

AFN responds to Ulmer's second subsistence proposal

by Jeff Richardson

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In a March 13 letter, the board of directors of the Alaska Federation of Natives responded to Lt. Gov. Fran Ulmer's latest draft proposal to resolve Alaska's subsistence hunting and fishing management crisis.

The response consisted of policy principles "according to which the Native community will conduct any discussions

with the State of Alaska on resolving the subsistence impasse."

The state lost its authority to manage game on federal lands when the Alaska Supreme Court declared the state law intended to conform to a federally-mandated subsistence protection policy. That policy is contained in Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). As the result of a fed-

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1

eral court decision, the federal government has been preparing to assume management of some fisheries, as well. However, the state's Congressional delegation has attempted to block the effort.

The principles put forth by AFN include:

- A regulatory arrangement that causes the "least adverse impact" on customary and traditional taking and use patterns of Alaskan communities;

- "no net loss" from the level of protection for subsistence hunting and fishing protection currently in place;

- Fundamental reforms in the state's regulatory mechanism;

- No designation of non-subsistence use areas in state law;

- Strengthen the federal preference to insure that Native communities surrounded by non-Native majorities will not be precluded from the subsistence protection.

- All discussions with the state will be predicated on the fact that Title VIII of ANILCA is Indian Law, enacted under the plenary power of the Congress to regulate Indian affairs, derived from the Commerce Clause of the U.S. Constitution;

- During any period in which the state refuses to comply with federal law, the Native community supports full federal management of fish and wildlife over all public lands and waters, including lands selected but not yet conveyed to the state or Native corporations.

* Significantly, the policy principles state:

"No resolution of the ANILCA impasse will be agreed to by AFN without approval by the larger Native community through a statewide subsistence summit or convention, with advance written explanations distributed to all communities and regions and with adequate lead time allowed for preparatory village and regional meetings."

One of the most important principles calls for enactment of an amendment to the Alaska Constitution "worded and placed so as to ensure that a state statute that complies with Title VIII cannot, on any grounds, be struck down by the Alaska Supreme Court."

In AFN's view, such an amendment should:

- state that the subsistence preference may not violate the constitutional mandate to manage for sustained yield;

- require, rather than permit, the Legislature to enact a statute complying with federal law;

- state that subsistence is the priority use of fish and game in Alaska;

- include "culture" as a basis for differentiating among residents for application of the subsistence preference; and

- be worded broadly enough to permit state law to comply with an improved preference in the future.

A televised discussion of the subsistence issue, featuring major participants is scheduled for late March and early April. The Sea Grant Program of the University of Alaska has taped a discussion with Lt. Gov. Fran Ulmer; Perry Eaton, Alaska Village Initiatives; Deborah Williams, U.S. Dept. of the Interior; Dick Bishop, Alaska Outdoor Council; and Nick Troxell, Kodiak fisherman.

The discussion will be broadcast on the ARCS rural network on Wednesday, March 27, 7-8 p.m.; Sunday, March 31, 4-5 p.m.; and Saturday, April 6, 4-5 p.m.

On KAKM-TV, public television for Anchorage, the discussion will be broadcast Thursday, April 4, 8-9 p.m. KAKM will beam the program to the Kenai Peninsula on Saturday, April 6, 4-5 p.m. and Sunday, April 7, 1-2 p.m.