

Subsistence: in testimony to the Legislature...

By JOHN BORBRIDGE, Jr.

I am appearing in my private capacity as a citizen of this state and as an Alaska Native to testify in opposition to HB 343 which would repeal the state laws pertaining to subsistence hunting and fishing and the priority allocation of subsistence hunting and fishing resources to the Alaska Natives and to others.

In order to fairly consider and to properly evaluate HB 343 and its Senate counterpart, SB 355, I suggest that the proposed law should be examined with reference to the following criteria:

I. The legal status of the Alaska Natives with reference to their unique trusteeship with the Federal Government.

II. The well-known and admitted historic utilization of the subsistence resources by the Alaska Indians, Eskimos and Aleuts.

III. The public policy question - what allocation of state subsistence resources will be the most productive and best serve the economic needs of the State and the Alaska Natives.

I served for two years on the Congressionally established American Indian Policy Review Commission. As a commissioner on that body, I had the opportunity to analyze the special and unique relationship of the Alaska Natives, as Native Americans, with the federal government. I will highlight it as it bears on the subject matter presently before this committee.

The federal government owes the Native Americans, of whom the Alaska Natives are a part, the obligation of its trusteeship, not because of our poverty or the Government's wrongdoing in the past, but because within the federal system the Government's relationship with the Native American are of the highest legal standing, established through solemn treaties and a series of judicial decisions and legislative actions. This responsibility originated largely from the following three sources:

1. The treaties negotiated with Indian tribes in which the United States acquired vast areas of land in exchange for its solemn commitment to protect the members of the tribes and

their property from encroachment by U.S. citizens.

II. Statutory enactment dating from the Continental Congress to the present, regulating transactions between U.S. citizens and members of the Indian tribes.

III. Innumerable transactions in which, in the latter half of the 19th Century, the United States imposed a complex and vast array of regulatory authority over Indians and their property, coincident with its assumption of this authority over Indian people was accompanied by a responsibility to the Indian people.

This trusteeship relationship between Alaska Natives and the Federal Government was not terminated by the passage of the Alaska Native Claims Settlement Act.

This trusteeship relationship was not terminated by the passage of HR 39, the Alaska National Interest Lands legislation which instead, affirmed its continued existence.

This trusteeship relationship is not intended to be terminated by the Reagan administration which, through Interior Secretary James Watt's testimony at his confirmation hearings, disavowed termination as its present or intended policy in its future dealings with Native Americans. Given the dignity, stature and origin of this relationship which the Alaska Natives have with the federal government, it would be foolish to advance the simplistic notion that because it pertains to a particular race of people in this state, it is somehow "racist" and therefore bad or unfair. It is simply the state of the law.

The well-known historic utilization of the subsistence resources by the Alaska Indians, Eskimos and Aleuts admits of no contention - it is a fact. The Alaska Natives have used and occupied their lands from time immemorial, just as they have used the subsistence resources to sustain their lives and their cul-

ture when there was no other culture in our country. Despite the increased population growth in Alaska, the chief users of the subsistence resources in Alaska today continue to be the Alaska Natives who live where most of the fish and game is to be found. The state law did not originally "create" our right to utilize subsistence hunting and fishing resources. The law did not give us what we did not already have. But when the state law spelled out subsistence priority rights for the Natives and others it recognized our historic use and dependence.

Finally, there is a basic and important public policy question that should be addressed - what allocation of state subsistence resources will be most productive and best serve the economic needs of the State and Alaska Natives? The proper, efficient use of a state resource is the concern of all people, Native and non-Native alike. The Natives have been the most efficient users of the resources of the land and the waters. They have been guided by necessity. Eco-systems have not suffered under their wise stewardship. Should we now change their circumstances as pertains to subsistence, to

make a proud people more dependent upon food stamps and welfare? Should we so act as to undermine a culture that is greatly dependent on the subsistence resources by denying a fully justifiable priority standing to the Natives?

Many of the Alaska Natives in rural areas of our state are denied the basic necessities that we who live in the urban centers take for granted...safe drinking water, sewer systems, adequate housing, a quality education and medical care near their homes, retirement or Pioneer's Homes in rural Alaska - these and others. It is especially ironic that this should still be so largely true during a time of such affluence in and by our state. As a matter of broad public policy, I find it difficult to separate the allocation of the state's monetary resources and the subsistence resources which are subject to the state's jurisdiction. Why should those who already have so much want to reduce the present entitlement of the Natives?

I believe that the priority rights to the subsistence resources presently available to Alaska Natives and others under existing law should be continued - on the federal lands in Alaska

because of the special and unique trusteeship relationship the Natives have with the federal government - and on lands subject to the state's jurisdiction on the basis of historic use, cultural dependence, good public policy and justice.

HB 343 and its companion measure, SB 355 propose poor public policy, if it proposes any at all, and it proposes poor public law. I support the defeat of this proposed repeal of the state laws relating to subsistence hunting and fishing.

The Alaska Natives will fight hard and intelligently and they will fight best when the danger is imminent, in order to preserve the integrity of their culture. All of us hope that we will not witness the sad circumstances of Alaska Natives going to Washington, D.C. to seek justice, during this time of affluence in Alaska, because they could not obtain justice in their home state. I am hearing the same baseless arguments that were used during consideration of Alaska Native Claims legislation, and if fair-minded, caring people rally, as I believe they can, those arguments will be as successful today, as they were then.