

# Hoonah man awaits verdict in Glacier Bay hunting case

by Naats'keek  
for the *Tundra Times*

Greg Brown, 38, a full-blooded Tlingit from Hoonah, has been tried in U.S. criminal court for shooting a harbor seal. Taking a seal is not so unusual for one of Hoonah's sons, since it was taken from ancestral hunting grounds. The problem is, these hunting grounds lie within Glacier Bay National Park.

During the trial Brown argued that he was deprived of practicing his inherent rights, wrongly cited Park Service officials, and, adding insult to injury, that he was not read his rights at the time of the citation.

According to Richard Dalton, a traditional leader from Hoonah, his people have used Glacier Bay as a source of subsistence as well as a burial site since time immemorial.

"In 1925, when Glacier Bay was made a national monument,

the federal government proclaimed that the Hoonah people will not be deprived of their hunting and fishing rights," says Dalton. He notes that several presidents, including Coolidge, Harding and Carter, recognized the Huna people's dependence on Glacier Bay for their subsistence harvests and cultural survival.

"Both ANILCA and the Marine Mammal Protection Act authorizes the taking of wildlife for subsistence purposes by local and rural residents in national parks," he says.

According to Brown, when he was cited by the National Park Service (NPS) for shooting a seal in Glacier Bay on October 5, 1992, he was given the wrong citation. It said his offense carried a penalty of one year in jail and a \$5,000 fine. A few days later, he received a call from an NPS official who asked if Brown would send back

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# Voices from Glacier Bay over ancestral harvest



Photo courtesy of Alaska Division of Tourism

## Awaiting Glacier Bay verdict . . .

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the citation, whereupon he would be issued another with a designated penalty of one year in jail and a \$500 fine. He was also informed that if he paid the fine he could skip arraignment.

Brown refused to send back the petition or pay the fine, opting to take the issue through the courts instead. The trial began September 7 of this year. Brown's federal public defender, Nancy Shaw, filed a motion to dismiss the case.

"The Marine Mammal Protection Act regulates the taking of seal anywhere they can be found, (and) there is a Native exemption for subsistence take. In my opinion, the feds just don't have a prosecution," Shaw says. "We have another argument. The seal was taken for a potlatch and therefore should be protected by the American Indian Religious Free-

dom Act and the Free Exercise Clause of the Constitution."

The government's argument is that the general regulatory authority of the National Park Service Organic Act overrides harvest rights subsequently guaranteed by the Marine Mammal Protection Act.

On the day Brown was cited, he was halibut fishing with his uncle, Jake White. After the gear was set out, they were cruising in Glacier Bay. They saw a herd of seal on the beach. Brown recalls that his uncle mentioned it would be good to have a seal for the potlatch his wife was having for their son that weekend.

"Why don't you shoot one for me, Greg?" his uncle said. "You can use my rifle."

They discussed whether it was 'okay' to shoot a seal or not. Along with crew members Mike Lindoff and Wilber Skeeks, they agreed

there wasn't anything wrong with shooting one seal for a potlatch.

Brown and Lindoff rowed to shore, whereupon Brown shot the seal. They rowed back to White's boat in full view of NPS officers.

"It wasn't until after we had the seal on board my uncle's boat that they came and cited me," Brown said.

A few days later, he was contacted by telephone and informed "that they had forgotten to read him his rights, and could they do it over the phone?"

An important consideration in Brown's case is that he was honoring his uncle's request.

"In Tlingit law," says George Obert, chairman of the traditional council in Hoonah, "when your uncle tells you to do something, you can't hem-hah around it—when your uncle speaks to you, you follow his directions. All Greg

Brown was doing, after discussing if it was okay to shoot a seal in Glacier Bay, was honoring his uncle's request."

Brown says "I was raised in the traditional ways and brought up on my traditional foods," and now the federal government is trying to take these inherent rights away from the Native people. "That's why I have refused help from some very prominent people who have offered to pay my fine for me."

Another issue, which is causing a delay in the final verdict and has serious implications for statewide subsistence management of fish and game, involves whether Brown shot the seal in the park at all.

According to Shaw, "There has been a long dispute between the federal government and the state in Glacier Bay, and elsewhere, on who owns and controls activities on the water. The state claims it

has as jurisdiction on the waters even if the federal government lawfully established national parks on lands."

If the state's view is correct, then Brown cannot be charged with taking illegally taking a seal because he wasn't in the park; he was on the water or below mean low water, in state jurisdiction.

On December 8, after the judge has reviewed briefs submitted by plaintiffs and the state, he will make a decision regarding the jurisdictional dispute.

Brown feels the issue is not whether he is guilty of committing a criminal misdemeanor under U.S. law, but whether he was deprived of practicing his inherent right to live according to traditional law and whether those traditions are protected by the U.S. government, regardless of who owns the land.



# **Glacier Bay: overlays homeland**

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*It is well known that the State of Alaska, especially Gov. Hickel, does not recognize or understand Alaska's indigenous population. Nor does the State of Alaska, especially Gov. Hickel, have any plans or intentions of protecting our rights to use and occupancy of our traditional homelands. State enforcement officials and courts are applying sport hunting and fishing laws to convict our "subsistence" hunters and fishermen which has made us all criminals for practicing our own way of life according to cultural values and methods. If the State of Alaska has a beef with the federal government in Glacier Bay then file official charges that tie this very Native issue in with our proper place in Glacier Bay, and Alaska. Otherwise, their third party entry into the Greg Brown case is nothing more than a delay tactic that will leave our right to traditionally hunt seal in Glacier Bay a remaining question. Whether the question is adequately answered and resolved through litigation or legislation, be assured that we will be making constant efforts to make our historic usage known.*

**Richard Sheakley, President  
Frank Wright, Jr., Secretary  
Huna Traditional Tribal Council**

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