

Natives must have fish, game priority

by Paul Swetzof
for the Tundra Times

Enough is enough.

It is imperative that we put all our efforts into obtaining an amendment to the federal Alaska National Interest Lands Conservation Act which allows for a "Native" subsistence preference.

OPINION

This is the only way to help assure that our cultural and nutritional right to customary and traditional hunting and fishing remains intact.

As most of us are aware of by now, the Alaska Supreme Court found that the "rural" subsistence preference violated the Alaska Constitution because it didn't allow urban people equal access to the fish and game in rural Alaska. The court suggested that the state should ignore the rural preference guaranteed under ANILCA and perhaps develop a statewide needs based priority.

Of course, a needs based priority would allow for large numbers of urban people to have priority hunting and fishing rights in rural Alaska, at the same time denying the preference to some local residents. Most significantly, it would ignore the fact that our cultural integrity is in large part based on hunting and fishing.

One of the people who filed the lawsuit, Sam McDowell, suggested that the next step would be to challenge the preference in federal court, in hopes of ending the preference altogether.

McDowell and others who share his views must be stopped, and one sure

way to stop them is to have a Native preference. After all, our cultures are at stake, not theirs.

A Native preference would be very difficult, if not impossible, to successfully challenge. This is because it would be considered "Indian law." Indian law is a special set of U.S. laws and court decisions which recognizes that Native people and our institutions have an inherent sovereignty, based on the fact that we are the "first people."

It recognizes that our cultural rights are based on our political — not racial — status, that Alaska is the seat of our culture, our homelands and that our people and institutions were established long before non-Natives ever knew North America existed.

This legal principle has been upheld by the U.S. Supreme Court for almost two centuries and is the reason why Congress can and does exempt "Indian" legislation from the Civil Rights Act.

The U.S. Constitution supercedes the Alaska Constitution. Federal law on federal lands and "Indian country" supercedes state law.

"Indian law" supercedes state law. This is why we need an amendment to ANILCA guaranteeing a Native preference. A Native preference under federal law would be almost impossible to overturn.

A Native preference would mean that Native hunting and fishing would be protected on all federal lands and waters in Alaska — about 65 percent of the state.

Another 10 percent of the land could be preserved by establishing a Native hunting and fishing priority on all Native corporation lands.

Native allotments could be closed to non-Natives.

SUBSISTENCE

A Native preference would mean that Native hunting and fishing would be protected on all federal lands and waters in Alaska — about 65 percent of the state.

Finally, waterways which support migratory fish runs and which run through both state and federal lands may be eligible for the federal preference. This could result in the protection of our Native hunting and fishing rights on 80 percent or more of Alaska's lands and waterways.

We can't afford any more compromises over our hunting and fishing rights. Our cultures are at stake, and the nutritional well-being of many of our village people is at risk.

Our children's future depends on our actions now. As the old Indian saying goes, "We don't inherit our lands from our ancestors, we borrow them from our children."

Our failure to act will cause our future generations to condemn us and rightfully so.

We must demand that our village governments and institutions, corporations and organizations, such as the Alaska Federation of Natives and the Alaska Native Coalition, vigorously support and lobby for an amendment to ANILCA guaranteeing a Native preference.

We must ask national Indian organizations and individual Outside tribes to support us and lobby on our behalf. We may not get the preference right away, but we must start our efforts now in order to help assure we get a Native preference in the near future.

Nothing will happen until we make it happen. The time for action is now. We must have the Native preference — for us and for our future.