

# Commentary

## Rising against Senate Joint Resolution 19

by Senator Al Adams

*Editor's note: The following is a floor speech given by Sen. Al Adams (D-Kotzebue) on April 13, in opposition to Senate Joint Resolution 19, which seeks to "define public land" by amending the Alaska National Interest Lands Conservation Act.*

Thank you, Madame President. I rise to speak **against** Senate Joint Resolution 19 and to clarify for the public record just what this legislature is trying to accomplish by its passage.

The **real** issue at stake is **not** management authority; it is not states' rights; and it is **not** equal access to common use resources. Such concepts make good sound bites for local Alaskan consumption, but they are **beside** the main point. The **real** issue is **subsistence** - that is, the allocation of fish and game among competing user groups and the survival of rural Alaskan communities in 21st century Alaska.

The sponsors of this resolution, along with those who support HJR 33

in the House, have one goal in mind: **to get rid** of the federal subsistence protections in Title VIII of ANILCA. Instead of urging the Congress to repeal Title VIII and its rural preference entirely, SJR 19 masks its **real** intent by asking the Congress to destroy the **substance and effect** of the law while leaving its empty shell intact. If the Congress were to do what is requested in this resolution, a Rhetorical Subsistence Preference would remain on the books as federal policy - but the

*Page 10, please*

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*Continued from page 2*

geographical jurisdiction and regulatory powers by which the United States can **enforce** that law would be reduced to little or nothing. Any law that articulates a policy and then refuses to enforce it is a **lie**. In effect, this resolution urges the Congress to engage in a **monstrous deceit**: to say to Alaskans and to the nation that the Federal Government is continuing to protect rural Alaskan subsistence uses, when in fact it is standing aside and allowing the state to **wipe them out**.

I predict that the Congress will be smart enough to figure that out, that it will not emasculate ANILCA and that eventually - when the legislative leadership faces reality - we will all have to deal with the **real** issue at hand. Neither SJR 19 nor HJR 33 will relieve us of our obligations to the people of this state.

In January, Senator Stevens pointedly warned the legislature that subsistence will **not** be resolved by dumping it back on the Congress. Any long-term solution will require a **consensus** among Alaskans, and that is **not** what this resolution tries to create. Like a recent budget proposal to wipe out the entire subsistence division, SJR 15 sends a strident message that his legislative majority serves urban **sport and commercial** interests, regardless of what happens to its own rural people. In effect, the resolution asks the Congress to participate in dismantling the economics and futures of

Bush Alaska in order to serve a vocal urban minority which is so afraid of the majority that it will do **anything** to keep this question from going to the voters. This is no consensus politics. It is a **bald** attempt to **steamroll** the Bush - and the Congress will recognize it as such.

The real irony is that adoption of SJR 19, or HJR 33, or any combination thereof, will probably convince the Congress and the federal agencies to take on **greater** management roles - because the legislature is obviously **determined** not to enact or implement any effective protection of subsistence hunting and fishing. In the absence of a competent policy, and lacking **any** consensus among competing groups, this kind of resolution will be **ignored**, and dual management will **get worse**.

Why? Because Congress **knows** its obligations. Its plenary constitutional power to regulate Indian affairs - as well as its 200 year tradition of protecting indigenous peoples - will persuade it not to allow the obliteration of 230 Alaska Native villages.

The Congress also **knows** the Title VIII was originally made necessary by the **state's** refusal to protect the protein base of its own villages following the passage of ANCSA in 1971. Had there been **any** inclination on the part of the state to take its obligation and to fashion an enlightened, fair policy of resource

allocation, there would have been **no** need for the United States to exercise its constitutional authority in Title VIII.

One critical fact that anti-subsistence legislators ignore is that early drafts of what became Title VIII of ANILCA had considered the creation of **preferential subsistence zones around native villages**. Governor Hammond, testifying before Congress, objected to this formula and recommended that an alternative basis be chosen for determining which Alaskans were to receive a subsistence preference on the public lands. Eventually, the **rural** preference emerged as a policy compromise in which the Congress accommodated the wishes of the state.

In fashioning Title VIII, the Congress bent over **backwards** to create a preference which the state could implement. Despite that good faith effort, the Alaska legislature has **refused** to enact any effective subsistence preference since 1989. The Congress knows that **it** did not create this mess in 1980. The gridlock that is now forcing the United States to manage a steadily expanding jurisdiction is the result of **5 and 1/2 years of neglect** by the Alaska legislature. We have no one to blame but ourselves, and I predict that SJR 19 will receive **little** sympathy on Capitol Hill. It's not a subsistence **policy**. It's just more empty **talk**.

The unavoidable fact is that rural Alaskans (native and non-native alike) **must** be guaranteed nutritional resources for the family and community survival in times of resource shortage. That is **all** that Title VIII does. Despite the recent frenzied attempts to redefine the issue in Juneau, Title VIII is a **reasonable** policy enacted by the Congress, in concert with the state, in 1980. By trying to reverse it, SJR 19 proposes to pull the historical rug out from under rural Alaska—and to pass along the enormous cost of its collapse to future generation Alaskan and American taxpayers. That may sell in Juneau, but it won't on Capitol Hill.

SJR 19 gets us **nowhere**/ The legislative leadership should stop posturing and get down to brass tacks. We should join the Governor in a process of consensus-building toward an Alaskan solution. The state's future is going to be decided **here**, by **Alaskans**, not in Washington, DC., by bureaucrats and politicians. I urge the 19th Alaska Legislature to **Trust its own citizens** and to submit to them a constitutional amendment that would allow all of us to join in protecting our rural communities from destruction.

**What are we afraid of? The people?**

As a final comment, Madame President, I would like to debunk a great **myth** concocted by members of

the majority: the assertion that the real issue in this resolution is **state's rights**, rather than **subsistence**. That is patently **false**, and every Alaskan knows it. State's right is a fundamental principle of the American Federal System and deserves our respect. But at various times in the nation's history it has been used as a **means** to advance **other** interests that are truly destructive and have **nothing** to do with federal-state relationships. The worst examples range from segregation to chattel slavery.

In the current debate over ANILCA, "State's Rights" is again being used as a **means** to another end. I submit to you that if **federal law** were defending urban sport and commercial users, and **state law** supported rural subsistence people, instead of the other way around, anti-subsistence interests would turn their backs on the State of Alaska in a **minute**. The only reason they mouth the state's rights rhetoric is because they expect to **get** something out of it - the fish and the game. But a principle is something you defend because it is **right**, not because you get **paid** for it. The concept of the states rights **deserves** better treatment than to be trotted out as a defense of every local exploitation in American history, and it should not be used in contemporary Alaska to mask a rip-off of the villages by a handful of urban legislators.