

# The answer to this problem is management

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The Alaska Supreme Court ruled in the recent case of *McDowell v. State* that the provision in the Alaska Constitution requiring all fish and wildlife resources to be managed for "common use," is an important constitutional right of all Alaskans.

The McDowell case did not seek to abolish subsistence hunting by rural residents, if the word "subsistence" means the right to take fish and wildlife for consumptive uses.

Quite the contrary. The plaintiffs in the case merely sought the court's assistance in obtaining the same rights to participate in the taking of wild game and fish as other Alaskans had.

Before the McDowell decision, people who lived in the area designated rural had a preference to take fish and wildlife for subsistence over other Alaska citizens. Since the McDowell decision, all Alaskans now have equal rights.

Some people have called the decision "racist." It was not. One of the plaintiffs in the McDowell case is an Alaska Native — Ron Mahle. Mahle is a member of Cook Inlet Region Inc., but could no longer participate in the subsistence hunts because he lived in Anchorage.

Some people have called Anchorage the largest Native village in the state, and all Natives living in Anchorage, Fairbanks, Juneau and on the Kenai Peninsula lost their rights to participate in subsistence hunting and fishing when the 1986 law was passed. Because of the McDowell decision, Mahle, his family and all Natives, regardless of where they live, can now participate in subsistence hunts.

The Alaska Federation of Natives now proposes that the Alaska Constitution be amended to return to a rural preference for subsistence hunting. In taking such a position, AFN is turning its back on all Natives who live in urban areas.

Gov. Steve Cowper also favors such a proposal. Thinking people realize, however, that a rural preference for subsistence was discriminatory. Legislation calling for a vote on amending the Alaska Constitution to re-establish a rural preference means Alaska would face one of the most divisive issues ever seen in this state.

A comprehensive fish and wildlife management system administered by Alaskans using biological principles can ensure that there are more fish and wildlife resources for all Alaskans. With more fish and wildlife resources available for rural and urban hunters alike everybody wins.

At the present time, however, Alaska is not fully committed to such intensive management programs.

Instead of passing legislation calling for constitutional changes, Alaska legislators should enact legislation providing for intensive management of Alaska's fish and wildlife resources.

Of course, such intensive management programs would still not bring Alaska's subsistence law in conformity with the federal subsistence law.

Title VIII of the Alaska National Interest Lands Conservation Act mandates federal management of fish and wildlife resources on federal lands in Alaska if Alaska's subsistence law does not conform with the provisions of ANILCA. ANILCA mandates subsistence uses be granted on the basis of residency only. This directly conflicts with the provisions of the Alaska

Constitution.

Because in some areas of the state personal consumptive uses of fish and wildlife may be more prevalent, some people believe that the state is unwilling or unable to recognize this lifestyle. They believe that only the federal government will allow this lifestyle to continue.

Alaska state officials must demonstrate that as Alaskans, working together, we can solve our own problems without federal intervention.

The governor should immediately call the state's Boards of Fisheries and Game into session to set seasons and bag limits, methods and means for the upcoming fishing and hunting seasons.

During periods when fish and/or wildlife stocks are low in a particular area, the boards can regulate fish and

fish and wildlife populations to sufficient numbers in order that liberal seasons and bag limits can be resumed as soon as possible.

The Alaska Congressional Delegation should be asked to obtain passage of the necessary changes in ANILCA to facilitate this plan and prevent federal takeover of fish and game management in Alaska. ANILCA has been amended nine times since 1980. Our congressional delegation should not have trouble doing it one more time if the state's plan is a reasonable one.

The state should immediately initiate litigation in the event that the congressional delegation is unable or unwilling to obtain the necessary



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wildlife harvest, using the traditional methods of seasons and bag limits, methods and means in conformity with the Alaska Constitution to ensure that local residents still have a fair opportunity to harvest fish and wildlife resources in areas close to their residence.

In addition, the state should designate such an area as an "Intensive Management Area" to restore

changes in ANILCA.

The Alaska Constitution, including the "common use" and equal treatment provisions, was approved by Congress at the time of statehood. The threat of federal management, through the ANILCA legislation, flies in the face of the implied approval of Alaska's right to manage its own fish and wildlife resources granted through the statehood process.