

Interior ready to step in for subsistence

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The federal government will take almost immediate steps to assume control of all fish and game resources on federal lands if the Alaska Fish and Game Advisory Boards do not adopt a subsistence regulation outlining subsistence user priorities, a federal Department of Interior official told the boards on Monday.

Bill Horn, deputy under-secretary of the Interior, told

the boards that the Department of Interior would have no choice but to take steps to take control of fish and game because of the Alaska National Interest Lands Act.

That act, passed in 1980, gave the state of Alaska one year to set out regulations establishing a rural user subsistence category and that one year passed on Dec. 2, 1981, said Horn. He said the department was waiting to see what the Alaska Fish and Game De-

partment and the advisory boards do in their spring meeting before taking action.

Horn spoke to the boards and a packed meeting room as he also said that the federal control might extend to some non-federal lands if subsistence users are threatened in fish catches.

Answering a question from Game Board Chairman Clint Buckmaster of Sitka, about what the federal government would do about fishing priori-

ties; Horn said that although the Department hadn't issued a statement on that matter to date, "obviously we would have to take steps to ensure that subsistence fishing is provided for. It may be in some areas that we'd have to skim off some (fish) from the top . . . for subsistence users. There would have to be some form of first cut to insure" subsistence users can obtain fish even if their traditional fishing spots are not on federal land.

"Our primary job would be to insure that 'x'-amount of fish get to the subsistence users and if we have to, we will use the (federal) supremacy clause to make sure that occurs. If we didn't do that, we'd probably have some friendly federal judge making that decision for us," said Horn.

He said he is uncertain if the federal intervention in state

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Federal rule may mean 'topping off' of state land fish

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game control would effect wide-ranging animals such as caribou or moose which may travel from federal land to state land or across federal land but said that question also would have to be considered.

Horn said that federal intervention in state fish and game regulation also might mean that some areas might have to be totally closed for any form of hunting if the federal government doesn't have enough people to monitor the areas for violation.

He said there is a possibility that the federal government might be willing to hire state game wardens on a sub-contract basis if the federal government doesn't have enough people to conduct the

game regulation activities.

Horn said the federal government will step in to control hunting and fishing on federal lands if the no subsistence priority is adopted at this session of the game board or if a planned repeal of the subsistence law is passed on an initiative vote in November.

"The clock is ticking. Some time very soon we will take some action to determine if the state is in compliance with ANILCA. If, at the end of the (this) meeting we have not received a report," . . . that the state is in compliance, the department will act.

"We don't undertake this lightly," said Horn. If we fail to act (to assume control if the state doesn't come up with regulations) anybody can go to

court to force us to do so."

Horn told one board member that there is little room for negotiation because of the mandate of the ANILCA legislation.

Horn said the federal government has earmarked money to help the state pay to implement the subsistence regulations but that money — \$1 million by one estimate — could just as easily be kept in federal hands to help pay for federal control.

Horn spoke after John Gissberg, an assistant Alaska Attorney General, told the board that there is legal and constitutional backing for a special category of subsistence users which could receive priority over other user categories.

Many anti-subsistence advocates have maintained that the Alaska Constitution does not allow for a special category of user for subsistence resources.

Gissberg compared the use of fish and game resources to use of water resources. It is quite permissible to give a priority on water use to a domestic user before an agricultural user and to agricultural use before industrial use, said Gissberg.

He told the board they would not be legally allowed to limit subsistence uses to a closed class of people such as only women or only an ethnic group because it is impossible for men to become women or people to change their eth-

nic group.

But, said Gissberg, subsistence priority based on geographic residence is permissible because a person could move to those areas.

Gissberg also told the board that it can pass subsistence priority regulations that also would create a class of urban subsistence users in addition to rural subsistence users as long as there is a rural subsistence user class.

The U.S. Congress required that a rural class of users be created when Congress passed ANILCA, said Gissberg.

The boards were to take more public testimony and vote on their definition of subsistence users sometime this week.