

# Duck hunting controversy revives

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ANCHORAGE—Once again, the federal Fish and Wildlife Service will attempt to enforce the Migratory Bird Treaty Act, which forbids duck, swan and goose hunting between January 1 and August 1.

Last week, boxes of waterfowl shot near Bethel were seized at the request of Fish and Wildlife officers. The waterfowl were shot by Native hunters who were reported to have chartered aircraft to the village from Bethel for the hunt. Local reports say that the hunters did not charter, but took scheduled mail flights both ways.

The change in policy was announced by Gordon Watson, outgoing area director of the U.S. Fish and Wildlife Service, and is claimed to be a result of complaints by pilots and sports hunters who felt Natives were getting special treatment.

"This is the first time we've made such a stand," Watson is quoted in the Anchorage Daily News. However, the action brings to mind the famous Barrow duck hunting case of 18 years ago.

On May 20, 1960, a Barrow Eskimo named Tom Pikok was arrested for shooting three geese out of season. Shortly afterwards, then State Representative John Nusunginya of Barrow was apprehended with a duck in his possession.

Two days later, 138 Barrow hunters turned themselves in to the federal game wardens, each with a dead duck in one hand, and a signed statement that it was shot out of season in the other.

The furor that arose following the demonstration was one of the hottest in the history of Alaskan politics. After several months, all charges against the Barrow hunters were dropped by the U.S. Department of Justice.

Since then, the Fish and Wildlife Service has had an informal policy of ignoring out-of-season waterfowl hunting by villagers. There has never been a test of the duck hunting issue in United States courts; however, a Canadian judge in 1963 ruled that in a similar situation, the international treaty between Canada and the United States improperly infringed on Canada's trust responsibility to its own Native population.

The Barrow duck case was one of the first issues which prompted the organization of Native non-profit associations in the north in the early sixties, leading up to the Land Claims movement a few years later.

Central to the Native point of view in this dispute is the fact that the waterfowl protected by the Migratory Bird Treaties (between Canada, Mexico, and the U.S.) are never present in Alaska when they are in season. Also, the birds in question are not endangered species. Eskimos assert that they need to take ducks and geese for food in the spring.

No citation has been issued by Fish and Wildlife yet in the Bethel case. A federal investigator arrived in Bethel on Tuesday, May 30, to begin an investigation. A spokesman for Nunam Kitlutsisti, the environmental protection arm of the Association of Village Council Presidents, said that Norman Cohen, a Bethel attorney, had been hired by AVCP to represent the two hunters in the matter.

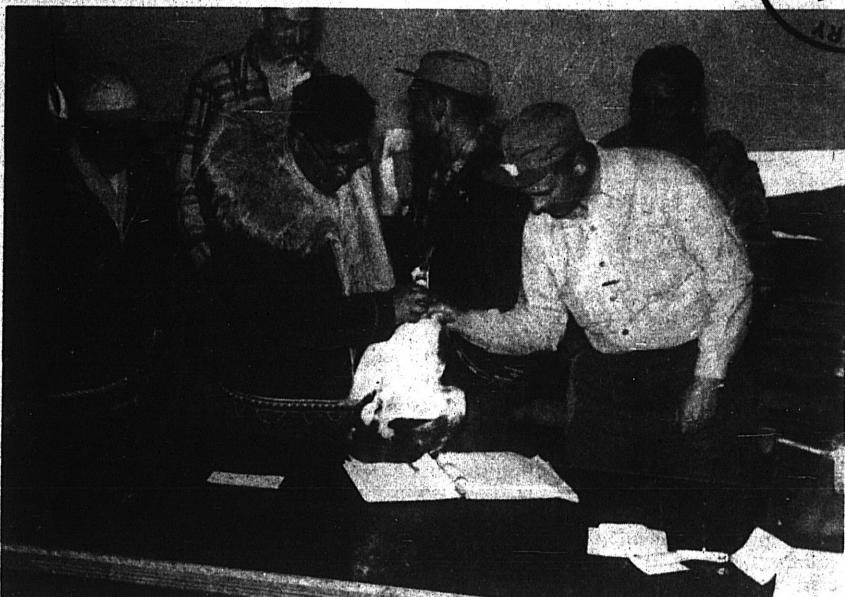
The investigation will attempt to determine the circumstances surrounding the incident, said public affairs officer Bob Stevens of the Fish and Wildlife Service, including whether the hunters should be considered subsistence hunters or participants in the cash economy. Investigators will "look at the obvious things," according to Stevens, "such as where they live, what kinds of jobs they have."

After a meeting with AVCP representatives in December of 1975, former area director Watson issued an informal statement of FWS policy which recognized legitimate subsistence needs for out-of-season waterfowl hunting. In order to avoid putting enforcement officers in a moral bind, the Service simply did not send officers to certain rural areas during the spring duck hunting "season," Stevens explained. "We couldn't ask them to just turn their backs on violations they observed," he said.

"From now on, however, if we see violations we will issue citations. It is up to the U.S. Attorney to decide whether or not to prosecute. We will investigate each incident and make a recommendation based on the circumstances of the person taking ducks or geese illegally." According to Stevens, if the Service determines that the hunter does not actually need to hunt for food, because he has an adequate cash income to support his family, consideration will not be given to cultural reasons for the violation. "Violations should be for life-sustaining purposes, not for culture-sustaining purposes," he said. "Violations of the Migratory Bird laws are not the way to preserve culture."

The word from Bethel is that AVCP and the attorney for the hunters are attempting to demonstrate that the people involved were within the scope of the 1975 statement by Watson relating to subsistence users. "The birds were taken by people who are part of an extended family system in Bethel and the outlying villages. Also, the report that they chartered in and out of Bethel is false. They used scheduled mailplane flights," said Harold Sparcks of Nunam Kitlutsisti in Bethel.

"We also want to make it clear," said Sparcks, "that AVCP does not believe this has anything to do with the issue of federal oversight of Title VII of the D-2 bill. AVCP still firmly supports Section 705 of the House version of the D-2 bill."



On June 2, 1960, 138 Barrow duck hunters turned themselves over to federal game warden Harry Pinkham, after Pinkham and another officer arrested two men for shooting migratory waterfowl out of season. The resulting furor is remembered clearly eighteen years later.  
Rev. John Chambers photo