

# Solving subsistence at the state level

by Gov. Steve Cowper

JUNEAU — On Dec. 22, the state Supreme Court presented Alaskans an early Christmas present few of us wanted — a resumption of the sometimes bitter conflict over subsistence.

## OPINION

In a split decision, the court upset a notion to which a majority of Alaskans have subscribed for more than a decade: when fish and game are scarce, those most dependent on them should have first crack.

The decision has refueled a long-standing debate over an issue that Alaskans have visited several times since 1987. In essence the question is this: at a time when there is not enough fish and game for all Alaskans who want them, how do we decide which Alaskans have a priority in the harvest?

There's only one good solution: an amendment to the State Constitution to permit the Legislature to give rural Alaskans priority access to fish and game for subsistence purposes. Earlier this month I proposed such a constitutional amendment to the Legislature.

If passed by two-thirds of both the House and Senate, the proposed amendment would appear on the November general election ballot where all Alaskans will be asked to vote on it. If approved by voters, the proposal would become a part of the Alaska Constitution, and I hope resolve this issue once and for all.

Alaskans have consistently supported giving those who depend on fish and wildlife resources a priority when they are scarce. We showed our



support for this policy when the Legislature passed the first subsistence law in 1978. We showed our support during the congressional debate over the Alaska National Interest Lands Conservation Act in the late 1970s.

We showed our support in 1982 when Alaskan voters decisively rejected a referendum to overturn the rural subsistence preference. And we showed our support in 1986 when the Legislature approved our current subsistence law.

To the surprise and frustration of many Alaskans, the state Supreme Court four months ago said that long-standing policy doesn't square with the state's constitution. The court said giving rural Alaskans a preference violates the constitution. At the same time, the federal government says Alaska must give such a preference to rural Alaskans.

The ruling makes it virtually impossible to ensure that Alaskans who depend on fish and game the most have the opportunity to take those resources. Equally important, the decision jeopardizes the state's authority

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to manage fish and wildlife on federal lands and perhaps throughout the state.

When it mandated a rural subsistence priority in ANILCA, Congress also said the federal government must take over the management of fish and game resources for subsistence users on federal lands in Alaska if the state did not pass similar legislation.

To me and to most Alaskans, the prospect of the federal government managing Alaska's fish and game is unacceptable. One of the main reasons Alaskans fought for statehood was so that we — not federal bureaucrats 5,000 miles from here — could make decisions about our own lives.

Alaskans know what's best for Alaska. We know that subsistence is part of the culture, tradition and economy of many families and communities in Alaska. We know that, in general, rural Alaskans depend more on the subsistence use of fish and game than Alaskans living in our cities.

Certainly there are exceptions. One of my first reactions to the court's ruling was to consider creating an individualized permitting system under

which the state could determine which Alaskans should qualify for subsistence, regardless of where they live.

But it didn't take long to realize that such a system would require a huge and expensive state bureaucracy, would intrude into the lives of Alaskans and, because of a lengthy appeals process, would be a legal nightmare.

Some have suggested that we return to the days before Alaska had a subsistence priority law, when the Boards of Fisheries and Game used seasons and bag limits to favor rural residents.

Unfortunately, any direct attempt by the boards to do that is subject to the same constitutional challenge as the rural preference struck down in December. And since state law would still be inconsistent with federal law, we'd still be running the risk of a federal takeover.

I also thought long and hard about trying to fix the problem by attempting to change federal law. But the problem, at least according to our Supreme Court, is with our State Constitution. Opening up ANILCA to possible amendment makes us vulnerable to other changes that could affect our ability to manage our own affairs.

Without the support of Alaska's congressional delegation and the Alaska Native community, Congress would be unwilling to change federal law anyway.

Amending the State Constitution is not something we should do lightly. That carefully crafted document provides us basic guidelines for how we run our government and our state. That's why all Alaskans should have a say in this important decision. That's why preserving this essential Alaska tradition belongs in the constitution.