

Court to challenge decisions board makes

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As I monitored the recent Board of Fisheries meeting in Anchorage, the level of difficulty involved in crafting subsistence regulations became readily apparent.

OPINION

Amid confusion, protests and several days of long and agonizing meetings, the board decided on a subsistence fishery for upper Cook Inlet citing the customary and traditional usage of salmon stocks.

This was one of the first times the Board had to make a subsistence allocation decision since the State Supreme Court ruled Alaska's subsistence law unconstitutional.

In the absence of any clear state law or policy to fill the void, it was clear the Board of Fisheries was struggling to grapple with its newfound and difficult responsibilities.

To establish a subsistence fishery,

the board must make findings of customary and traditional use.

One of the criteria is a long-term pattern of use without interruption by things like regulatory prohibitions.

The other six criteria are very generally phrased and open to many interpretations.

The difficulty arrives in analyzing the loads of data and arriving at a consensus while attempting to meet a vague mandate.

Last December the state supreme court struck down Alaska's rural preference subsistence law because it allocated resources based on residency — violating the equal access clause of the Alaska constitution.

Although the court struck down the rural preference portion of the subsistence law, the remaining subsistence law is still valid for all Alaskans who now qualify as subsistence users.

The Board of Fisheries and Game face the laborious task of determining and evaluating what customary and traditional use of fish and game is for every management unit in the state.

What this means, is long days of Board hearings to rehash subsistence regulations that have already been

altered many times over the years.

The Kenai peninsula has been an area where commercial and sport fishing are key industries. Traditional subsistence fishing has not been allowed in years.

Board member H. Robin Samuelson walked out of the recent meeting objecting on the grounds that the Board did not have the necessary tools, information or data to construct a subsistence fishery.

Despite what progress the board can make, it is anticipated any decision will be subject to a court challenge.

Without a doubt, one element is becoming very clear: Federal management of Alaska's wildlife resources is not in the best interest of Alaskans.

It is also becoming apparent that some legislative consideration will be forthcoming next session.

Because of indecision by the legislature, the Boards of Fisheries and Game are in the tenuous position of not having any clear direction in allocating subsistence resources.

What the legislature will do next session with subsistence is at this point not evident. There will be many new legislators along with a governor and



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his administration.

In the meantime I, along with the rest of Alaska, stand ready and waiting to invest time and energy solving the most important resource management issue facing Alaska today.