

Subsistence issue must be defined



by Rep. Eileen P. MacLean
for the Tundra Times

JUNEAU — There has been a lot of talk about subsistence proposals in the Legislature this session due to the Dec. 22 decision in which the Alaska Supreme Court struck down a provision of the state's subsistence law that gave rural residents priority hunting and fishing privileges.

The Legislature must address the consequences of this decision; otherwise, chaos will reign over the management of fish and wildlife resources.

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OPINION

There are now four major measures addressing subsistence in the House. They are:

- Sponsor Substitute for House Bill 415 by Anchorage Republican Reps. Ramona Barnes, Walt Furnace, Alyce Hanley, Terry Martin and Jim Zawacki, R-Girdwood.

- House Joint Resolution 74 by Rep. George Jacko, D-Pedro Bay, and Peter Goll, D-Haines.

- HJR 88 by Gov. Steve Cowper.

- HJR 90 by the House Transportation Committee.

All measures currently reside in the House Resources Committee, which held a public teleconference March 10. Barrow and Kotzebue were among many sites included in the teleconference system.

The teleconference was a preview of the divisively bitter battle that lies ahead for subsistence users.

Of the four legislative measures in the House, the measure introduced by Anchorage Republicans, Sponsor Substitute for HB 415, would eliminate the provision granting subsistence preference based on residency and would restrict the type of gear used for subsistence fishing and hunting.

I strongly oppose this bill. It belittles our subsistence lifestyle and fails to solve the problem created by the Supreme Court decision.

Many feel that an amendment to the Alaska Constitution is the best legislative approach to solving the subsistence issue. HJR 74, HJR 88 and HJR 90 represent three solutions that would follow this approach.

Each proposes an amendment to the Alaska Constitution and would require two-thirds votes of each house before being submitted to the voters for approval.

Each would allow the Legislature to grant a preference for subsistence uses of fish and wildlife. Each, however, has slightly different approaches that we need to analyze.

In addition to granting a preference for subsistence uses of fish and

wildlife, HJR 74 would grant subsistence use of state-owned renewable resources. Most importantly, it would allow the allocation of subsistence uses on the basis of local residency and would protect the current system for allocation of subsistence uses.

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HJR 74 does not mention "rural residents" — the clause the Supreme Court found problematic.

HJR 88, on the other hand, would specifically grant subsistence uses of fish and wildlife for rural residents and would validate the current subsistence law found unconstitutional by the Supreme Court.

HJR 90 would specifically grant subsistence uses of plants, fish and

wildlife for Alaska Native residents and for rural residents.

We need to assess the legal and political ramifications in each resolution before we throw our support behind one. I feel comfortable with the language in HJR 88, which would explicitly validate the current subsistence law. However, I am concerned about the implication of the resolution's use of the clause, "Nothing in this constitution prohibits the Legislature from limiting," and am particularly concerned about the implication of the clause, "customary and direct dependence on a fish or wildlife population as the mainstay of livelihood," found in the resolution.

If we use the word "limiting," would we expose ourselves to the danger of greater limitation of subsistence uses by future legislatures?

And how would "direct dependence on a fish or wildlife population as the

mainstay of livelihood" be construed? Would it eliminate those fish and wildlife species that are not considered to contribute directly to the "mainstay of livelihood?"

What about a species of fish such as the Dolly Varden which is used to supplement our subsistence livelihood? Would it be excluded from subsistence preference because it may not qualify as the "mainstay" of subsistence livelihood?

Further, would this clause open up the doors to expanded sports and commercial uses?

These questions need to be answered. Now that all angles on subsistence have been presented before the Legislature, I would like to see us work toward defining what we want to see and to start building consensus for what promises to be a heated and divisive debate. Nothing less than our livelihood is at stake.