

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9661 SENATE RESOURCES

The subsistence task force need to hold hearings in the Villages. A lot of times laws are passed with very small input from the people who will have the most impact.

The directions and principles layed out at Alaska Native Subsistence Summit also warned against compromising anymore of our cultural life style. I think Alaska Native stands together and listen to our elders.

Submitted By:

Gideon James
Venetie / Arctic Village

A handwritten signature in black ink, appearing to read "Gideon James", written in a cursive style.



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resource
 Committee on Subsistence Committee Name Dated 9-24-97
Bill / Subject

This subsistence issue is a very discriminatory issue. We all are entitled to hunt and fish in the State of Alaska on state & federal lands. People choose to live where they live and special preference for rural residence is not right. I feel this law should be challenged to the Supreme Court based on discrimination. A bad federal law should be challenged.

SIGNED: David Jones
 Testifier

Myself
 Representing

504 C Street FBk. AK 99701 907-452-2597
 Address / Phone Number

Members
Senate Resources Committee

P.O. Box 81452
Fairbanks, AK 99708
(907) 455-7882 phone/fax
September 22, 1997

Dear Committee Members:

U.S. Supreme Court Justice Antonin Scalia in a majority opinion wrote that "the federal government may not compel the states to enact or administer a federal regulatory program" (Printz and Mack vs. United States) based on 10th amendment protections of state sovereignty over intrastate affairs. Nevertheless, this is precisely what our unresponsive congressional delegation and the Clinton and Knowles administrations are attempting to force us to do with the discriminatory rural subsistence preference.

As the former director of wildlife conservation for Alaska and a citizen sincerely concerned with fair allocation and conservation of Alaska's fish and game resources, I urge the Alaska Legislature to make the following changes to the subsistence task force's proposed subsistence "solution". I believe changes are necessary to ensure social harmony and adequate resource protection in the future. The changes address racial neutrality throughout the proposal, fish and game conservation protections and practical consequences of the proposal.

Constitutional Amendment

If the legislature sends a constitutional amendment to the voters, that amendment should provide for a preference rather than a priority, and the consideration of eligibility factors such as personal nutritional need and regional economics in addition to simple rural residency. It should also specifically prohibit the consideration of race, either directly or indirectly, as a basis for subsistence preference.

Statutory Changes

The terms "customary and traditional" should be deleted from state and federal definitions of reasonable opportunity proposed by the task force. Federal Judge Holland has ruled that "customary and traditional" is the standard for providing a subsistence preference, and that has been applied to mean essentially no seasons, bag limits or individual harvest reporting requirements. It has led to instances of localized overharvests, unacceptable harvesting practices and other abuses. Examples include excessive seasons and harvests of moose and caribou near Lime Village and herd shooting at concentrations of wintering deer from boats in Southeast. Jacklighting deer at night, road hunting, shooting swimming animals and running animals down with snowmachines have also been described as "customary and traditional" practices. It has also been argued that obtaining harvest permits and reporting of harvests are not "customary and traditional" and should not be required for subsistence hunters. Clearly, seasons, bag limits, restrictions of methods and means and harvest reporting are necessary conservation tools and must not be jeopardized by including "customary and traditional" in definitions of what constitutes reasonable opportunity for subsistence taking.

In Section 16.05.258 the definers "human consumptive" should be inserted before "subsistence use" wherever used to clarify that the subsistence preference is only for human nutrition and not for dog food or other intangible or lesser uses. It would be grossly unfair to

restrict one group of Alaska hunters or fishermen from harvesting for personal consumptive use so that other Alaskans can have a preference for other uses.

The role and composition of the new unnecessary regional subsistence councils are egregious. No new quasi-regulatory bodies are needed and certainly should not have the power to keep regulation proposals generated by the public from being presented to the Boards of Fisheries and Game. Mandating that 7 of the 10 members of such councils represent subsistence and tribal council interests is grossly unfair and racially discriminatory.

If needed at all, I suggest the councils be named simply regional fish and game advisory councils, their role be limited to resolving and considering intra-regional issues, and their members be the chairmen of all local fish and game advisory committees within each region. Funding for these federally required councils should be provided by the federal government, certainly not from state fish and game and Federal Aid in Sportfish and Wildlife Restoration funds needed for sportfish and game management.

Consideration of liberalizing already liberal provisions for proxy taking of fish and game is inappropriate at this time and changes are not needed to bring state law in compliance with federal law. The entire proxy section should be deleted from the task force's proposal and debated later if necessary. New section (g) is particularly alarming, extending subsistence hunting and fishing opportunities to urban members of rural families, and allowing proxy taking for people regardless of age or physical ability to harvest for themselves. Current laws adequately address real compelling needs for proxy taking. The task force members agreed not to include issues not needed to restore state management. This section clearly violates that pledge.

Allowing continued federal bureaucratic oversight of Alaska's fish and game management programs and extending that, along with federal judicial authority, to all lands and waters in Alaska is an invitation to future disaster. This isn't state management as accorded to the other 49 states, but, rather, Alaska state government managing according to ever changing federal dictates. Amendments to ANILCA must include specific provisions for extinguishing federal oversight and judicial intervention in Alaska's affairs if Alaskans pay the great price of weakening our constitutional protections. Otherwise, Alaska will have gained nothing of lasting value for our sacrifice.

Any solution package must include changes in federal laws to ensure Alaska does not become ineligible to receive Pittman-Robertson, Dingall-Johnson and Wallop-Breaux federal funds currently supporting a majority of sportfish and game management programs in Alaska. Alaska receives about \$20 million annually in such funds. If the federal government is requiring compliance with federal subsistence laws, it should also hold Alaska harmless from withholding of our traditional federal matching funds.

These are important issues I have identified. There will be others I have overlooked. If you find merit in these suggestions, I would be pleased to provide more detail.

Respectfully,

David G. Kelleyhouse



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the _____
 Committee on _____ Dated _____
 Bill / Subject

Dear Representatives Hudson and Ogan:

I support the following principles regarding subsistence:

- Full state management *without* federal oversight
- No racially or culturally based preference
- Individual needs-based subsistence eligibility
- Effective regulation and no commercial sales
- No erosion of state constitutional protections
- _____

Thank you for your help in protecting all Alaskan's privileges to hunt and fish.

Sincerely,

Signature
 Printed Name
 Address

Jack Kness

 Jack Kness

 1500 Airport Way

 FBKS, AK 99709

SIGNED:

Jack Kness

 Testifier

Self

 Representing

 FBKS, AK 456-5317

 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources
 Committee on Subsistence Committee Name
Dated 9-25-97
 Bill / Subject

I oppose the Governor's plan on subsistence as it gives preferential use of the fish and wildlife resources of Alaska which belong equally to all the residents of Alaska to individuals based on place of residency, culture, and/or ethnic background.

I oppose any change to the Alaska State Constitution concerning the management and use of fish and wildlife resources which would give any individuals or group preferential treatment over others.

I have hunted and fished all of my life and I consider this activity to be a customary and traditional part of my lifestyle every bit so as that of Alaskan Natives. My father hunted and fished all of his life, as did his father before him, and his father before him, and so forth. I sincerely hope that my son will be able to carry on the family tradition of hunting and fishing.

I have lived in Alaska for 29 years and fish and game make up a good portion of my family's diet. As a resident of the State of Alaska I believe I should receive the same treatment under the law as any other resident of the State of Alaska. I and my family should not be discriminated against based on race, culture, or place of residency in the state.

Dennis A. Knutson

SIGNED:

Dennis A. Knutson

Testifier

Dennis A. Knutson Family

Representing

844 Baggins Rd., Fairbanks, AK, (907)457-3113

Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Commit Resources
Committee Name
 Committee on Substance Dated 9-24-97
Bill / Subject

as alaskans we are all equal.
 no matter where we live.
 I appose any change to our
 constitution.

SIGNED: Dennis Lewis
 Testifier
Fairbanks
 Representing
1371 Woll Rd. North Pole AK 99705
 Address / Phone Number 488-8987



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources

Committee on Subsistance Committee Name Dated Sept. 24, 1997
Bill / Subject

To change the current laws to give a preference to ANYONE, including the rural community, would be blaitant and unlawful DISCRIMINATION! We are all ALASKANS ? foremost AMERICAN people who believe and trust in our CONSTITUTION! Leave the law the way it is, we are all equal!

SIGNED:

Angela Fuststad
Testifier

Fairbanks

Representing

3010 Riverview Drive / Fbks AK / 474-9689

Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the _____

Committee on Subsistence Task Force : Dated 9/24/97

Committee Name

B : / Subject

SIGNED:

Rosemarie Martell-Greenblatt
Testifier

self -
Representing

PO Box 83298 FBKS. 99708
Address / Phone Number

Testimony by

Rosemarie Martell-Greenblatt
P.O. Box 83298
Fairbanks, AK 99708

I would like to comment on the proposal before Alaska.

First, the Task Force has painted a picture of federal take over as the worst of all scenarios. Should this be true, what that may mean to me, is I would not be able to hunt or fish in Alaska. I am not happy.

By forcing a constitutional amendment you have chosen a path where only a small portion of Alaskans will be able to feed their families and use the renewable consumable resources of this State. I live and work in Fairbanks amidst a bountiful population of subsistence resources. A rural priority on subsistence means that I would not be able to hunt and fish in Alaska. I again, am not happy.

I do not agree with a rural subsistence priority. It is a violation of my rights. Given the fact that the Governor's Task Force has never wanted to address the rights of urban Alaskans, the focus now must be on the rights of the minority.

As many others who speak here today I can speak all day and tell you what not to do. The task ahead is difficult. I do have ~~two~~ three suggestions:

First, keep in mind that in the eyes of many there already is a rural priority for subsistence in this state. Vast amounts of private property in and around rural villages are rightfully only open to shareholders. Even larger tracts of land are placed in exclusionary zones. The Department of Fish and Game has effectively closed off many parts of rural Alaska by the exclusion of many forms of transportation. The creative methodology that makes up the Tier II program is an example.

Secondly, when you do rewrite our Constitution and Statutes please do not close the door on urban Alaska. My children need to have a future of opportunities. Trying to keep the definitions unbiased and flexible will be difficult. Granted you may be stuck with a bad job but please don't make it worse by making this a racial issue.

Lastly, the proposed changes to ANILCA may appear to totally limit Mr. Babbitt control over subsistence in Alaska. While the intention may be honest, the language presented by Mr. Knowles is only a proposal. The good people of the State of

Alaska have first hand experience of quality of Mr. Babbitt's word. Ask any Alaskan with a federal mining claim or patent application.

The Governor's Task Force is selling this State a bill of goods where the fine print has not yet been written. I am skeptical and untrusting of the outcome but we must start somewhere.

Thank you for the opportunity to comment on such an important heartfelt issue.



ALASKA STATE LEGISLATURE

RECEIVED

OCT 02 1997

Please enter into the record my testimony to the Senate Resources
Committee Name
 Committee on Subsistence Dated 9-25-97
Bill / Subject

I oppose the Governors plan
 I strongly support the Alaska outdoor councils
 recommendations
 I oppose any change to the Alaska constitution
 Hunting and fishing are my favorite pasttime
 I have been hunting and fishing since I was little
 I hunt and fish every year and I have lived here
 for 15 year

SIGNED: Michael Mar
 Testifier

Representing
3771 Erickson Fairbanks AK 99709
 Address / Phone Number

1/4

Testimony by:

John A. Miller
1260 March Dr.
Fairbanks 99709

State Senate Resources Committee Hearing, 9/24/97

Senator Stevens and Governor Knowles have been very effectively bludgeoning much of the opposition into submission. The momentum for the surrender they demand seems to be building. My position until recently has been total opposition to any form of subsistence preference for a selected group of us based on politically motivated and unquantifiable criteria. Perhaps I should accept the inevitability of some form of subsistence preference.

If there is to be a preference it should be narrowly defined to apply only to food for personal and family consumption (no selling, no barter). It should only apply in areas where there are few nutritional alternatives and only to individuals with a demonstrated history of use in that area. It should not apply to all members of a group - especially a racial group. Subsistence should be tightly and consistently regulated like any other consumptive use of wildlife, not the current anything-goes system prevalent today.

The use of "rural" as the sole qualifying criteria is grossly unworkable and unfair. It will give the privilege to many with no real need, economic or spiritual, and deny it to many others with a long history of dependence. To say that every resident of

Barrow, with the highest per-capita income in the State, gets the preference regardless of history, background or need and nobody in Fairbanks does, is just not acceptable.

And it can't be done using economic need either, in my view. Aside from the hopeless bureaucratic nightmare of attempting to define this need in economic terms and then police the system, is the fact that subsistence has little to do with economics anyway.

Some of the most passionate and effective explanations of the deeply felt need to participate in wildlife oriented consumptive uses have come from Native advocates. They often describe the philosophical and emotional rewards from participating in these activities, how they are intrinsic to their "culture" and how the quality of their lives would be severely diminished if they were denied these opportunities. I plead that as you struggle to devise solutions you understand that there are many Alaskans, who are neither Native nor rural, who have similar feelings. We have a long history of wildlife oriented consumptive uses, we feel it is an important part of our culture and we feel our culture is just as valuable and just as important as anyone else's. Please do not abandon us. If there must be this division, please leave something for us.

There has been exaggeration on both sides about the effect of the proposed rural-only system. Native interests characterize the situation as their rights and opportunities to participate in

subsistence activities are somehow eliminated if they don't get this preference. This is certainly not the case. They are afforded great deference under the current State system of allocation. In practice, the current regulatory system consists of little more than the Board of Game scrambling as quickly as they can to change regulations to ensure that actual practices in rural Alaska, as reported in the studies by the ADF&G Subsistence Division, are not illegal. There are numerous preferences in place, such as access restrictions, meat handling requirements, etc. that are specifically designed to make it difficult or impossible for non-rural hunters to utilize vast areas of the State. The Board is quick to establish new ones at the slightest whine. And these are in addition to the huge areas around and between villages that are privately owned and off-limits to other than their owners.

Urban interests characterize the situation as leaving nothing for them once the rural preference is fully implemented. This is also overstatement - at least for the short term.

However, since even under the existing State administration the subsistence preference has been interpreted to mean that all rural "needs" must be satisfied before any non-rural participation will be allowed, I think we non-rural residents have much more to fear. It would be inevitable that in all but the most remote areas of the State, or in very heavily utilized fringes of major urban areas, a subsistence preference would

eliminate meaningful participation by anyone but those qualifying as rural. The vast majority of the opportunity to utilize this public resource would be reserved for a small, privileged minority".

I really would like to be able to offer helpful suggestions on how this situation might be resolved. I fear I have failed to offer anything other than what NOT to do. I'm sorry, but I just can't see any way a subsistence preference can be extended to some subgroup of Alaskans in a way that is fair and consistent. I still feel very strongly that doing so violates the most basic of the principles upon which our society is supposed to be based.

If you go through with this, one can only hope that right-thinking people in South Africa will reciprocate the assistance they received in their struggle against apartheid - and boycott all things Alaskan.

Thank you for considering my views.



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the SENATE RESOURCES
 Committee Name
 Committee on Subsistence Dated 9.25.97
 Bill / Subject

I oppose the Governor's plan on subsistence and strongly support the Alaska Outdoor Councils recommendations on this issue.

Regarding any changes to the Alaska Constitution I am, like most Alaskans opposed to even the thought of any change.

I am 46 years old and have been a resident for 32 years. I am the father of 2 (both born in AK) and enjoying the thrill of fly fishing I enjoyed as a child should be enjoyed by them. My Mother now deceased was a Alaskan and I've always considered myself the same.

I take my children fishing up to 10 times per year and can only hope someday soon they will experience the types of fishing I had in the 1960's

SIGNED:

Michael J. Miller
 Testifier

Representing

117 Glenview Way Fairbanks 99712
 Address / Phone Number

Ph. 907.457.5530



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources
 Committee on Subsistence Committee Name Dated 9-24-97
Bill / Subject

This type of legislation will lead to yet another form of discrimination. Because I choose not to live a bush lifestyle I should not be discriminated against by not being able to hunt, trap, or fish to feed myself or my family. We are all Alaskans we should all have equal rights.

SIGNED:

[Signature]
Testifier

Fairbanks
Representing

Box 82909, 455-8633
Address / Phone Number



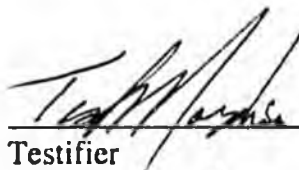
ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the SENATE RESOURCES
 Committee on SUBSISTENCE Committee Name
 Dated 9-24-97
 Bill / Subject

BUSH life style A CHOICE, AND JUST BECAUSE I HAVE CHOSEN
 to live in a city, I SHOULD NOT BE PREVENTED ~~KEY~~ FROM HAVING
 THE SAME HUNTING AND FISHING RIGHTS AS THE NEXT ALASKAN.

I AM OPPOSED TO ANY CHANGE OR AMMENDMENT TO THE
 STATE CONSTITUTION.

SIGNED:



Testifier

A.D.C. / TED MORPHIS

Representing

3811 ERICKSON #1 FBKS. AK. 99709 / 907-479-9771
 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources
 Committee on Subsistence Committee Name
 Dated 9-24-97
 Bill / Subject

Your time on this issue is not waisted.

① I am disappointed in the lack of notification to the public, the decision on where the meeting was held and the timeliness of the scheduled meeting - "During the hunting season when most interested + affected parties are out participating in Subsistence"

Do Not Change or Amend the State Constitution. I encourage you to make changes in the Federal Law, to accomodate the State Constitution, Do not take away my rights to my way of life as a 3rd generation Alaskan

SIGNED: Tracy Morplus
 Testifier
Tracy Morplus - Fairbanks Resident
 Representing
3211 Erickson Ave #1 Fairbanks AK 99709
 Address / Phone Number
1479-1771 452 5282WK



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources
 Committee on _____ Committee Name
 Committee on Subsistence Dated 9/25/97
 Bill / Subject

Dear Representatives Hudson and Ogan:

I support the following principles regarding subsistence:

- Full state management *without* federal oversight
- No racially or culturally based preference
- Individual needs-based subsistence eligibility
- Effective regulation and no commercial sales
- No erosion of state constitutional protections
- Strongly Support the Outdoor Council's recommendations

Thank you for your help in protecting all Alaskan's privileges to hunt and fish.

Sincerely,

Signature
 Printed Name
 Address

James Neary
James Neary
5151 Denathlin Ave
FBKS AK 99709

SIGNED: _____
 Testifier

 Representing

 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Substance
 Committee on Substance Committee Name Dated 9-24-97
Bill / Subject

As Alaskans we are all equal
 and must be treated as such.
 Do not pit us against one another
 over this issue.

Thank you

SIGNED: Carl E. Nicholas
 Testifier

Jill
 Representing

1239 Health Act, FBAS, AK 99712
 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources
 Committee on Subsistence Committee Name
Bill / Subject Dated 9/24/87

I to am an Alaskan Resident,
 I oppose what certain residents,
 are trying to change subsistence laws
No way — its for every body —

SIGNED:

Ed Nichols
 Testifier

[Signature]
 Representing

Box 75081 Fairbanks 99707 4517275
 Address / Phone Number




ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources
 Committee on SUBSISTANCE Committee Name
Bill / Subject Dated 7-24-97

I feel that what is trying to
 be done to us is nothing but
~~the~~ false and it will ~~cause~~ nothing
 but ill feeling between this state
 when we should all be treated equal.
 NO! to changing the STATE CONSTITUTION!

SIGNED:


 Testifier MICHAEL J. NICHOLSON

Representing

4752 GLASGOW DR #2 451-6007
 Address / Phone Number 835 AK



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources
 Committee on Subsistence Committee Name
 Dated 9/25/97
Bill / Subject

- 1). I am opposed to the Governor's ~~plan~~ plan on the subsistence issue
- 2). I strongly support the Alaska Outdoor Council's recommendations
- 3). I'm opposed to any change in the Alaska Constitution
- 4). Hunting & fishing are important to me and I'm as entitled to share in the same resources as the next person, rural, native or whatever - This is the U.S.A. - "ALL MEN ARE CREATED EQUAL"
- 5). I've lived in Alaska 13 years and the U.S.A. all my life

SIGNED: Charles P. Perrin Jr.
 Testifier
Myself & and many other Alaskans
 Representing
1066 Propwash Dr., FBKS., AK. 99709
 Address / Phone Number
907-455-6275



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources
Committee Name
 Committee on Subsistance Dated 9-25-97
Bill / Subject

I strongly oppose the govenors plan.

I strongly support the Alaska Outdoor Councils recommendations.

I oppose any change to the Alaska Constution

I have been an alaskan for 31 years
 I consider my self a native of Alaska
 myself and my two young sons hunt
 or fish all the time. I feel I have
 as much right to hunt + fish as any
 one regardless of nationality or location
 of residence

SIGNED:

Demar Perry
 Testifier

The Perry Family
 Representing

3592 Lakeview Drive
 Address / Phone Number

Fairbanks Alaska 99701



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Dep. at Resource
Committee on Subsistence Committee Name
Dated 9-23-97
Bill / Subject

I do not believe that one group of Alaskans should have hunting & fishing rights which take precedence over another group of Alaskans throughout the whole state. Subsistence areas should be limited as they are presently.

SIGNED: Gary Pitsenberger
Testifier

Myself
Representing
PO Box 81927 - 855 Chenathills
Address / Phone Number
Fbks Alaska 99708
907-479-6072



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources Committee
 Committee on subistence Committee Name Dated 9/25/97
Bill / Subject

AS A hunter, fisherman and trapper, I strongly oppose the Governor's plan on subsistence. As a resident of Alaska for 21 years, I have raised two children in Fairbanks on game meat, fish and subsidized my income with fur that I have trapped. To give fish and game priority over one group to another alienates my rights as an American citizen guaranteed by the Constitution that all men are created equal. Many American citizens have given their lives in foreign wars to insure these rights remain. I support the Alaska Outdoor Council's recommendations and will continue to do so. My wife was born and raised in Fairbanks and grew up on game meat and fish that was harvested by an "urban hunter," gatherer. People who rely on eating game meat cannot tell if it was harvested by an urban or rural hunter. Our rights as Alaskan residents should not be infringed upon by the state and Federal government's ideas that all men are not created equal.

SIGNED: Steve Potter
 Testifier

Potter Family
 Representing

202 Kordy Dr. FBKS, AK 99701
 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources
Committee Name
Committee on Subsistence Dated 9-25-97
Bill / Subject

- 1.) I oppose the governors plan.
- 2.) I support the Alaska Outdoor Councils recommendations.
- 3.) I oppose any change to the Alaska Constitution
- 4.) My family and I have been hunting and fishing in Alaska for 20+ years.
- 5.) I feel all Alaskans should be treated equally when it comes to Alaskas Fish & Game.

SIGNED:

Kevin J. Small

Testifier

Representing

315 Biaz Dr Fairbanks AK 907-457-6390
Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House
 Committee on Subsistence Committee Name
Bill / Subject Dated 9-25-97

Dear Representatives Hudson and Ogan:

I support the following principles regarding subsistence:

- Full state management *without* federal oversight
- No racially or culturally based preference
- Individual needs-based subsistence eligibility
- Effective regulation and no commercial sales
- No erosion of state constitutional protections

Thank you for your help in protecting all Alaskan's privileges to hunt and fish.

Sincerely,

Signature
 Printed Name
 Address

Kevin J. Purcell
Kevin J. Purcell
315 Bies Dr
Fairbanks AK 99712

SIGNED:

 Testifier

 Representing

 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources
 Committee on Subsistence Committee Name Dated 9-24-97
Bill / Subject

I don't believe that the constitution
 amendment should be changed for legalizing rural
 subsistence over all other alaskans. no matter
 where we may live we all have the right
 to live off the land — our land!

SIGNED:

Beth Grayson - Curtis

Testifier

Representing

P O Box 83307 E6KS . AK 99708

Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the SENATE RESOURCES
 Committee on SUBSISTENCE Committee Name
 Dated 7/25/97
 Bill / Subject

I OPPOSE THE GOVERNOR'S PLAN
 I STRONGLY SUPPORT THE ALASKA OUTDOOR COUNCILS
 RECOMMENDATIONS
 I OPPOSE ANY CHANGE TO THE ALASKA CONSTITUTION
 I HAVE LIVED IN ALASKA FOR 14 YRS COMING FROM
 THE MIDWEST. MY FAMILY GREW UP HUNTING + FISHING
 ITS PART OF OUR HERITAGE. I FEEL I SHOULD HAVE
 THE SAME RIGHTS TO HUNT AND FISH AS ANY ONE ELSE
 IN THE STATE. MY GRAND CHILDREN WERE BORN HERE
 I CONSIDER THEM TO BE NATIVE ALASKANS - ONE OF THEM
 IS 1/4 NATIVE.

I HUNT DURING CARIBOU AND MOOSE SEASONS. I
 BEAR HUNT, BIRD HUNT, DUCK HUNT. I START PLANNING
 HUNTS IN AUG + SPRING BEAR HUNTS. I FISH FOR HALIBUT
 IN HOMER - SILVERS + PINKS IN VALDEZ - REDON THE COPPER
 MOUNTAINS - FISH OUT OF MONTNEY HO?
 SPRINGS - FOR PIKE - GRAYLING + SALMON. THIS WAS MY
 MAIN REASON FOR MOVING HERE - FOR HUNTING + FISHING
~~with~~ without over regulations

SIGNED:

Testifier

SELF

Representing

3899 CRESENT DR. North Pole AK. 488-0510
 Address / Phone Number

Sam ✓



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resource Committee
Committee Name
 Committee on Task Force on Subsistence Dated Sept 24, 1997
Bill / Subject

I am Harding Sam representing Alutias Village Council.
 My concern is subsistence is a Rural Issue that the Rural people live & why are all the hearings held in urban places.
 Subsistence issue
 Moratorium - It has been on the table for 16 years. Why has this issue taking so long to resolve?
 This issue is not one that I hope to pass on to my children.
 If this issue can't be resolved - why is it not put on a ballot, so the people will decide on it.

SIGNED: Harding Sam
Testifier
Alutias Village Council
Representing
PO Box 109 Allakaket, Alaska 99720
Address / Phone Number

September 24, 1997

Senate Resources Committee
Alaska State Senate

re: Subsistence Hearing, September 24, 1997,
Butrovich Building, University of Alaska at Fairbanks

Dear Members of the Senate Resources Committee,

My name is Pat Saylor; I am from the village of Healy Lake. In 1995 I engaged in a potlatch hunt to take moose for a potlatch in honor of my uncles and aunts. I was charged by the state with hunting out of season. I went to court to fight this charge. Eventually the Governor extended a pardon to me. However, five of my relatives were also charged for engaging in traditional subsistence hunting. My relatives agreed to a plea bargain with the prosecutor to receive a lighter sentence. My five relatives are now convicted "felons", permanently impaired in their civic life and greatly hampered in the job market: they can not even work for Doyon with such a conviction.

In my relatives were engaged in traditional hunting. We were not acting "lawlessly". There are very strict rules governing potlatch hunting and other traditional hunting, and the care of the wildlife and the meat. Potlatch hunting gives identity and builds character for the young men and women involved, it is a rite of passage into adulthood in our culture. The hunting is done for others, tying the community together through ceremony; there is no waste. Our hunters are growing older: fewer and fewer young people are being given the opportunity to be trained in potlatch hunting and in the care and preparation of the potlatch moose.

To Native Alaskans subsistence is not just a supplement to a job, or a replacement for welfare benefits. Subsistence is the foundation of our culture and at the basis of our identity: both our community and individual identities. Any subsistence scheme must recognize that subsistence is a cultural community right.

Native subsistence has rules, traditional rules known and enforced by traditional communities. These rules cannot realistically be understood and enforced by anyone except the Native communities. Any subsistence scheme must recognize the essential Native role in the development and enforcement of hunting and fishing rules in Alaska. There is an absolute need for a co-equal role for Native communities in the federal, state, and tribal co-management of Alaska's wildlife and fish resources.

Thank you for considering these comments.

Patrick Saylor
Healy Lake, Alaska
rep. Patrick E. Saylor

THOMAS N. SCARBOROUGH
1676 TAROKA DRIVE
FAIRBANKS, ALASKA 99709
(907) 479-3412
FAX (907) 479-6602

September 23, 1997

Testimony before the Senate Resources Committee

Title: It's not about Subsistence

My first introduction to the Subsistence issue was in 1976 when reading the early drafts of what was to become Public Law 96-487 known as the "Alaska National Interest Lands Conservation Act" (ANILCA). I have vivid memories of those early drafts and the accompanying maps. Almost all of the State north of the Alaska Range was in some type of conservation area. This included Fairbanks. All known mineralized lands were to be off limits. Subsistence was a Native only preference. The goals established at that time by the Elitist Environmentalist's are still in place but put on a different time schedule. To accomplish what they want requires that their opposition be fragmented to a point where it has no political clout.

As those of you who were in the thick of the battle over ANILCA up to the fall of 1980 will remember, natural resource issues, including hunting and fishing, were at the foreground of the issues of interest to we Alaskans. Alaska had put in place its own Subsistence statutes in 1978 at the request of Senator Stevens, but we were not to be trusted as Senator Stevens had Title VIII inserted into the final draft of ANILCA. This assured that Alaska could not repeal the Subsistence Statutes. Alaska was then saddled with a impossible situation which has continued for 17 years. This debacle had now cost we Alaskans millions of dollars and will likely cost much more.

In 1982 an Initiative was placed on the Ballot to repeal State Statutes on Subsistence. I was a prime sponsor. This Initiative failed as we Alaskan's had not yet felt the true effects that were intended. We have yet to truly understand or feel the real effects of Subsistence as detailed in Title VIII, however we are getting closer. I believe once the true effects are better understood, we Alaskan's will have nothing to do with the Title VIII Subsistence. Those most supportive of Subsistence back in 1980 are very aware of this and are now some of the strongest supporters of delaying and are supporting returning to a phony concept of State Management. More about this latter.

It is interesting to note just who is supporting the concept as advocated by Gov. Knowles. The only non-native group supporting the Gov. Knowles concept is his Task Force (which contains no one with a history of Subsistence opposition). Of course the Governor's staff is supporting his plan, but they must do this to maintain their employment. Then there is Senator Stevens, Senator Murkowski, and Rep. Young who have long forgotten that they were sent to Washington to represent Alaska and now represent the Federal Government interests instead. Senator Stevens has now taken the arrogant position of "King Stevens" and is demanding that a solution be brought to him that violates one of the most basic principles of the United States and Alaska's Constitutions, that being Equality.

Thomas N. Scarborough Testimony: It's not about Subsistence cont.

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.

As is readily apparent, all laws concerning use or disposal of natural resources shall apply equally to all persons similarly situated. As all Alaska Residents are similarly situated concerning ownership, the Legislature is again prohibited from granting special Subsistence rights.

The granting of Priority Rights to Alaska's renewable natural resources (it must be noted that ANILCA is not limited to fish and wildlife) must be considered the largest theft ever contemplated in the State of Alaska. To transfer the use and control of Alaska's renewable natural resources to an estimated 15% minority is simply not going to be acceptable to we Alaskans.

Gov. Knowles is advocating a return to State management. However this will be a State management compatible Title VIII of ANILCA. The management concepts in Title VIII are very different than that mandated in the Alaska Constitution wherein it states:

ARTICLE VIII, SECTION 4

Fish, 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.

Title VIII of ANILCA, Section 802 states:

It is hereby declared to be the policy of Congress that -

- (1) Consistent with sound management principles, and the conservation of healthy populations of fish and wildlife ---consistent with management of fish and wildlife in accordance with recognized scientific principles ---

In order to be in compliance with ANILCA, the State of Alaska will have to resolve this conflict in management principles. The State of Alaska will be in a no win situation. The State will be in non-compliance of either the Alaska Constitution or Federal Law and be back to square one no matter which way it goes. The litigation on this issue may will allow 10 or more years of Federal management and achieve the exact desires of those supporting Priority Subsistence management by the Federal Government.

There is another problem with Priority Subsistence State management and that is funding. The funds that are used to pay for the management services of the Division of Wildlife and Sport Fisheries comes from resident and non-resident fees and from Federal taxation programs. It is no secret that very few hunting licenses are purchased in the rural areas. No subsistence fishing license is required. Therefore the license fees come from the urban areas and from non-residents (80% of dollars are non-resident). By preventing and or restricting these groups of hunters and fisherman from participating in the harvest of fish and wildlife will have a dramatic effect on funds available to match Federal funds. The problem even gets greater as it appears the Federal monies from Pitman-Robertson and Dingle-Johnson programs can not be legally used for

CORRECTION

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



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

THOMAS N. SCARBOROUGH
1676 TAROKA DRIVE
FAIRBANKS, ALASKA 99709
(907) 479-3412
FAX (907) 479-6602

September 23, 1997

Testimony before the Senate Resources Committee

Title: It's not about Subsistence

My first introduction to the Subsistence issue was in 1976 when reading the early drafts of what was to become Public Law 96-487 known as the "Alaska National Interest Lands Conservation Act" (ANILCA). I have vivid memories of those early drafts and the accompanying maps. Almost all of the State north of the Alaska Range was in some type of conservation area. This included Fairbanks. All known mineralized lands were to be off limits. Subsistence was a Native only preference. The goals established at that time by the Elitist Environmentalist's are still in place but put on a different time schedule. To accomplish what they want requires that their opposition be fragmented to a point where it has no political clout.

As those of you who were in the thick of the battle over ANILCA up to the fall of 1980 will remember, natural resource issues, including hunting and fishing, were at the foreground of the issues of interest to we Alaskans. Alaska had put in place it's own Subsistence statutes in 1978 at the request of Senator Stevens, but we were not to be trusted as Senator's Stevens had Title VIII inserted into the final draft of ANILCA. This assured that Alaska could not repeal the Subsistence Statutes. Alaska was then saddled with a impossible situation which has continued for 17 years. This debacle had now cost we Alaskans millions of dollars and will likely cost much more.

In 1982 an Initiative was placed on the Ballet to repeal State Statutes on Subsistence. I was a prime sponsor. This Initiative failed as we Alaskan's had not yet felt the true effects that were intended. We have yet to truly understand or feel the real effects of Subsistence as detailed in Title VIII, however we are getting closer. I believe once the true effects are better understood, we Alaskan's will have nothing to do with the Title VIII Subsistence. Those most supportive of Subsistence back in 1980 are very aware of this and are now some of the strongest supporters of delaying and are supporting returning to a phony concept of State Management. More about this latter.

It is interesting to note just who is supporting the concept as advocated by Gov. Knowles. The only non-native group supporting the Gov. Knowles concept is his Task Force (which contains no one with a history of Subsistence opposition). Of course the Governor's staff is supporting his plan, but they must do this to maintain their employment. Then there is Senator Stevens, Senator Murkowski, and Rep. Young who have long forgotten that they were sent to Washington to represent Alaska and now represent the Federal Government interests instead. Senator Stevens has now taken the arrogant position of "King Stevens" and is demanding that a solution be brought to him that violates one of the most basic principles of the United States and Alaska's Constitutions, that being Equality.

Thomas N. Scarborough Testimony: It's not about Subsistence cont.

The Constitution of the State of Alaska states:

ARTICLE I. DECLARATION OF RIGHTS

SECTION 1. INHERENT RIGHTS

This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

SECTION 15. PROHIBITED STATE ACTION

No law impairing the obligation of contracts, and no law making any irrevocable grant of special privileges or immunities shall be passed.

From the above stated provisions of the Constitution of the State of Alaska it is clear that the granting of a special priority of Subsistence Rights to any group by the Legislature is forbidden. It then appears that Gov. Knowles ploy of amending the Constitution by adding a new Section 19 granting this right to the Legislature is doomed to failure as it is inconsistent with Section's 1 and 15.

Equality is one of the basic God Given Rights that this Nation is founded upon. It is ironic that we have a Governor and a Congressional Delegation that are willing to place Alaska as the first State that begins the destruction of this basic Right by amending it's Constitution. The Revolutionary War, Civil War, World War I and World War II were fought because of the violation of this basic Right. In addition the Federal Law called The 1964 Civil Rights Act forbids the violation of an individuals rights as advocated by Gov. Knowles and Senator "King" Stevens.

The Constitution of the State of Alaska is very clear that the natural resources are reserved for common use by the Residents of Alaska. This mandates a Public Trust responsibility upon the Legislature. This responsibility can not be taken lightly as all of the natural resources of the State of Alaska are jointly owned by each Resident. The value of these renewable and non-renewable resources is in the Billions of Dollars and are worth much more that the Permanent Fund as it is not renewable.

ARTICLE VIII. NATURAL RESOURCES

SECTION 3. COMMON USE

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

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.

Thomas N. Scarborough Testimony: It's not about Subsistence cont.

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.

As is readily apparent, all laws concerning use or disposal of natural resources shall apply equally to all persons similarly situated. As all Alaska Residents are similarly situated concerning ownership, the Legislature is again prohibited from granting special Subsistence rights.

The granting of Priority Rights to Alaska's renewable natural resources (it must be noted that ANILCA is not limited to fish and wildlife) must be considered the largest theft ever contemplated in the State of Alaska. To transfer the use and control of Alaska's renewable natural resources to an estimated 15% minority is simply not going to be acceptable to we Alaskans.

Gov. Knowles is advocating a return to State management. However this will be a State management compatible Title VIII of ANILCA. The management concepts in Title VIII are very different than that mandated in the Alaska Constitution wherein it states:

ARTICLE VIII, SECTION 4

Fish, 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.

Title VIII of ANILCA, Section 802 states:

It is hereby declared to be the policy of Congress that -

- (1) Consistent with sound management principles, and the conservation of healthy populations of fish and wildlife ---consistent with management of fish and wildlife in accordance with recognized scientific principles ---

In order to be in compliance with ANILCA, the State of Alaska will have to resolve this conflict in management principles. The State of Alaska will be in a no win situation. The State will be in non-compliance of either the Alaska Constitution or Federal Law and be back to square one no matter which way it goes. The litigation on this issue may will allow 10 or more years of Federal management and achieve the exact desires of those supporting Priority Subsistence management by the Federal Government.

There is another problem with Priority Subsistence State management and that is funding. The funds that are used to pay for the management services of the Division of Wildlife and Sport Fisheries comes from resident and non-resident fees and from Federal taxation programs. It is no secret that very few hunting licenses are purchased in the rural areas. No subsistence fishing license is required. Therefore the license fees come from the urban areas and from non-residents (80% of dollars are non-resident). By preventing and or restricting these groups of hunters and fisherman from participating in the harvest of fish and wildlife will have a dramatic effect on funds available to match Federal funds. The problem even gets greater as it appears the Federal monies from Pitman-Robertson and Dingle-Johnson programs can not be legally used for

Thomas N. Scarborough Testimony: It's not about Subsistence cont.

Subsistence management. This means that the funds will have to come from General Fund monies.

It should become clear by now that the State of Alaska is in a no win situation if it goes the route charted by Gov. Knowles.

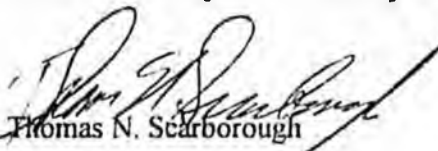
It should now be very apparent that there is something very wrong with the relationship between the State and Federal Governments concerning resource management. Our nation was organized wherein the Federal Government was to be subservient to the States. This is clearly spelled out in the Tenth Amendment. However, we now have the situation wherein the Federal Government has taken on the aspects of a very over weight undisciplined child and the parent (States) have failed in their parenting. At this late stage in the child development, correction will be very painful. The choice is quite clear as what must be done, but the will power to do it is in grave question.

The Legislature must clearly declare that the State of Alaska will not tolerate this Federal interference with the natural resource management authority granted with Statehood. Alaska was admitted on an equal status in accordance with Article IV, Section 3 of the U. S. Constitution. We therefore should be treated as equals to the other 49 states. Alaska simply must stand up for it's rights. Since we have a Governor that either does not understand this or is unwilling to comply with his Oath of Office, then it falls to the Legislature to take on this responsibility. Other Western States have already pioneered this battle and are winning. If Alaska wishes to continue to be called a State, then there is no choice, other wise we will be nothing more than another agency (Territory) under Federal management. One needs only to look at the disaster of the Washington D. C. management and know what will happen here.

The only remaining question is does the Legislature as a collective body have the will power to do what is necessary? This is a turning point in our future. Your decision will determine if we are to be a responsible Parent (State) or submit to further abuse and ultimate destruction by actions of this undisciplined Child (Federal Government).

It will be your decision whether Alaskans are forced to choose to accept an Apartheid provision of discrimination in Alaska's use and management of our renewable natural resources. I can assure you that a Priority Subsistence amendment will quickly become known as the Apartheid amendment. This time, those of us who believe the Alaska Constitution means what it says will not be so timid and will call a spade a spade.

I have faith that you will honor your Oath of Office to uphold the Constitution of Alaska.


Thomas N. Scarborough



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resource
 Committee on Subsistence Committee Name
Bill / Subject Dated 9-25-97

I strongly support the Alaska
 outdoor councils re commendation.

I Oppose any changes to the
 Alaska Constitution!!!

SIGNED:

Gary Seaman
 Testifier

Representing
421 Haines ave FBKS AK 99701
 Address / Phone Number 907 452-5835



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources
 Committee on Subsistence Committee Name Dated 9-25-97
Bill / Subject

I OPPOSE THE GOVERNORS PLAN ON
 SUBSISTENCE

I STRONGLY SUPPORT THE ALASKA OUTDOOR
 COUNCILS RECOMMENDATION

I OPPOSE MAKING ANY CHANGES TO THE
 ALASKA CONSTITUTION

I HAVE LIVED IN ALASKA FOR 23 YEARS
 and Hunt and Fish all year long. I
 use this TO HELP SUPPORT MY FAMILIES
 we eat the fish we catch and animals
 we hunt

SIGNED:

Charles E. Stahl
 Testifier

Representing

P.O. Box 56627 North Pole
 Address / Phone Number

Senate Resources Committee

Ladies and Gentlemen, thank you for the opportunity to testify. My name is Mike Tinker. I live with my wife and son in Ester, Alaska, a non-rural community. In my limited time today, I would like to testify on a couple of issues of concern about the proposed changes to Alaska's Subsistence Laws.

Process:

I am very concerned about the proposed overhaul of the fish and game Board, Advisory Committee, and Regional Council structure for evaluating and adopting regulations. The existing process, utilizing 80 plus local advisory committees to provide citizen input, is cumbersome but it works. Adding another layer of review, with subsistence issues having virtual veto power over everything else, will both complicate and lengthen the process. It is difficult to be responsive to field conditions now, and would be worse under the proposal. The changes to the process are for show and won't add quality to our decision making. All of you here today realize that our written regulations are too long and complex. We need regulations that are easy to understand and short.

Language:

We have developed new and confusing terms in the language used to describe the issues of subsistence. Since subsistence activities are only loosely tied to sustenance, nutrition, tradition, livelihood, customs, etc.; the terms are used interchangeably. Some are defined in Statute, some are not. I fear that the proposed language insures work for the next three generations of lawyers. We could discuss the following terms all night and never understand each other: "customary and direct dependence", "mainstay of livelihood", "substantial deference". In some cases definitions go part way (i.e., pause) Leaving us hanging, waiting for some understanding, like the first part of this sentence. For example,

customary and traditional are related to "taking or use over a long time". Is ten years a long time, thirty years, three hundred years? How far can we come from the Alaska Constitution's Declaration of Rights, Article 1, Section 1 which says in part, ". . . That all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State." Doesn't that mean that the rural resident Alaskan is also obligated to protect the rights of the ~~rural~~^{urban} Alaskans? Is the Administration proposing to change our first stated Inherent Right?

Looking ahead:

The subsistence portions of ANILCA and our Statutes are fatally flawed and will be an enormous problem for the next generation or two of Alaskans. If we're trying to fix the problem, let's be far-sighted not myopic. For example, we have some real and some perceived shortages of subsistence resources, right now, in rural Alaska. What happens when the population of rural Alaska doubles or quadruples? Will the proposed changes provide a basis for using resources then? One change says in part, ". . . the amount of fish and game permitted to be taken for subsistence uses in an area or community shall not be increased . . . (in this case as a result of proxy hunting)". The intent is clear, already limited resources should not be further exploited by the subsistence law.

However, between 1991 and 1997 the full time resident population of the Northwest Arctic Borough grew 8%, the North Slope Borough grew 16%. In 25 years, or basically one generation those numbers would show an increase of 40% and 80% respectively. Full time, rural residents. Qualified, as proposed, to participate in subsistence activities. How does this proposal address the rapidly inflating population of rural Alaska? Why would the Alaska Legislature and the Alaska Public vote to change the constitution without insuring a formula that would provide for the future?

Our Use of Subsistence Resources:

My family has lived in Alaska since 1962. I consider that one generation, my children were born and raised here. Since infancy, they have participated in subsistence activities by joining their mother and me in hunting, fishing and gathering activities. We have eaten fish and game as the "mainstay" or our diet for that entire time. Certainly we have access to alternate food sources but we prefer and have a family tradition of using Alaska's resources.

My son, Owen, was born in 1971 here in Fairbanks. By age 5 he had already canoed on what would become Alaska's wild rivers, fished for grayling and lake trout for our table, picked berries and helped gather firewood as best a little helper can. At age 6, Owen was diagnosed as having Duchene's Muscular Dystrophy. That fatal disease, which affects the muscles, was predicted to end his life by his late teen years.

Owen is now 26. Although in a wheelchair since age 9, he is student at UAF studying computers. His doctors tell us that he is holding his own even though he is 10 years beyond his expected lifespan. He is one of the oldest living Duchene's victims in the United States. Owen believes as deeply as any person can that he is still alive because of his lifestyle and especially his diet. He has always preferred and eaten caribou. His doctors agree that the lean meat has been a definite benefit in his living as long as he has.

We are Non-Rural Alaskans. How important do you think it is to my family that we be able to utilize the resources that this proposal seeks to reserve for rural residents?

On behalf of my family, I urge you to turn down this proposal.

Mike Junker
Box 25289
Estero, AK 99725
907-479-2561



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources
 Committee Name
 Committee on Subsistence Dated 9-25-97
 Bill / Subject

I oppose the Governor's Plan

I strongly support the Alaska outdoors councils
 recommendations

I oppose any change to the Alaska constitution

SIGNED:

Lita A. Torgerson
 Testifier

Representing

P.O. box 84346 FBKB AK 99708
 Address / Phone Number 457-2025



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources
Committee Name
 Committee on Subsistence Dated 4/24/97
Bill / Subject

I oppose changing our state Constitution to comply with a very discriminatory Federal law. Drawing discriminatory lines in state law between rural and urban people is the last thing this state needs.

Fish and Game Utilization can be dealt with under existing regulation with access restrictions to hunting areas via aircraft and the "Tier" hunting permit system. Constitutional changes are not needed.

I fear more onerous restrictions on our freedoms to utilize the natural resources of our state once our Constitution recognizes one groups rights over another.

SIGNED: Timothy Woller
 Testifier

Se/A
 Representing

460 McKinley View Drive Ft. Belknap AK 99712
 Address / Phone Number

907-457-5896 or 479-6747



ALASKA STATE LEGISLATURE

SENATE RESOURCES COMMITTEE

Official Business

State Capitol
Juneau, AK 99801

Chairman: Senator Rick Halford
Vice Chair: Senator Lyda Green
Senator Loren Leman
Senator Bert Sharp
Senator Robin Taylor
Senator John Torgerson
Senator Georgianna Lincoln

AGENDA
2:00 TO 8:00 p.m.
Thursday, September 25, 1997

Interim Hearing on Subsistence

Wasilla City Council Chambers
290 E. Herning, Wasilla

I. Presentation of the Governor's Subsistence Task Force Proposal

Expected Witness:

Robert Bosworth, Deputy Commissioner, Dept. of Fish & Game

II. Public Testimony on the Governor's Subsistence Task Force Proposal

NEXT MEETING

Friday, September 26

Kenai Borough Assembly Chambers
144 N. Binkley, Soldotna

ADJOURN



Official Business

COMMITTEE:

SENATE RESOURCES

DATE:

Subject of meeting: #1

INTERIM HEARING ON SUBSISTENCE

SIGN-IN

PLEASE PRINT!

NAME	ADDRESS (MAILING) & (ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Tim Schuerch ("SHIRK")	P.O. Box 256 Kotzebue, AK 99752	(907) 442-7621	Manilaq Association (10 native villages in NANA region)	YES
BRUCE KNOWLES	P.O. BOX 873206 WASHILLA AK 99687	907-745-4945	SELF	YES
JIM HERMAN	P.O. Box 451 PALMER AK	907-745-	3558 SELF	YES
Rob TKACZ	2 MARINE WAY #217 JUNEAU 99801	463-52153	AK FISHERMAN'S JOURNAL	NO
Bill Miller	P.O. B 870151 WASHILLA AK 99687	907 376-5636	SELF	MAYBE
Gynthia Lopez	2649 FOREST PKD 99517	278-8861	Self	Maybe
Peter M. Probasco	P.O. Box 861, Palmer AK 99665	745-3182	AOC	YES
Harry Wassink	1340 W 3RD A Anchorage AK 99503	274 8485	Self	Yes
Warren E. Olson	5961 Orth Circle Anchorage AK 99516	346 4440	Self	Yes
Lee Tackett	600 S. Alaska Palmer	745 3370	ME	YES



Official Business

COMMITTEE:

SENATE RESOURCES

DATE:

SIGN-IN

Subject of meeting: #2

INTERIM HEARING ON SUBSISTENCE

PLEASE PRINT!

NAME ADDRESS (MAILING) & (ZIP) PHONE REPRESENTING DO YOU WANT TO TESTIFY?

Table with 5 columns: NAME, ADDRESS (MAILING) & (ZIP), PHONE, REPRESENTING, DO YOU WANT TO TESTIFY?. Rows include: Dean Babcock, Mary Babcock, JC "Bud" Smith, Kathleen Harms, Steve Miller, Duane Anderson, Holly Gerlach, Robert Hall, Gene Straatmeyer, Kerry Hondl.



Official Business

COMMITTEE:

SENATE RESOURCES

DATE:

SIGN-IN

Subject of meeting:

#3

INTERIM HEARING ON SUBSISTENCE

PLEASE PRINT!

NAME ADDRESS (MAILING) & (ZIP) PHONE REPRESENTING DO YOU WANT TO TESTIFY?

Table with 5 columns: NAME, ADDRESS (MAILING) & (ZIP), PHONE, REPRESENTING, DO YOU WANT TO TESTIFY?. Rows include: AL DONER, JAMES GARHART, DAN CROWSON, ROB HOZT.

September 25, 1997

Mark W. Gordon
HC01 6131 AB
Palmer, AK 99645

Gordon
RECEIVED
SEP 26 1997
AHS d.....

Senate Resources Committee
P.O. Box 670190
Chugiak, AK 99567

Ladies and Gentlemen:

When I first heard of this subsistence problem at least a dozen years ago, like most Alaskans, I felt that there should be a dominant patent to harvest fish and wildlife ensured to the appropriate wilderness entities. I no longer feel this way.

All these years of debate have exposed both the good will and the selfishness of the participants of all sides of this issue.

For example, at a recent subsistence celebration event promoted by native groups a doctrine was released to the public. It espoused the belief that subsistence was primarily native based, not rural based. Urban natives should enjoy the same subsistence priority that rural natives should. Then, amazingly, the last point stated that subsistence is a basic human right.

I failed to perceive any inkling that the author may have considered the possibility that I and other non-natives might be human too.

I am of creole cajun descent. Both sides of my family went to California during the Depression/WWII era. My father's side came from a subsistence lifestyle in the bayou.

I was born in Los Angeles. When I was young we moved to a growing suburb in Orange County, escaping city life for a newer, safer environment. But we were just the first. Waves of social and cultural refugees followed us to Orange County. I hated it. When I graduated in 1974 at the age of seventeen I successfully urged my parents to sign a consent form so I could enlist in the Army with a guarantee of station in Alaska. Within two years I had met and married a local girl of the Matanuska Valley. I have rarely eaten beef or purchased poultry or fish since then. We eat our own homegrown

greens and vegetables along with harvested moose, caribou, venison, salmon, halibut, clams, trout, berries, and homegrown apples.

But look at the Valley now. Again, I was just among the earlier social or cultural refugees. I have been followed. I am not happy with this "progress".

So this population growth I did not want justifies giving someone else "more rights" than me on public lands? That land is no more theirs than mine or the taxpayers in Gary, Indiana.

And the basic truth demonstrated by my life experience?: Like my parents before me and the refugees who followed me, we are but grains of sand on the beach. They will keep coming. You cannot stop them.

If someone negates my subsistence lifestyle because I live in Palmer, and guarantees someone else's because they live in the Bush, I will move to the Bush.

I bet I will just be among the first. I will be followed.

It's interesting how forbearing our federal delegation was after federal authorities stole game management authority over federal lands a few years ago. They insisted that Alaskans needed to reach consensus over a solution. Their patience seemed to run out quick when the feds were set to steal authority over fisheries. There are more big-dollar entities involved with fisheries.

As a personal use/subsistence fisherman, I have been completely disgusted with state management of fisheries. Federal management won't be any better, but it can't get worse (can it?).

Frankly, I don't fear federal management. Their subsistence priority law will not stand constitutional challenge any better than state subsistence law withstood state constitutional challenge. Proponents of constitutional amendment betray their fear of U.S. Supreme Court challenge.

And, further, since so few remain content with federal management of anything, what goes around will be very certain to come back around, anyway. As ridiculous as AOC official Rod Arno's suggestion of succession sounds to many, we should all be concerned that it sounds like a just and inevitable solution to the subsistence issue as well as many other problems.

If the feds want more rope, give it to them. We can marvel at the creative noose the entangle themselves with.

The disaster regarding this devil-may-care approach is the "Balkanization" of our people. Resentment and hatred will grow. This is what central planning has achieved for all the peoples of the world.

Leave the state constitution alone. Congress itself approved it, along with its common use clause, in 1959 with the Alaska Statehood Act.

Although I believe the whole intent and black-letter of ANILCA is illegitimate, the subsistence clause is simply and clearly a violation of the spirit of equal access guaranteed by the Fourteenth Amendment of the U.S. Constitution. It is also an illegal affront to the rights of states guaranteed by the Tenth Amendment of the U.S. Constitution.

It should not and will not stand.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mark E. ...". The signature is written in dark ink and is positioned below the word "Sincerely,".

Soldotna



Teleconference

DATE: Sept. 26, 1997

SPONSOR: State Resources

TIME: START 12:50p END _____

Subsistence

TCN# 70909

PLEASE PRINT

NAME (PLEASE PRINT)	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP CODE	(H) PHONE	(W) PHONE	TESTIFYING	WHAT SUBJECT OR BILL?
BOB PENNEY	CISCO	937 KEYSTONE		262-5782		X N	
BOB PENNEY	SELF 7 G/KIDS	" "		" "		Y N	
JIM REARDEN	Self	413 E. Lee Drive, Homer	99603	235-8543	Same	(Y) N	Subsistence OIK
Dy Waide	Self	937 Keystone		262-5782	Same	Y (N)	
HERMAN FANDEL	FAMILY	702 LAWTON DRIVE, KENAI	99611	283-4501		(Y) N	OIK
Jess Shantz	Kenaitze Indian Tribe			262-465	283-3633	Y (N)	
FRANK RUIE	ADFELT	-			465-6141	(Y) N	
Blair G. Zullo	KENAITZE	BOX 1057 KENAI	99611	716-5250		Y N	SUBSISTENCE
Ronald Patterson	KENAITZE	1803 CROW CT KENAI	99611	283-2636	283-3633	(Y) N	SUBSISTENCE
Becky Hurlberg	Self	35501-B Kenai Spur Hwy. ^{CDH.}	99609	283-6275	283-3355	(Y) N	Subsistence OIK (Grant)
						Y N	

(1)



Teleconference

SPONSOR: SRES

DATE: 9-26-97

TIME: START _____ END _____

TCN# 70909

NAME (PLEASE PRINT)	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP CODE	(H) PHONE	(W) PHONE	TESTIFYING		WHAT SUBJECT OR BILL?
						Y	N	
BYRON L. BONDURANT	SELF	HCI Box 1258 Soldotna	99669	262-1691		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
BETTY BONDURANT		"	"	"		<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Sam Kaser	self	Box 151 Sterling	79672			<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Marcy Ann Mills	self	Box 143, Sterling, AK.	99672	262-5403		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
John Dahman	Self	Box 39428 Ninilchik, AK.	99639	567 9327		<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Eljio Mendez	Self	618 Fir Kenai AK 99611		283-3633		<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Lita Haggan	^{at the} Bridges Trail	BH Box 7190	99611	283-1432		<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Susan Ross	SELF	P.O. Box 198 Kaslof	99610	2-5479		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	

(2)

Vertical text on the right margin, possibly a page number or reference.



Official Business

COMMITTEE:

SENATE RESOURCES

DATE: 9-26-97

SIGN-IN

Subject of meeting:

INTERIM HEARING ON SUBSISTENCE

#3

PLEASE PRINT!

NAME	ADDRESS (MAILING) & (ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Dennis N. Randa	Box 3055 99669	262 9494	Self & family	YES
Dw Johnson	Box 876 SOLDOTNA 99610	262 7823	SELF	YES
L. L. Lewis	P.O. Box 403 KASLOV AK	262-1370	SELF	YES
MEL KROGSENG	PO Box 3913 Soldotna AK	262-2671	ALASKA Sportfish Recovery Assoc	Yes
SEYMOUR MARVIN MILLS	P.O. Box 51 Sterling, Alaska	262-9289	SELF	YES
Ascom Hett	POB 3139 Kenai AK	283-5808	Cong delegation	NO
Rob Massingill	P.O. Box 2107, Kenai, AK	283-0781	Family	NO
Bruce Draper	312 W Riverview Soldotna	2-5970	self	NO
CASEY SULLIVAN	1417 INLET FL. Anch.	211 3725		<u>NO</u>
Ch Robert Cun Merchant	4c 2 Bx 9506 Soldotna	282-9447	family	NO

+



Official Business

COMMITTEE:

SENATE RESOURCES

DATE: 9-26-97

SIGN-IN

Subject of meeting: #4

INTERIM HEARING ON SUBSISTENCE

PLEASE PRINT!

NAME

ADDRESS

(MAILING) & (ZIP)

PHONE

REPRESENTING

DO YOU WANT TO TESTIFY?

Tim E O'Brien	Hci Box 1376 Kenai, 99601	776-2781	SELF ^{not} ver	YES
Roberta O'Brien	LI LI	LI LI	" "	NO
RADY GILLETTE	Box 631 KENAI, AK.	260-3080	SELF	NO
CLAY ROARK	Box 2294 SOLDOTNA AK	285-5068	SELF	NO
Daniel O'Brien	Box 7257 Nikiski, AK 99635	776-3480	SELF	NO
Ron Dolchall	Box F3 Kenai AK 99611	3-5955	Self	YES
Bob Kintzels	P.O. Box 3313 Kenai	283.7187	SELF	NO
Sam Brow	Box 1161 Sol Ak 99649	2627984	Self	no
HANK EVERY	Route 1 Box 970	776-8603	Self	YES
W.T. MANEK	322 N. FIREWOOD	262-8893 776	SELF	YES



Official Business

COMMITTEE:

SENATE RESOURCES

DATE: 9-26-97

SIGN-IN

Subject of meeting: #5

INTERIM HEARING ON SUBSISTENCE

PLEASE PRINT!

NAME ADDRESS (MAILING) & (ZIP) PHONE REPRESENTING DO YOU WANT TO TESTIFY?

Peary Mullen	355 Lingomberry, Soldotna	262-9225	self	YES
Elaina Spraker				
Bob Krogseng	Box 3913, Soldotna AK 99669	262-2671	self	YES
Jim TURNER	P.O. Box 603 NIMILCHIK, AK 99633	567 3662	SELF	NO
Robin Turner	Box 2752 Soldotna	262 4888	self	NO
LARRY DAVIS	Box 3721 SOLDOTNA 99669	262-6171	SELF	No
Pepper Johansen	HC1 Box 1513-10 Kenai	252-1004	Self	YES
Sean Wilson	618 Fir St P.O. Box Kenai AK 99611			NO
Stephanie Wilson	" " "			No
Paul A. Shadura #	P.O. Box 1632 - Kenai AK 99611	262-1771	SELF	No
James J. Wilson	618 Fir Street Kenai, AK 99611	283-2716		No
Nicole J. Tozzi	618 Fir st. Kenai AK 99611	283-3716		No.



Official Business

COMMITTEE:

SENATE RESOURCES

DATE: 9-26-97

Subject of meeting: #6

INTERIM HEARING ON SUBSISTENCE

SIGN-IN

PLEASE PRINT!

NAME ADDRESS (MAILING) & (ZIP) PHONE REPRESENTING DO YOU WANT TO TESTIFY?

Table with 5 columns: Name, Address (Mailing) & (ZIP), Phone, Representing, and Do You Want to Testify? containing handwritten entries for various individuals like Bill Phillips, Dan Haskins, Pat Hawkins, etc.



Official Business

COMMITTEE:

SENATE RESOURCES

DATE:

SIGN-IN

Subject of meeting: #7

INTERIM HEARING ON SUBSISTENCE

PLEASE PRINT!

NAME	ADDRESS (MAILING) & (ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
JOSEPH E. GOUD	Box 7086 Nikiski AK. 99635	776-8995	Self	YES
DICK HAHN	PO BOX 2754 Soldotna AK 99669	262-8575	Self	No
GEORGE A. WALTERS	Box 2221 Juneau AK. 99801	790-5521	SELF	No
BEN ELLIS	P.O. Box 1228 SOLDOTNA 99669	262-8584	Kentzi River Sportfishing Assoc.	YES
WILL JOSEY	PO BOX 881 STERLING, AK 99672	262-7305	SELF	NO
ROBERT SCOTT BYRNE	HCI BX 1365 Soldotna 99669	262-4798	SELF	NO
LES PALMER	Box 631 STERLING, AK 99672	262-7788	SELF	YES
JANET PALMER	Box 631 STERLING, AK 99672	262-7788	SELF	NO
JOHN EFTA	Box 353 99611	3-5899	SELF	NO
MARK WEIGNER	PO BOX 709 STERLING 99672	262-7840	SELF	NO



Official Business

COMMITTEE:

SENATE RESOURCES

DATE: 9-26-97

SIGN-IN

Subject of meeting: #8

INTERIM HEARING ON SUBSISTENCE

PLEASE PRINT!

NAME ADDRESS (MAILING) & (ZIP) PHONE REPRESENTING DO YOU WANT TO TESTIFY?

Table with 5 columns: Name, Address (Mailing) & (ZIP), Phone, Representing, and Do You Want to Testify? containing handwritten entries for various individuals.



Official Business

COMMITTEE:

SENATE RESOURCES

DATE: 9-26-97

SIGN-IN

Subject of meeting:

#9

INTERIM HEARING ON SUBSISTENCE

PLEASE PRINT!

NAME	ADDRESS (MAILING) & (ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Don Melendy	PO Box 3723 48400 Prinnial Ave	2-3723		No
James E. Johnson Amye K. Johnson	Box 3774 Soldotna	262-5357		yes
Chandy Silwante Randy Silwante	Box 443 99669 Soldotna AK	262-6033	SCI	yes
Jim Ray, Jr.	Box 1717, Soldotna, AK 99669	262-1727		yes
David R Martin	99568 HC-2 Box 860 Clam Gulch AK	567-3306	Self	yes
Billie Shackleton	99669 485 Lingenberry Lane Soldotna	262-6665	self	No
LAREN MCGAHAN	ROUTE I, Box 767 KENAI 99611	776-8240	self	yes
Bob Bird	HC-1 Box 353-1 KENAI	776-5898	self	yes!
KARL KIRCHER	Box 95 KASLOF 99610	2519	KPFA	yes
Sam McDowell	336 E. 23rd Ave Anchorage AK 99503	272-6605	Self	yes



Official Business

COMMITTEE:

SENATE RESOURCES

DATE: 9-26-97

SIGN-IN

Subject of meeting:

INTERIM HEARING ON SUBSISTENCE

#10

PLEASE PRINT!

NAME ADDRESS (MAILING) & (ZIP) PHONE REPRESENTING DO YOU WANT TO TESTIFY?

Table with 5 columns: NAME, ADDRESS (MAILING) & (ZIP), PHONE, REPRESENTING, DO YOU WANT TO TESTIFY?. Rows include: SHANN E. BELL, Jeff Breakfield, Richard M. Sobel, JIM RAY (crossed out), W. Longerson.

GITE

*Becky Hultberg
Testimony to the Alaska Senate & House Resources Committees
Friday, September 26, 1997
Soldotna, Alaska*

RE: Proposal of the Governor's Task Force on Subsistence

First of all, I would like to thank you for the opportunity to speak to you about the proposal of the Governor's Task Force on Subsistence. The subsistence issue is important to all Alaskans because it affects families' livelihoods, ways of life, and values. As a young Alaskan, I have a big stake in this decision.

I would like to speak briefly today about the constitutional issues raised by this proposal, because the public policy implications of your decision will affect not only this generation, but successive generations as well.

All of us realize Alaska's precarious position with the federal government. Any state in which over half of the land is federally managed must to some degree accede to the wishes of the United States Government. However, I submit to you today, that in following the course recommended by the subsistence task force, we are stumbling down a very slippery slope to an uncertain future.

Giving in to the federal government may seem like the most expedient method to resolve our current dilemma. But by doing so, we lose an important battle, the battle of principle. If we agree to amend the constitution, we lose the moral authority to assert our state's rights in future situations, setting a dangerous precedent for future acquiescence to the federal government. This indeed poses the true threat to future generations. May I remind you that Article 10 of the Bill of Rights in the U. S. Constitution states that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The last time I checked, fish and game management was not a right delegated expressly to the federal government. It was never the intent of this document that federal legislation would take precedence over a state constitution.

As Legislators, your responsibility is to govern Alaska wisely and well, protecting the Alaska constitution. Amending the constitution to comply with a federal statute cheapens it, rendering it a functionally meaningless document. If we set a precedent of amending our constitution to comply with federal law, we have ceded to the federal government a dangerous right. Why then, do we have a state government, if the will of that state body and its constitution can be rendered irrelevant by a mere act of Congress?

In many ways, we are a vassal state. We have seen our self-determination compromised by our inability to harvest our own timber, drill our own oil, and create jobs for our own people. We cannot, however, continue this pattern of bowing to the wishes of the feds whenever they knock on our doors. As a lifelong Alaskan, I appreciate the values inherent in this state, such as our independence and self-sufficiency. By agreeing to change the state constitution, we compromise

these values. Amending the constitution presents a seemingly easy way out. But Alaskans have never taken the easy way out. Allowing the feds to take over fish and game management may hurt some people in the short term, but in the long run, our refusal to compromise and our defense of our constitution may give us back some of the self-determination we built our state on. We cannot leave our children with a legacy of acquiescence to the feds. If this issue must wind its way through the legal system for 20 years, we must live with it.

Finally, our constitution may be a living and malleable document. Indeed, it has been amended numerous times. However, the force of threat is not, and will never be, a legitimate reason to amend the constitution. I applaud you for your efforts to date, and I encourage you to challenge the federal takeover, not because it is the easy thing to do, but because it is the right policy decision to make for all Alaskans.

Becky Hultberg
35561-B Kenai Spur Highway
Soldotna, AK 99669

907.283.6275 (home)
907.283.3335 (work)
e-mail: hultberg@alaska.net

To: Members of the Subsistence Committee
From: Robert M. Bird
HC-1 Box 353-1
Kenai, AK 99611
907-776-5898

My name is Bob Bird and I am a 20-year Alaska resident. In 1990 I ran for the U.S. Senate against Ted Stevens, garnered 30% of the vote in the Republican Primary, largely debating the subsistence issue against Senator Stevens.

This issue is not really about rural vs. urban, nor native vs. non-native. This issue is about the federal government pushing us around. If we really wanted to change our concepts of equality before the law, we would have done so on our own initiative, without being under the duress of a federal threat to our state sovereignty. As it was, the *McDowell* case struck down a law already coerced from us by the federal government.

The argument that tells us we must amend our state constitution in order to avoid federal control is oxymoronic. We already have federal control. The sad fact is, our supposed champion in Washington, the man who should use his clout to protect us from federal tyranny, is the very author who gave us the subsistence clause in ANILCA. He probably thought it was "enlightened" at the time, but the passage of the years has proven otherwise. Rather than admit he made a mistake, Senator Stevens refuses to consider amending ANILCA to give the state back its sovereignty in fish and game. And, he continues to woo his constituency as an "indispensable friend" of our state by funneling back unconstitutional and budget-wrecking pork-barrel projects, as a way to deflect attention from the great harm he has caused Alaska.

By accepting our state constitution, as written, in 1959, the federal government made a contract with Alaska. ANILCA has demonstrated that the federal government no longer wishes to abide by the terms of that contract. We should sue the federal government for our sovereign rights as a state. A hundred and fifty years ago, such high-handedness by the federal power would have been a reasonable cause for secession. Alaska should look to other states as allies in this tyrannical grab of federal power: states such as Utah, Nevada, Arizona, Montana and Wyoming have all continued to suffer from unconstitutional power grabs. We must fight, rather than genuflect, to this usurpation of our statehood contract.

TESTIMONY ADDRESSING THE ATTEMPT TO AMEND THE CONSTITUTION OF THE STATE OF ALASKA

To Whom It May Concern:

Question:

Is the proposed amendment, of the Alaska Constitution, to provide a priority subsistence right to a restrictive class of USERS of our common property fish, wildlife and waters public trust resources; a constitutionally proper subject to be decided by a vote of the public?

The Colorado Supreme Court recently voiced it very simple and eloquently: "Ones right to life, liberty and property.... and other fundamental rights may not be submitted to a vote; they depend on the outcome of no elections."

The US Supreme Court rejected the Colorado Governor's bid to have that court override the Colorado Supreme Court decision which overturns a public vote to amend the state's constitution. (does that sound familiar?)

This decision reflects a litany of Supreme Court decisions that have continuously rejected those positions that claim that the constitution's "equal protection of the laws" can be declared voided by a vote of the public.

The US Constitution provided that no state shall "deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." This equal protection of the law is a most important right of any true democracy. And it cannot be subverted by the passage of any law (i.e. statute or amendment) which in fact and effect removes this fundamental right.

The "property" referenced in the fourteenth amendment of the US Constitution addresses the common property, such as fish, wildlife and waters, which are held in public trust for all people. The proposed amendment of the State Constitution, that subjugates the fundamental right of common use, then grants it as priority use to a restrictive class of USERS of those public trust properties, also denies "equal protection of the law." And thereby violate the US Constitution.

So, as to present my belief in what I objectively assume as may be individual public reasons for those who wish to truly support and honestly contribute to the priority of rights for the selective class of USERS of our common property fish,

wildlife and waters; I will first enumerated such a list and then issue a challenge to their personal commitments:

- TO: Governor Tony Knowles and his politically indebted constituency, including the politically appointed task force that would plagiarize his own unconstitutional amendment to the Alaska Constitution.
- TO: Lieutenant Governor Fran Ulmer who as the political handmaiden of the Governor, she has shown a continuing rush for a political settlement of the subsistence issue rather than any desire to stand up for equal rights protection.
- TO: Former Governor Jay Hammond who publicly attacks those "opposed to amending our constitution or discriminating further between Alaskans" and then he co-ercively calls for the courage of others to follow his continual demand for the illegal vote on this unconstitutional denial of the equal protection rights of all the people. And to those who participate in his commercial fishing interests.
- TO: House Speaker Gail Phillips who with her higher future political aspirations, has flip flopped from a position of "What are we wasting time for then?" to her present medicine show huckstering of the so called hardfast "linkage" of the proposed constitution's amendment. I questioned the honesty of this so called linkage when viewed, compared to the total federal disregard of the statehood compact linkage. Later she made a personal effort to confront me and make her accusation that I was the problem. (Confidentially, I better like the Alaska Supreme Court McDowell decision that we were right.)
- TO: Byron Mallot who declared that the subsistence priority was no longer an equal protection issue. Then he adds that the Alaskan Natives have a special governmental relationship and that the Alaska public must recognize and accept this as a true fact. (A civil rights issue based on ethnic identity and religious claim of subsistence rights?)
- TO: Former Attorney General Charlie Cole who personally admitted to me, that the due process right of life, liberty and property of the XIV amendment to the US Constitution is not subject to the vote of the public. Of course he agreed to bring it up, but if he did, it was evidently not in public.

- TO: Senate President Mike Miller, who has also made a political flip flop, as he stated after discussion with Secretary of Interior Bruce Babbitt.
- TO: Said Interior Secretary, the federal fox guarding the state hen house, but he too no doubt does have strong interests in hunting and fishing uses of these public trust resources.
- TO: Bruce Botelho Attorney General who is the Governor's politically appointed legal shill, who's entire office is committed to a political client-attorney relationship. And he has publicly stated that he has accepted that the only solution is not substantively but politically.
- TO: Alaska's Congressional delegation who publicly makes excuses for their inept ability to protect the provisions of the statehood compact, the equal footing state resource management authority under the Submerged Lands Acts and Alaskans right to life, liberty and property, due process protection under the US Constitution. To specifically address Senator Stevens who created this quagmire, by supporting Title VIII ANILCA and to his support of his son's commercial fishing interest and to all of his congressional buddies who he accompanies each year to fish in the Kenai River
- TO: To Bob Penny, Ben Ellis, Phil Cutler, and any other amendment supporting members of their sport fishing organizations.
- TO: Theo Mathews, Karl Kishner and any other amendment supporting members of the statewide commercial fishing organizations.
- TO: Federal Court Judge Holland who also enjoys fishing on the Kenai and to all individual federal authority who support the priority for a restrictive class of USERS of our fish, wildlife and water common use public trust resource properties.
- TO: All of those who support the subsistence priority of a restricted class of USERS only if confined to specific areas of the Kenai Peninsula.

And now to the above listed parties and including all others who wish to truly support and honestly contribute to the priority demands of the restrictive class of USERS as proposed in the proposed amendment; I now challenge them to individually and collectively voluntarily "just say no" and cease their future

involvement in the harvest of these fish and wildlife, but to also cease their demand for a illegal vote to deny others equal protection of the laws.

Such responsible individual choices are the hallmark of a true democracy.

If we had a Governor and his administration who really opposes the federal oversight authority and was not tied to a political solution, we should disregard these federal administrative edicts and instead listen to the states highest legal authority (The Alaska Supreme Court).

The Alaska Supreme Court has taken the following positions:

1. "For a number of reasons... the federal government has no authority to regulate hunting and fishing in Alaska's water."
2. "We are not obligated to follow the 9th Circuit Courts rulings since this court is not bound by decisions of federal court, other than the United States Supreme Court."

In response, Botelho's staff argued that most of the issues raised in Totemoff's appeal were unworthy of Supreme Court review. But their response did urge the justices to resolve the conflicting edicts about regulatory authority.

It seems to me that if the State would follow our highest courts legal advice, it would then be the federal administrators responsibility to seek their support from their highest federal legal authority, the US Supreme Court. That should at least force an avenue of level ground to the final settlement of these most important rights of the state authority over public trust resources. (See enclosure I: Concurrent federal & state authority over public trust resources)

I ask the Knowles administration what it intends to do if they succeed in brokering their so called linkage-agreement and then but not if, when Federal District Court Judge Holland does as he has in the past, over rides even the 9th Circuit Court when he issued his Kenatizie priority educational fishery decision.

Another issue that will create a direct conflict with the state administration proposed amendment and a recent 1997 Supreme Court decision (Payton -v- State of Alaska) i.e. "Despite repeated legal challenges to and multiple revisions of the subsistence laws, 'Subsistence USES' have long been defined in the terms of 'customary and traditional USES' ".

"Accordingly, we consistently have interpreted 'customary and traditional' to refer to 'USES' rather than USERS".

Because the proposed amendment grants a priority right for a restrictive class of 'USERS' and not just a preference of USE open to all persons; it will raise a challenge and a Supreme Court reversal due to its equal protection violation.

When we ask the Anchorage Attorney General's office what kind of new advice would be given to the Boards of Fish and Game due to this Supreme Court (Payton) decision. Their response was that the Paytons would be given their rights granted by the court, but this would have no expanded effect on future Board Management decisions.

The same challenge and Supreme Court reversal will be triggered by the place of residency clause of the proposed amendment. The Alaska Supreme Court in McDowell pointed out that a number of jurisdictions have struck down intrastate residency conditions for USERS priority of these common property resources.

Then why do those who push for such vulnerable actions continue such irresponsible attempts. Because they can pay their political debts by showing their constituency they tried. They care less for those who are denied their constitutional right for the years of time, effort and money it takes to win back their right, through court action.

Submitted By:

Dale Bondurant

**Dale Bondurant
HC - 1 Box 1197
Soldotna, Alaska 99669**

**cc: Concerned Alaskans
Concerned Americans**

To all whom it may concern:

Here we go again.

There are always those who demand special privileges and there by willingly subjugated the equal rights of all the people.

Even more at fault, there are those who are even more willing to use such matters for their own political purposes.

ANILCA Title VIII Subsistence priority for rural residents is such a matter. To understand the full implications of this provision, it is important to first establish some important facts.

Throughout recorded history, the fish, wildlife, and waters, as common property resources have been a compelling motivation for establishment of democratic equality under the law. This history of common USER ownership of these untitled properties has been recognized in what is referred as the Public Trust Doctrine.

The Public Trust Doctrine is an axiom of the recognition that the untitled fish, wildlife, and water properties be managed for the peoples common use. It was developed, evolved, and honed by its travel through centuries of time and various societies, that is why its purposes must be continued in light of changing history of regulations developing by agencies and court interpretations. But the thread of equality of common USE must not be broken by a priority of USERS.

The Alaska Constitution Article VIII Natural Resources explicitly reflects the Public Trust Doctrine mandate of equal protection of the law for USER of the fish, wildlife, and water as a common property resource. Section 3 "Common Use." "Where ever occurring in their natural state fish, wildlife, and waters are reserved to the people for common use" is a pure axiom of such a public trust.

Section 4 Sustained Yield. Fish, forest, wildlife, grass lands 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"

Here in lies an oxymoron that creates confusion for those who do not wish to understand nor except that thread, of equal protection for all USERS, that ties together all Sections of Article VIII.

There can and will be Selective preferences among the beneficial USES of the common property fish, wildlife, and waters resources. Example: Subsistence, personal use and sport fisheries; all of which are recognized as personal common consumptive USES, which are specifically identified by methods, means, bag limits, species, availability, etc. But whenever or where ever, each such specific USES are selected for preference, then All USERS must be awarded their equal rights of consideration to participate in the harvest of these common use property public trust resources.

This equality as USERS is further provided by Section 15. No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State" and Section 17 "Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons."

Alaska Constitution Article VIII is recognized by constitutional scholars as the best Natural Resources provision in the Nation. Members of the Constitutional

Convention spent more time on Article VIII than they did on the rest of the Constitution. The main thrust of Article VIII is that Alaska's public resources are to be used by and for the common benefit of All of the people.

"Although 3, 15 & 17 vary in expression, they share at least one meaning; exclusive or special privileges to take fish and wildlife are prohibited in the use of natural resources subject to the disposition of the state." Still further the constitutional Convention stated: "This section (15) is intended to serve as a substitute for the provision, prohibiting the several right of fisheries in the White Act." "Instead of using the terminology of the Act, the purpose sought by it are given expression in a prohibition of exclusive right or special privileges of any person to the fisheries of the State."

In both the United States and Alaska Constitutions we find provisions of the public trust responsibility and further fortify the equal rights of USERS of the common property fish, wildlife, and water resource.

The Constitution of Alaska Article I Declaration of Rights: Section 1 Inherent Rights: This Constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities and protection under the law; and that all persons have corresponding obligation to the people and to the State."

In opposition to the Subsistence priority for rural residents, Alaska Supreme Court Justice Moore stated: "This is an equal protection case, and an easy one at that."

Therefore in a rare show of openness, responsibility and 'corresponding obligation to the people and the State'; I challenge, the secretly seven to submit in their proposed constitutional amendment the following addendum to "Article I Inherent Rights" "...that all persons are equal and entitled to equal rights, opportunities, and protection under the law [addendum: except as the Legislature may wish to deny these rights and selectively impose priority classes of USERS of Alaska's fish, wildlife, and waters public trust resources.]

I also challenge our esteemed congressional delegation, who pleads an ability to only selectively amend ANILCA, to submit such a companion phrase for the US Constitution Article XIV "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or (property)...[(addendum) except as when Congress may wish to deny such protection and selectively impose priority classes of USERS of Alaska's fish, wildlife, and waters public trust properties.]

(Footnote) This denial of equal protection under the law explicitly includes All residents of specifically named cities of Anchorage, Fairbanks, Ketchikan, and Juneau and thereby the sovereign State of Alaska is shorn of its equal footing status with the other states of the Union.

Court reversals of congressional and federal attempts to deny equal footing status is well documented: Wyoming v. Race Horse cite 163 US 514 (Enclosure I) presents a number of such attempts to deny, by federal acts, the equal footing clause to sovereign states; and pertinent information is quoted in brief as follows: "The power of a state to control and regulate the taking of game can not be questioned."

"This argument indicates at once the conflict between the right to hunt in the unoccupied land, with in hunting districts and the assertion of power to exercise of the privilege in question in the state of Wyoming is in defiance of its laws"

The act which admitted Wyoming into the Union, as we have said expressly declared that state should have all the powers of the other states of the Union."

"It was held that the shores of navigable waters and the soil under them were not granted by the Constitution of the United States, and hence the jurisdiction exercised there over by the Federal government, before the formation of the new state, was held temporarily and in trust for the new state to be there after created, and that such state when created, by virtue of its being, possessed the same rights and, jurisdiction as had the original states." "The courts declared that to refuse to concede to Alabama sovereignty and jurisdiction over all territory within its limits would be to deny that Alabama has been admitted into the Union on an equal footing with the original states."

" In considering this act of Congress...it is unnecessary to institute any examination or criticism as to its legitimate meaning or operation or binding authority, further than to affirm that it could have no effect to restrict the new state as an independent sovereign government nor inhibit or diminish its perfect equality with the other members of the confederacy with which it was to be associated."

"Whatever the limitation upon her powers as a government whilst a territory condition, whether from....legislation of Congress, it ceased to have any operative force except as voluntarily adopted by her, after she became a state of the Union." "On her admission she at once became entitled to and possessed of all the rights of dominion and sovereignty which belong to the original states." "She was admitted, and could be admitted, only on the same footing with them...Equality of the constitutional right and power is the condition of all the states of the Union old and new."

"And it was held that a clause in the act of admitting California into the Union which provided that the navigable waters within the state shall be free to citizens of the United States, in no way impaired the power which the state could exercise over the subject if the clause in question had no existence." "The act admitting California declared that she is admitted into the Union on an equal footing with the original states in all respects whatever." "She was not, therefore shorn by the clause as to navigable water, within her limits, of any of the powers which the original states possessed over such waters within their limits."

How do these above quoted decisions relate to the mandate of federal management imposed by Congress in their enactment of Title VIV of ANILCA? The Federal Government has argued on several issues their supremacy right to impose this rural residency discrimination on USERS on public land within the limits of sovereign State of Alaska. This by fact and intent impinges upon the States sovereign servitude responsibility to manage Alaska's fish, wildlife, and water public trust resource and there with denies her people and State the equal footing of the other states.

The federal government rightly claim that those dedicated lands such as National Parks, reserves, forests, etc.. are set aside for special purposes that requires compatible management of the fish, wildlife, and waters. This argument is a slender reed when viewed in the context of the Alaska Constitution recognition of such preferences of beneficial USES. But the mandate of ANILCA is in fact a federal oversight authority

demanding the imposition of a certain class of (intrastate rural residents) priority USERS of these common property fish, wildlife, and waters public trust resource. This imposition of such a factional and intentional denial of the protection of the privileges and immunities and the equal protection of life, liberty and property has no precedent in the police powers of the State sovereignty. All such attempts have been struck down by courts as violation of Articles IV, V, X, and XIV of the US Constitution.

The federal authorities used a two prong attack, on Alaska's right to manage the fish, wildlife, and waters within its limits, by contending that it can claim federal authority by reserved water rights and over navigable waters of the federal public lands reserved within the limits of Alaska.

1. The reserved water rights of these National Parks, reserves, forest, etc.. are of a commendable and viable concern to protect their purpose, but to use this as a claim of federal supremacy over the states servitude responsibility to manage these fish, wildlife, and waters becomes a sham when viewed in the proper prospective and recognized purpose:

"Water Resource Management" "A Case Book in Law and Public Policy" (quote), "The United States follows state water law in appropriating water rights, but when it is unable to comply with the provisions of the law and still carry out federal purposes, state law may be preempted. The policy debate is over how vigorously the Executive will act in asserting preemption."

["Consider several possible federal needs for water. In which cases do reserved rights exist? In which must the government proceed to acquire water rights entirely according to state law? In which may aspects of state law be avoided in order to acquire water rights?"]

1. The Department of Defense needs water to serve barracks built on a military reservation.
2. The Forest Service seeks in stream flow rights for fish and wildlife purpose in a national forest, but state law does not recognize in stream flows as a beneficial use.
3. The Park Service seeks to convert state-permitted agricultural rights it purchased from a farmer to in stream flow rights for a national park, but the state law allows in stream flow rights to be held only by a state agency.
4. The Bureau of Land Management (B.L.M.) seeks water rights to maintain a fishery in a stream on unreserved lands in a state that does not recognize in stream flows as a beneficial use.] (Enclosure II Water Resource Management)

The Alaska Constitution Title VIII Section 13 "...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."

So there is no conceptual conflict with the responsible federal need for reserved water rights on these public lands, and the need of in stream flows for the general reservation of fish and wildlife as is mandated. This is the same constitution that was required by the Alaska Statehood Compact to prove the state - "has made an adequate

provisions for the administration, management, and conservation of said resources in the broad national interest." To make reserved water rights the scapegoat of federal claim of management, not of preference USES, but of priority USERS of Alaska's fish and wildlife, and waters public trust resources; is just another naked attack on Alaska's right of equal footing and its people's life, liberty and property rights of equality under the law.

This same federal attack is also aimed at those navigable waters that are on or flow through such federal lands that lie within Alaska limits. It shows a repeated lack of federal respect for the equal footing right of the State and, therefore, the state's citizens.

The Alaska Statehood Compact explicitly provides: "The Submerged Lands Act of 1953...shall be applicable to the State of Alaska and the said State shall have the same rights as do existing states thereunder." ["Submerged Lands Act" Title II "Section 3 Right of the States":

"(a) It is hereby determined and declared to be in the public interest that (1) title to and ownership of lands beneath the navigable waters within the boundaries of the respective States, and the natural resources within such land and waters. And (2) the right and power to manage, administer, lease, develop, and use the said lands and natural resources all in accordance with the applicable state law be, and they are hereby subject to the provisions hereof, recognized confirmed, established and rested in and assigned to the respective States."

(b)(1) The United States hereby releases and relinquishes unto said States...all rights, title and interest of the United States, if any it has in and to said land, improvement and natural resources. (2) The United States hereby releases and relinquishes all claims of the United States."

"Title I Definitions"

(e) The terms 'natural resources' includes without limiting the generality thereof, oil, gas, and all other minerals, and fish, shrimp, oysters, clams, crabs, lobsters, sponges, kelp, and other marine animals and plant life.] (Enclosure III, The Submerged Lands Act.)

It can be briefly explained that the federal government has a servitude responsibility to manage navigable waters for transportation and commerce. The State governments have a servitude responsibility to manage the natural resources within the submerged lands and all fish, marine animals and plant life within these navigable waters.

Now through Title VIII of ANILCA, Congress has shorn Alaska of its equal footing rights and the State's citizens are denied their constitutional right of equality under the laws.

Some argue that the Alaska Statehood Compact's provisions promising the State management authority of its fish and wildlife was an act of Congress and it can also be taken thereof.

I will, in reply, argue that Title VIII of ANILCA, did not, in fact and effects, mandate the management of beneficial USES but instead it mandates the priority of a restricted class of USERS to participate in the harvest of these common property fish, wildlife and waters public trust resource.

If the people are so lackadaisical as to accept such politically motivated, imperialistic action, there still remains the fact that the Statehood Compact also provided that: "The Submerged Lands Act - shall be applicable to the State of Alaska and the said State shall have the same rights as do existing States thereunder." If the same imperialistic implications exist - that what Congress gives, they can also take away -; then under the Constitutions provision of State sovereignty equal footing rights, it must follow that all other States would also lose their resource management authority as provided by said Submerged Lands Act.

The supremacy of the federal government also cannot subjugate the police powers of a sovereign State as delegated by US Constitution Article X; by an act of Congress such as Title VIII ANILCA.

I find that: Governor Knowles in delivering on past political promises to his supporters, Speaker Gail Phillips by laying foundations of future political aspirations, and former Governor Jay Hammond's arrogant statement to shame Alaskans into giving up their principles of fairness for his idea of acceptable discrimination are personal positions; that further clouds the task force's amendment product, hatched in secret of purpose and shows an irresponsible disregard for the Alaska Constitution's provision "that all persons have corresponding obligations to the people and to the State."

I would still hope that instead of the acceptance of 'politically correct' (?) positions, the incentive would instead be to protect the equal rights under the law for all people. Instead of accepting excuses that our Congressional delegation are inept at changing the prejudices and inequities of Title VIII ANILCA, we should look to the findings of the Alaska Supreme Court as the most important guide to the State's legal position.

Some of the findings are as follows:

- (1) "State control merely for the sake of control is a questionable goal when the terms infringe upon the open access values of Article VIII." (Enclosure IV, McDowell v. State of Alaska 1989)
- (2) "We note that several other jurisdictions have struck down intrastate residential preferences in fish and game statutes." "These authorities support our view that the equal access clauses of Article VIII, which are special types of equal protection guarantee, bar the residential discrimination imposed in this case." (McDowell v. State of Alaska, 1989)
- (3) "The common right, which one individual of the whole community is entitled to enjoy as much as another, cannot be made by law, the exclusive privilege of the people of a certain class or section upon terms that do not apply to the whole people alike." "This right which one individual has in common with every other individual in the community to take and use fish and game, *ferae naturae*, is one that has existed from the remotest times, and although at one time in England after the Norman Conquest the right to take fish and game was claimed a royal prerogative to the exclusion of the people, it was restored to them by the Barons at Runnymede in 1215 and was declared in the great (Magna) Charter which they wrested from King John." "(McDowell quoted from Lewis v. State 110 Arizona 201)"

"These rights were confirmed and established ever after in England by acts of Parliament, and they have come down to us from the laws of England and may be regarded as a common heritage of the English speaking people."

"(McDowell, also see Parker v. People - 111 Ill 581; Greer v. Conn 161 US 519; Martin v. Waddell 41 US)"

- (4) "Where the necessity for the preservation of wild game and fish exists in certain territories of the State, that territory may be segregated for the purpose of regulating the right to taking game and fish therein; but the privilege of taking and using same must be extended to the people of the State outside of the territory upon the same terms that are given to those who are residents of the territory embraced in the legislation." "(McDowell also see Hayes v. Territory 2 Wash T 286; State v. Higgins 51SC51; and Harper v. Galloway 58 Fla 253)"
- (5) Alaska Supreme Court Judge Moore "This is an equal protection case, and an easy one at that." "Article I Section 1 of the Alaska Constitution provides that 'all persons...are entitled to equal rights, opportunities and protection under the law...' "The Alaska Constitution has a similar clause specifically concerning natural resources." Article VIII section 17 the Uniform Application Clause, ' provides that laws and regulations governing the use and 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'." (McDowell)
- (6) "In Owsichek v. State (Alaska 1988) we observed that Article VII provisions were designed to ensure to the public the broadest possible access to wildlife." We noted that "the common use clause imposes upon the State a trust duty to manage the fish, wildlife and water resources of the State for the benefit of All the People." "(emphasis added)" "A minimum requirement of this duty is a prohibition against any...special privileges" (McDowell).
- (7) "In State v. Ostrosky (Alaska 1983), we observed that the common use and no exclusive right of fishery clauses reflect 'anti-exclusionist values'." (McDowell)
- (8) [The following comments are excerpts from Anchorage Daily News article related to sovereign edicts over regulatory to manage Alaska's common property fish, wildlife and waters public trust resources: (Enclosure V) The US Supreme Court...refused to address a conflict between a federal appeals court and Alaska's Supreme Court over whether the state or federal government has the highest regulatory authority over hunting and fishing along Alaska's waterways. The justices, without making any comments, let stand an Alaska Supreme Court ruling that said the State - not the Federal Government - has regulatory authority over subsistence hunting and fishing. The case...dates back to an incident...on Naked Island in Prince William Sound. Michael Totemoff ...was convicted of illegally hunting deer with a spotlight off the island. He challenged his conviction, and based his legal case in part on what he said was the state's lack of authority to regulate his conduct in navigable waters. The Alaska Supreme Court upheld Totemoff's

conviction, ruling that state game laws applied to his conduct. "We are not obligated to follow (the Ninth Circuit Court's ruling) since this court is not bound by decisions of federal courts other than the United State's Supreme Court" the Alaska Court said. "For a number of reasons...the federal government has no authority to regulate hunting and fishing in Alaska's navigable waters", it added.] (Enclosure V, Anchorage Daily News article)

- (9) "Despite repeated legal challenges to and multiple revisions of subsistence laws, 'subsistence USES' have long been defined in terms of 'customary and traditional USES'. "Accordingly we consistently have interpreted 'customary and traditional' to refer to 'USES' rather than 'USERS'." State v. Morry 1992; McDowell v. State; Madison (reference Payton v State of Alaska 1997) (Enclosure VI Payton v. State of Alaska)

Customs and traditions are important heritages of different peoples, but when they invoke prejudice they are merely demands of special privileges for some and destroy equality among All the people.

All past history shows that Title VIII ANILCA federal management oversight authority continues no matter what the State may do to comply. It was this blackmail purpose that resulted when Senator Stevens told the Alaska legislators that if they did not pass a subsistence priority statute, then Congress would. He then went before Congress and declared that this was what Alaska wanted. It was his devious purpose of supporting Title VIII ANILCA which resulted in the federal mandated oversight that unilaterally denies Alaskans its equal footing right to manage the State common property fish, wildlife and waters public trust resources.

As further proof of the foolish expectations for, a return of true State fish, wildlife, and water resource management authority, from the proposed discriminatory amendment to our "Common Use" and No exclusive right or special privilege clause of Alaska's Constitution; I provide the following results from a meeting between Bruce Botelho (Governor Knowles appointed Attorney General) and over 20 Alaska Legislators.

(Enclosure VIII)

Speaker Phillips:

Bruce, time and time again, we have been told that if Alaska comes into compliance with the federal law, that we will be guaranteed the right to manage our fish and game resources again, or at least manage them with the least amount of federal interference. However, you will recall that when the...the same promises were made to us when we reassumed management of the walrus under the Marine Mammal Protection Act. And once we had that, then the management was forced...we were forced return walrus management to the federal government due to continued harassment by the federal government. Do we have any kind of guarantees whatsoever, that if we were to take action, whether it be to come into compliance as has been stated, or to reach some kind of compromise, or to come up with some kind of solution, do we have any guarantee