

Special session targets subsistence

Cowper says he has a plan to prevent federal takeover

by Geoff Kennedy
for the Tundra Times

The special session on subsistence begins today.

Gov. Steve Cowper called the Legislature back into session to replace the rural preference subsistence law declared unconstitutional last December by the Alaska Supreme Court.

Cowper admitted he didn't have the necessary two-thirds' vote to pass a constitutional amendment to the voters. But he was preparing an alternate plan, he said, which he has not made public.

Cowper announced his decision after the federal government revealed its temporary regulations for managing fish and game on "public" lands, federal lands not selected by the state

or Native corporations.

Cowper worried that the federal plan appeared so "benign" that it would lull lawmakers into believing the takeover wouldn't affect hunting and fishing very much in the state.

Cowper argues the takeover could become permanent. Then bureaucrats in Washington, D.C., will decide who may hunt and fish in Alaska and when and where they may do so, he says.

The special session will not stop the takeover, which begins Sunday. The Alaska Supreme Court this month rejected a state request to delay that takeover. The court had set that deadline for replacing the law after deciding it unfairly discriminates against urban Alaskans.

The state had enacted the rural preference to conform to the Alaska

continued on page six

• Alaskans disagree about subsistence

continued from page one

National Interest Lands Conservation Act of 1980. That law allows the state to manage fish and game as long as it meets the federal requirements.

When Alaska's subsistence law becomes void next Sunday, the state will no longer conform to ANILCA. That law requires the federal takeover.

When the Legislature failed to replace the unconstitutional law, federal officials rushed to set regulations for the takeover.

Cowper, Reps. Lyman Hoffman, D-Bethel, George Jacko, D-Pedro Bay, and Kay Wallis, R-Fort Yukon, introduced measures to amend the state constitution, but the state House failed by three votes to enact a constitutional amendment and the Senate never even voted on such a measure.

Cowper has been meeting with interested groups on all sides of the issue in an attempt to reach a consensus on the issue, said aide Ernie Piper. If the governor can't get the necessary two-thirds' vote, he may settle for passing another subsistence law, but such a measure will probably also fail a court test, he said.

But enacting another subsistence law has one advantage. It requires only a majority vote in each house. Amend-

ing the constitution requires approval by 27 of 40 representatives and 13 of 20 senators before voters would decide the issue in the November general election.

At an Anchorage hearing June 13, witnesses provided little evidence of moving toward the consensus Cowper needs.

Dale Bondurant of Cooper Landing discounted the threat of a federal takeover. The state's inaction forced the federal government to decide that navigable waters belong to the state even if they pass through federal lands, he said.

"I recognize no race or ethnic group," Bondurant added. "The human race is the only race I recognize, and I'm a member of that and am proud of it," he added.

Sam McDowell, who successfully challenged the state subsistence law, said the real managers of fish and game are neither the state nor the federal government, but the courts.

Joanne Lovitz-Edmiston of Anchorage recommended changing ANILCA to conform to state law, instead of the other way around.

Carol Jensen of Anchorage supported the federal takeover and discounted the "gloom and doom and hysteria that our Washington delegation is promoting."

The Alaska delegation has warned a federal takeover could eventually lead to a complete ban on hunting on federal lands in Alaska.

Bob Polasky, the director of subsistence and natural resources for the Rural Alaska Community Action Program, disagreed with Jensen.

"All Alaskans will be sitting on the sidelines, so to speak, while the federal government decides their fate," as a result of the federal takeover, he predicted.

Paul Swetznoff accused the federal government of violating the Administrative Procedures Act by developing its takeover regulations "behind closed doors" without allowing the public to participate in the process.

He also criticized federal officials for holding hearings in Anchorage, Fairbanks, Juneau and Bethel and none in the villages, despite the fact that the regulations will affect people in the villages more than any other Alaskans.

"The implication that Native people are going to cheat and not preserve the resource when we've done such a good job over the past 10,000 years and you guys come up here and argue with us about whether we have a right to do that, this is a little off the wall," he said.

Ralph Eluska, the chairman of the

board of the Alaska Federation of Natives, said the federal regulations violate the intent of Congress when it enacted ANILCA because they adversely affect:

- The process of regulating fish and wildlife in Alaska.
- The ability of rural residents to meet their subsistence needs through hunting and fishing.

ANILCA clearly requires the U.S. Fish and Wildlife Service to decide in favor of the subsistence rights of rural Alaskans whenever it's unclear which federal law to obey, Eluska said.

"Virtually every other interest in the debate: sport users, commercial users, state managers, federal managers and others have been accommodated in these regulations at the expense of precisely those people in whose economic and cultural interests Congress acted in 1980," he said.

Desa Jacobsson, who lives near Sterling, identified herself as one of the Native women arrested for subsistence fishing on the beach at Cook Inlet.

"We've done more time in jail than Capt. Hazelwood," she said. "This man destroyed all the fish and wildlife here and he left the state, and we caught 112 fish and did six weeks in the state jail."