



Kelso elaborates on Federal subsistence duty

The following remarks are excerpts from testimony of Dennis Kelso before the Subcommittee on General Oversight and Alaska Lands. Kelso is an attorney hired by Friends of the Earth to research the precedence for Federal subsistence protection. FOE and other conservation groups strongly argue that Federal subsistence management would offer the highest degree of protection for the subsistence lifestyle.

A review of legal issues surrounding Federal protection for subsistence suggests four crucial factors that must be included in any serious attempt to address subsistence: management by the most appropriate agencies; clear priority for subsistence relative to other consumptive uses; meaningful participation of subsistence users in shaping regulations; and flexibility of the subsistence management.

Agency qualifications have already been mentioned. With regard to clear priority for subsistence, no attempt to provide for such activities can be effective if competing uses are allowed to reduce the resource base below needed harvest levels. H.R. 39 addresses this issue by preferring subsistence over competing consumptive uses in all cases. The bill also offers a standard to limit the Secretary's discretion in case curtailment of subsistence should be necessary to protect the resource base. Such priority emphasis is essential if proper agency management is to be guaranteed and if subsistence users are to have confidence in the administrative mechanism.

Meaningful participation of local residents in formulating policies and rules requires more than simply an expression of views. It means that people who will be affected by policy regulations have a significant role in generating those decisions. H.R. 39 builds in user participation through the "regulatory subsistence boards" and through required consultation by the Secretary when policy adjustments are indicated.

Responsible flexibility in management is essential if subsistence policy is to correlate with the needs of users and with the capacity of the resource base. Such flexibility does not suggest arbitrary action but rather an evolutionary approach to the problem involved — a task for which administrative agencies should be best-suited. Diversity in resource populations, user needs and geographic conditions make flexibility management particularly important in Alaska. H.R. 39 addresses these issues by requiring the Secretary to undertake research and to report to Congress periodically on effects of hunting and fishing on the resource base. Similarly the Secretary must periodically recommend to Congress changes in use after consultation with the State of Alaska and the regulatory subsistence boards. Additional capacity for adjusting management approaches is present in proposals originating in the regulatory boards.

Finally, I wish to note how delicate is the balance of factors needed to safeguard the opportunity to continue a subsistence way of life. An ideal management approach is useless if the protected resource base is inadequate to meet subsistence needs. Even if both these factors are present, cultural and lifestyle alternatives are realistic choices only if subsistence users can really have confidence that the management process affecting their lives is fair and open.