 16.05.270. Delegation of authority to commissioner. <u>(a)</u> For the purpose of administering AS 16.05.251 and 16.05.255, each board may delegate authority to the commissioner to act <u>on</u> [IN] its behalf.

<u>(b) If a board delegates authority to the commissioner to act on its behalf, the commissioner shall cooperate with and assist the board by implementing regulations, management plans, and other management programs as requested by the board.</u>

1 (c) If there is a conflict between the board and the commissioner on proposed
2 regulations, public hearings shall be held concerning the issues in question. If, after
3 the public hearings, the board and the commissioner continue to disagree, the issue
4 shall be certified in writing by the board and the commissioner to the governor, who
5 shall make a decision. The decision of the governor is final.
6 * **Sec. 4.** AS 16.05 is amended by adding a new section to article 7 to read:
7 **Sec. 16.05.911. Preferences among beneficial uses of game.** The highest and
8 best use of game is personal and family use for human consumption. The other
9 beneficial uses of game, in order of preference, include
10 (1) commercial use, including trapping and guiding; and
11 (2) nonconsumptive use, for commercial and noncommercial purposes.

ARTICLE VIII.
NATURAL RESOURCES.

SECTION 1. STATEMENT OF POLICY. It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

SECTION 2. GENERAL AUTHORITY. The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people

SECTION 3. COMMON USE. Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.

SECTION 4. SUSTAINED YIELD. Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

SECTION 5. FACILITIES AND IMPROVEMENTS. The legislature may provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands, and to assure fuller utilization and development of the fisheries, wildlife, and waters.

SECTION 6. STATE PUBLIC DOMAIN. Lands and interests therein, including submerged and tidal lands, possessed or acquired by the State, and not used or intended exclusively for governmental purposes, constitute the state public domain. The legislature shall provide for the selection of lands granted to the State by the United States, and for the administration of the state public domain.

SECTION 7. SPECIAL PURPOSE SITES. The legislature may provide for the acquisition of sites, objects, and areas of natural beauty or of historic, cultural, recreational, or scientific value. It may reserve them from the public domain and provide for their administration and preservation for the use, enjoyment, and welfare of the people.

SECTION 8. LEASES. The legislature may provide for the leasing of, and the issuance of permits for exploration of, any part of the public domain or interest therein, subject to reasonable concurrent uses. Leases and permits shall provide, among other conditions, for payment by the party at fault for damage or injury arising from noncompliance with terms governing concurrent use, and for forfeiture in the event of breach of conditions.

SECTION 9. SALES AND GRANTS. Subject to the provisions of this section, the legislature may provide for the sale or grant of state lands, or interests therein, and establish sales procedures. All sales or grants shall contain such reservations to the State of all resources as may be required by Congress or the State and shall provide for access to these resources. Reservation of access shall not unnecessarily impair the owners' use, prevent the control of trespass, or preclude compensation for damages.

SECTION 10. PUBLIC NOTICE. No disposals or leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

SECTION 11. MINERAL RIGHTS. Discovery and appropriation shall be the basis for establishing a right in those minerals reserved to the State which, upon the date of ratification of this constitution by the people of Alaska, were subject to location under the federal mining laws. Prior discovery, location, and filing, as prescribed by law, shall establish a prior right to these minerals and also a prior right to permits, leases, and transferable licenses for their extraction. Continuation of these rights shall depend upon the performance of annual labor, or the payment of fees, rents, or royalties, or upon other requirements as may be prescribed by law. Surface uses of land by a mineral claimant shall be limited to those necessary for the extraction or basic processing of the mineral deposits, or for both. Discovery and appropriation shall initiate a right, subject to further requirements of law, to patent of mineral lands if authorized by the State and not prohibited by Congress. The provisions of this section shall apply to all other minerals reserved to the State which by law are declared subject to appropriation.

SECTION 12. MINERAL LEASES AND PERMITS. The legislature shall provide for the issuance, types and terms of leases for coal, oil, gas, oil shale, sodium, phosphate, potash, sulfur, pumice, and other minerals as may be prescribed by law. Leases and permits giving the exclusive right of exploration for these minerals for specific periods and areas, subject to reasonable concurrent exploration as to different classes of minerals, may be authorized by law. Like leases and permits giving the exclusive right of prospecting by geophysical, geochemical, and similar methods for all minerals may also be authorized by law.

SECTION 13. WATER RIGHTS. All surface and subsurface waters reserved to the people for common use, except mineral and medicinal waters, are subject to appropriation. Priority of appropriation shall give prior right. Except for public water supply, an appropriation of water shall be limited to stated purposes and subject to preferences among beneficial uses, concurrent or otherwise, as prescribed by law, and to the general reservation of fish and wildlife.

SECTION 14. ACCESS TO NAVIGABLE WATERS. Free access to the navigable or public waters of the State, as defined by the legislature, shall not be denied any citizen of the United States or resident of the State, except that the legislature may by general law regulate and limit such access for other beneficial uses or public purposes.

SECTION 15. NO EXCLUSIVE RIGHT OF FISHERY. No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State. This section does not restrict the power of the State to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the State.

SECTION 16. PROTECTION OF RIGHTS. No person shall be involuntarily divested of his right to the use of waters, his interests in lands, or improvements affecting either, except for a superior beneficial use or public purpose and then only with just compensation and by operation of law.

SECTION 17. UNIFORM APPLICATION. Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation.

SECTION 18. PRIVATE WAYS OF NECESSITY. Proceedings in eminent domain may be undertaken for private ways of necessity to permit essential access for extraction or utilization of resources. Just compensation shall be made for property taken or for resultant damages to other property rights.

ARTICLE IX.
FINANCE AND TAXATION.

SECTION 1. TAXING POWER. The power of taxation shall never be surrendered. This power shall not be suspended or contracted away, except as provided in this article.

SECTION 2. NONDISCRIMINATION. The lands and other property belonging to citizens of the United States residing without the State shall never be taxed at a higher rate than the

Alaska State Legislature

SENATOR
BERT SHARP

DISTRICT P

CO-CHAIRMAN
SENATE FINANCE COMMITTEE

MEMBER
RESOURCE COMMITTEE

Senate

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January 14, 1998

Alaska Department of Fish and Game
Game Board Support Section
P.O. Box 25526
Juneau, AK 99802-5526

PLEASE REGARD THIS AS OFFICIAL TESTIMONEY FOR THE FOLLOWING BOARD MEETING AND DISTRIBUTE TO EACH BOARD MEMBER:

Re: Bethel Game Board Meeting - Under Proposed Topics - Intensive Management, including Definitions (pages 2-5)

Attn: Game Board Members

I wish to comment on Proposal 4 - 5 AAC 92.990. DEFINITIONS. Each of these definitions are seriously flawed. First and the most erroneous is the shortcomings of the "Harvestable Surplus" definition.

How in God's name can you define harvestable surplus by not including the largest harvesters of all predation. Are not the animals taken by predators not harvested?

Is the Department and the Board acknowledging that they will do nothing to manage the level of predator harvest of big game prey populations? To put forward a definition of "harvestable surplus" that is based only on allowable human harvest is to ignore the harvest of 85 to 90 percent of the actual total harvest.

Harvestable surplus must be arrived at by including the pluses, newborn animals, less the natural die off estimate. The result is the harvestable surplus that is then subject to allocation goals by the Board to human harvest, predator harvest and herd size enhancement if needed.

I strongly urge that the Board adopt the following definition:

"harvestable surplus" means the estimated number of animals that is equal to the number of offspring born in a game population during the year less the number of animals in the population that die during the year from all causes other than predation or human harvest.

To adopt the Department's proposal would be a charade and legitimize future abdication of management responsibilities for controlling predator prey harvest, resulting in justifying total harvest allocation to predators in times of scarcity.

Next, the "Harvest Objective" definition is not needed. What is needed is a definition of "high level of human harvest" as this is the term presently in statute AS 16.05.255(g)(2) and which begs for definition. I urge the adoption of the following in lieu of the Department's proposed harvest objective:

"high level of human harvest" means the harvest of one-quarter or more of the harvestable surplus of a game population by humans.

Last, the Department's "Population Objective" definition should not be considered. The following definition should be adopted to be consistent with existing statute and constitution terminology:

"sustained yield" means the achievement and maintenance in perpetuity of a high level of human harvest of game, other than mammalian predators, on an annual or periodic basis.

The adoption of the above three definitions that I have proposed will provide clear, consistent, meaningful direction and more closely conforms to the present laws of our state and the intent therein.

Sincerely,

Senator Bert Sharp

Alaska Department of Fish and Game
Boards Support Section
P.O. Box 25526
Juneau, AK 99802-5526

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To Pete	From Bill
Co.	Co.
Dept. Info	Phone #
Fax #	Fax #

Bill Hager
Registered Guide
431 Gaffney Rd
Fairbanks AK 99701

ALASKA BOARD OF GAME
WINTER 1998 MEETING
Jan. 17 - 21, 1998
Bethel, AK

(Option 1) the population is accessible to a human population capable of utilizing at least 50 percent of the estimated harvestable surplus
(Option 2) the average historic harvest has been at least 50 percent of the harvestable surplus;

3. utilization for meat: a population that is used primarily for food; and
4. level of hunter demand: as reflected by total hunter effort, number of applications for permits or other indicators;

(b) establish population objectives and harvest objectives for each identified big game prey population consistent with maintaining near maximum sustainable yield from the population, taking into consideration:

1. effects of weather, habitat capability, diseases and parasites;
2. maintenance of viable predator populations;
3. maintenance of habitat conditions suitable for non-target species;
4. effects on subsistence users;
5. cost, feasibility and potential effectiveness of possible management actions;
6. land ownership patterns within the range of the population; and
7. degree of accessibility to harvest;

(c) consider that depletion of a big game prey population or reduction of the productivity of a big game prey population has occurred when:

(1) the harvestable surplus is less than the "harvest objective" for the population, and
(2) the population size is less than the "population objective for the population";

(d) determine whether a finding under (c) of this section may result in a significant reduction in the allowable human harvest of the population; and

(e) not consider as significant:

(1) any reduction in taking that continues to allow a level of harvest equal to or greater than the minimum harvest objective established by the board, or
(2) any reduction in taking that is intended or expected to be of a short-term and temporary nature and is necessary for the conservation of the population.

ISSUE: The board is directed by AS 16.05.255 (e) to adopt regulations providing for intensive management of identified big game prey populations when the following three criteria exist:

(1) consumptive use of the big game prey population is a preferred use;
(2) depletion of the big game prey population or reduction of the productivity of the big game prey population has occurred and may result in a significant reduction in the allowable human harvest of the populations; and
(3) enhancement of abundance or productivity of the big game prey population is feasibly achievable utilizing recognized and prudent active management techniques.

The first step the board must take to implement this statutory mandate is to identify the ungulate populations that are important for providing high levels of human consumptive use. The four criteria identified in this proposals relate directly to the importance of a population to humans for consumption.

The second step is to establish the population objectives and harvest objectives, or human consumptive use goals of the board. The board believes the legislature's intent in adopting AS 16.05.255(e)-(g) is to mandate the board to provide for management of identified big game prey populations near the maximum sustainable yield for human consumption. The proposed

regulation identifies the factors the board will consider in establishing objectives consistent with this intent.

To implement the law, the board must also determine whether an identified big game prey population is depleted or its productivity is reduced. However, "depletion" and "reduction" are both relative terms. To determine whether a population is "depleted" or the productivity is "reduced" requires a comparison between the current size or productivity level and some pre-established standard. To ensure the consistent application of the law, the board is establishing a uniform framework for making these comparisons. Given the relationship between the intensive management law and harvest for human consumptive use from identified big game prey populations, these standards should relate to the size and available harvest from the population.

AS 16.05.255(f), restricts the board's authority to adopt any regulations that will "significantly reduce the taking of an identified big game prey population" unless certain actions are taken or certain circumstances apply. The statute provides no guidance as to what constitutes a "significant" reduction. To provide consistency, yet allow the board sufficient flexibility to establish regulations as appropriate, the board needs to adopt standards for how it will determine what does, or does not, constitute a "significant" reduction in allowable take.

This proposal specifies the board will not consider "significant" any reduction in harvest that fails to lower the take below the minimum established board harvest objective. Similarly, the board will not consider "significant" those reductions that may impose a harvest less than the minimum harvest objective, but which are intended and expected to be temporary, such as may be necessary to reduce the taking of antlerless moose for one or two years to allow a population to rebound following a severe winter. The board may consider significant those reduction in harvest due to regulations designed to result in a harvest less than the minimum established harvest objective for a prolonged or indefinite period of time. See also Proposal 4.

WHO WILL BENEFIT: Everyone will benefit from consistent application of the statute.

WHO WILL SUFFER: No one.

OTHER SOLUTIONS CONSIDERED: Do not adopt a consistent approach for implementing the law. This was rejected as both inefficient and prone to litigation.

PROPOSED BY: Alaska Department of Fish and Game and Department of Law at the request of the Board of Game (HQ-98W-G-042)

****

PROPOSAL 4 - 5 AAC 92.990. DEFINITIONS. Adopt the following definitions to apply to implementation of AS 16.05.255(e)-(g):

( ) "Harvestable Surplus" means the number of animals, estimated by the department, that can be removed by human harvest from a population or portion of a population on an annual basis without reducing the population below the population objective, preventing growth of the population toward the population objective at a rate set by the board, or altering the composition of the population in a biologically unacceptable manner.

(_) "Harvest Objective" is the human consumptive use goal set by the board in consultation with the department, and means the number of animals to be made available for human harvest from a population or portion of a population on an annual basis.

(_) "Population Objective" means the desired size of a population or portion of a population, set by the board in consultation with the department.

ISSUE: Regulations proposed to implement AS 16.05.255(e)-(g) use these terms to provide clear guidance to the board, department and public with respect to intensive management of identified big game prey populations. These definitions explain what each term means and who (i.e., department or the board) is responsible for determining the number, or range of numbers. These definitions are needed to ensure consistent application of the law and to provide sound management planning and action. Population and harvest objectives will generally be established as a range to provide high levels of human consumptive use. See also Proposal 3.

WHAT WILL HAPPEN IF NOTHING IS DONE: Without clear definitions, the board's application of the statue may be inconsistent.

WHO WILL BENEFIT: Everyone will benefit from clear, consistent definitions.

WHO WILL SUFFER: No one.

OTHER SOLUTIONS CONSIDERED: Adopt the definitions into statute. This was rejected as the terms defined are used in regulations, therefore, the definitions should be in regulation.

PROPOSED BY: Alaska Department of Fish and Game and Department of Law at the request of the Board of Game (HQ-98W-G-043)

****

PROPOSAL 5 - 5 AAC 92.005(2)(3)(4). POLICY FOR CHANGING BOARD AGENDA. Amend this regulation as follows:

...

(2) ... a request must be sent to the executive director [DEPUTY DIRECTOR] of the boards support section [DIVISION OF BOARDS] at least 45 days before a scheduled meeting...

(3) the executive director [DEPUTY DIRECTOR] shall attempt to obtain comments...

(4) ... the executive director [DEPUTY DIRECTOR] shall notify the public...

ISSUE: In 1994 the Division of Boards became the Boards Support Section, with corresponding changes in staff titles. This proposal is a housekeeping proposal to reflect those changes in the regulations.

WHAT WILL HAPPEN IF NOTHING IS DONE?

WHO IS LIKELY TO BENEFIT?