

Congratulations to Delta Residents

Judge Reaffirms Natives' Right to Hunt Geese

Delta residents scored a major moral and legal victory in February when U.S. District Court Judge James von der Heydt ruled that subsistence hunting of migratory waterfowl by Alaska Natives was legally authorized by the Alaska Game Act Congress passed in 1925. "This decision clears Yupik hunters of more than a quarter of a century of false charges of illegal hunting," said AVCP President Peltola.

The decision came in a case which

had threatened both basic rights to a spring subsistence harvest of geese, and continuation of cooperative efforts by Delta residents and federal and state agencies in the Yukon-Kuskokwim Delta Goose Management Plan to protect and rebuild populations of four arctic nesting geese which have been in serious decline—Black Brant, Canada Cacklers, Pacific White Front, and Emperor Geese.

Sportsmen, acting through the

Alaska Fish and Wildlife Federation and Outdoor Council, and the Alaska Fish and Wildlife Conservation Fund, had brought suit against the U.S. Fish and Wildlife Service and the Alaska Department of Fish and Game, seeking citation enforcement of provisions in the Migratory Bird Treaty Act of 1918 which prohibit spring hunting of migratory waterfowl.

right of Native hunters to take waterfowl during *any* season of the year "when they or members of their family are in need of food and other sufficient food is not available."

AVCP, the Alaska Federation of Natives, and Tony Vaska were the intervenors who had joined the agencies as defendants in the suit in order to argue for the subsistence rights of

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Judge von der Heydt found this point of the sportsmen's technically correct, that the treaty had banned the traditional spring hunt. But, he ruled in favor of the intervenors' argument in the case, that the 1925 Game Act superceded the ban and reaffirmed the

Yupik hunters. The exact legal ramifications of the decision are not clear. It has sent lawyers scurrying to sort out what type of subsistence hunting (with modern or traditional equip-

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ment), and what type of possible regulatory restrictions on such hunting the Act allows. The answers to those questions may not come without more arguments in court.

It is clear that Judge von der Heydt recognized the legitimacy and the value of the Yukon-Kuskokwim Delta Goose Management Plan. The Judge wrote "Initial reports indicate that the cooperative plan has been successful . . . There has been particularly strong support for the program from the Native community. Apparently, this has led to a major decline in the subsistence harvest of each of the

species in question . . . "

"Perhaps this decision will bring Yupik hunters and their families the recognition they deserve for the spirit of cooperation which resulted in this sacrifice, and for their concern for protecting these geese which are so important to this region," said Peltola. "It also gives us a stronger hand for negotiating such things as habitat protection along the Pacific Flyway," he said.

Negotiations between the parties to the 1985 agreement for continuing and enhancing provisions of the Goose Management Plan for the next year are scheduled to begin with a meeting in Bethel February 27.



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