

Judge: Rules must not hurt subsistence

Ruling to affect Board of Game

by Steve Pilkington

Tundra Times reporter

The Board of Game, as a result of a suit challenging state subsistence law, must ensure that hunting seasons and bag limits in rural Alaska do not mar "customary and traditional" use of game, a U.S. District Court judge has ruled.

"The Board of Game must in the future proceed with scrupulous care and caution in imposing season and bag limits on subsistence hunting," said Judge H. Russel Holland in an opinion dated Feb. 14.

Holland said because the Alaska National Interest Lands Conservation Act, passed by Congress in 1980, protects subsistence rights in rural Alaska, the board must have substantial evidence showing that such restrictions will not conflict with traditional uses of fish and game.

According to Holland, the Board of Game may have infringed upon traditional uses when it restricted residents of Lime Village, a small village on the Stony River, to a 148-day moose season and a six-month caribou season. He ruled that a study finding customary game levels and seasons was not done before the board set seasons and bag limits.

"If the required analysis were performed, and with supporting record, the season and bag limit regulations

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now in force would survive," Holland said.

Holland quoted a Board of Game study which said the 40 residents of Lime Village are "extremely dependent on moose and caribou."

To assure subsistence protection, the judge ruled that the board must revise — by June 15 — regulations which currently limit moose and caribou hunting by residents of the village.

He said the board should count the number of animals in the area and determine local subsistence needs.

Larri Spengler, an assistant attorney general with the Department of Law and legal adviser to the board, said that Holland's ruling in no way challenges the board's need to limit subsistence hunting if warranted.

Instead, the ruling defers the responsibility to the board to determine what is best for Lime Village, she said last week.

"I think that's fair," Spengler said.

Spengler said Holland made it clear that he understood the difficult circumstances the board faces when trying to collect data to regulate an area.

The judge realizes that surveys of game in an area are not exact and that successful hunting is partly skill and chance, she said.

"Judge Holland commended the Board of Game for its efforts with respect to Lime Village," she said.

And because Holland recognized the difficulties and expenses which accompany studies and research which provide information to monitor game stocks, he asked the board to adopt revised regulations for the village, she said.

The judge said that he would defer to the board as long as the regulations were properly adopted and reasonable, she said.

Most importantly, Spengler said, was that the Lime Village case might encourage rural people to attend future board meetings when they are trying to gather subsistence data.

Spengler said a joint meeting between the game board and the Board of Fish is being planned for next month, so that Holland can receive the revised regulations for Lime Village before the June deadline.