

Subsistence: battle over state resources

By Paul Jenkins

The Associated Press

It's called the "subsistence issue" in polite circles. Elsewhere, it's painted as a conspiracy, an attempt to destroy age-old cultures and even a ticket to disaster.

The fracas centers on efforts to repeal Alaska's priority subsistence law—a statute giving rural residents first rights to fish and game. And the fight is shaping up as a down-in-the-dirt knuckle-buster over who can hunt and fish, and where.

The weapons? Cash, power and truth, in any of their several forms.

The ammunition? Emotional pleas, warnings of anarchy and the threat of a U.S. govern-

ment takeover of subsistence hunting and fishing management on more than 220 million acres of federal land in Alaska.

And there are predictions of the possible destruction of the last frontier's fish and wildlife—the fragile lifeline which has carried many of Alaska's diverse Native cultures into the 20th century.

Fueled by what some see as subtle racism, the fight could for the foreseeable future alter management of the state's fish and game and access to those resources.

The complexities—and passions—of the issue are well known to three men deeply committed to its resolution: sportsmen's leader Sam Mc-

'Blood oath sworn on both sides of issue

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Dowell, Alaska Federation of Natives (AFN) attorney Don Mitchell and Gov. Jay Hammond.

McDowell: "You won't have any game animals left in the state unless you repeal the state subsistence law. Our biggest adversary is the AFN because it's hired attorneys to write these laws and disenfranchise the people of the state."

Mitchell: "There is a certain fear, because this is such an awfully emotional issue, that it's subject to demagoguery by certain members of the community."

Hammond: "It's the most divisive issue facing the state. Now, there are blood oaths on both sides."

The law, adopted in 1978, guarantees hunting and fishing priorities to Alaskans with customary and traditional dependence on game and fish stocks in their immediate areas for their direct personal, or family, use for food, shelter, tools or handicrafts materials.

Scrupulously avoiding race as a criterion for those priorities, the law also allows for the use of fish and game in customary trade, barter or sharing for personal or family consumption.

Under guidelines set earlier this year by the Boards of Fish and Game, rural residency is the yardstick used to measure subsistence needs. Those guidelines, defining the state's "rural" areas, effectively put about 40 percent of the state's Native population in urban areas, where they cannot qualify for subsistence hunting and fishing rights.

Depending upon whom you talk to, it's either a good law which ensures the survival of residents and cultures in remote areas, or the death knell

for sport hunting and fishing on much of Alaska's 375 million acres.

It's either a conspiracy by environmentalists and rural residents to lock up Alaska's wilderness, or protection for those trying to live off the land in the face of a burgeoning urban population with a growing hunger for fish and game.

Both sides agree on one thing: Under the state law, the rural populace will be the last excluded from hunting and fishing in Alaska.

The law's opponents, spearheaded by sportsmen's groups, charge the law is unconstitutional and creates two classes of Alaskans for the purpose of hunting and fishing.

They gathered more than 22,000 signatures to put a question on November's ballot which, if approved, would dump the law and replace it with the Alaska Anti-Discrimination Hunting, Fishing and Trapping Rights Act.

That act, they say, would for the most part eliminate distinctions in the allocation of wildlife resources, and fish and game management would return to the discretion of the Boards of Fish and Game.

Those boards, through regulation, would take care of rural residents' subsistence needs, they say.

Supporters of the subsistence law say those needs have not always been protected in the past, when consideration of subsistence needs was discretionary.

While many of the statute's supporters say the priority goes into effect only in times of resource shortages, its opponents argue that its priority provisions are in effect all

the time, that subsistence allocations must be met before sports or commercial interests can be considered.

State officials tend to agree with that assessment.

"The subsistence priority is always there," says Milsted Zahn, executive director of the Fish and Game Boards. "It would only become visible if resources got to a point where they were limited."

"As long as there are extra fish and animals, other users will be accommodated," he says.

Department of Fish and Game Commissioner Ron Skoog says the only time there is no subsistence priority regulation is when a species is so abundant it's not regulated.

"If you have an abundance of any animal — butter clams, for instance, — there's no subsistence priority regulation," he says. If the animals become regulated, through seasons, for instance, "the restrictions invoke a priority need in regulations."

In the Nelchina caribou herd a number of animals already are set aside for subsistence use. Urban fishermen participating in the Chitina River dip net fishery could feel the sting of subsistence priority if the river is classified a subsistence fishery, Zahn says.

Subsistence fisheries already are established in many parts of the state, and opponents of law fear that as time goes on subsistence use will squeeze out sportsmen.

However, the law's supporters contend that for the most part, the subsistence take is small.

Meanwhile, federal officials are watching the battle.

An Alaskan National Interest Lands Conservation Act provis-

ion requires the Secretary of Interior to ensure subsistence rights on U.S. government land in the state.

Currently, the state manages the fish and game on federal lands, with federal concurrence.

Federal officials are worried that voters on Nov. 2 may force them to assume subsistence hunting and fishing management on government lands. There presently are not enough funds or personnel to do the job, they say.

Many state officials also are worried, despite Interior Secretary James Watt's recent pledge that "We can work something out," if the law is repealed.

As one put it: "He would have to enforce it. He doesn't have the right to break the law."

Hammond says the federal government's most likely response to an allocation problem on federal land or a fund shortage would be to shut down vast areas to all but subsistence uses until it could be worked out.

And that, says Alaska Sen. Ted Stevens, would trigger a nightmare for hunters, fishermen and those charged with enforcing the law.

"We know for a practical matter, there would be anarchy," Stevens says. "It would be an enforcement nightmare, a management nightmare. What's going to suffer is the resource base."

Hammond says that while he believes the law is a poor piece of legislation, he's opposed to its repeal.

It would, he says, cripple the state's game and fish management efforts by forcing a federal takeover of U.S. government lands — creating pockets of state and federal management areas across the

state.

The act which would replace the statute could further cripple the state's management efforts, he says.

"It would prevent the state from enacting regulations and it wipes out references to need, income, etc.," he says. If the law is repealed, the situation would become "more repugnant to more Alaskans."

Hammond has made his position pointedly clear to members of his administration. He has threatened to fire any of his minions who dare to voice public opposition.

Nevertheless, a senior Department of Fish and Game official predicts that the vast majority of his office will vote for the petition.

"If allowed to stand, the law could become a monster somewhere down the road," said the official, who understandably did not wish to be identified.

"In maybe 10 years, we're going to see, for moose and caribou, a majority of the area restricted almost entirely to local users — and that won't include Anchorage and Fairbanks. There's nothing in the law about need," he said.

Hammond himself says he advocates a rewrite of current law.

"It tries to allocate resources on a 'customary and traditional' basis... on an imponderable. It was a mistake to incorporate that," he says. "That language should be stripped out of the law."

When Hammond retires this year after 34 years of public service, his pension will add up to about \$40,000 annually. By virtue of living in a remote area near Lake Clark, he would be able to meet subsistence criteria.

"I don't think that's right," he says.