

# Amend act or create a new one

By Paul Swetzof

Subsistence. From an Alaska Native perspective, what is it and what can be done to protect it?

Subsistence is customary and traditional hunting and fishing. For Alaska Natives, it is a significant part of our cultural foundation.

Aleuts, Eskimos and Indians are Alaska's first people. It is only Alaska Natives who can claim a subsistence need based on culture because we are now living in our homelands and our cultures began and grew around our hunting and fishing practices. Subsistence is a vital link between our past, present and future.

Non-Natives could never justify asking for a subsistence preference in Alaska simply because their cultures were not founded and did not develop in our homelands. Some non-Natives may choose to subsist in a lifestyle; however, a lifestyle choice is very different from a cultural necessity.

Putting aside political and other complications, a solution to protecting the cultural right of Alaska Natives to subsist is simple. Congress needs to either amend Title 8 of the Alaska National Interest Lands Conservation Act (ANILCA), or create a new law, to provide for a Native subsistence preference on federal lands and assume a federal preemption over state lands for subsistence purposes. Because Title 8 of ANILCA has been found to be "Indian law,"

and presumably new legislation concerning this matter would also be "Indian law," this solution would provide for a constitutionally protected, and permanent, subsistence solution for Native people on both federal and state lands in Alaska. I see this as the only permanent solution.

Of course, the solution is not simple primarily because the State of Alaska violently opposes a Native or cultural subsistence preference as does at least one of Alaska's Senator's, Frank Murkowski.

Many of us have seen that a rural preference won't work because as the years pass, more and more communities will not be considered rural and, for those locations which remain classified as rural, a Native cultural preference would have to compete with a non-Native lifestyle preference.

I'm convinced that with hard work and patience by Native tribal governments, corporations and organizations we can obtain a Native subsistence preference coupled with a federal preemption over state lands. It might take us a few years, but for the sake of our future generations, it will be worth it. I also figure that we may have to compromise to allow for both a Native and a rural subsistence preference, however, I think legislation can be structured to allow a Native preference to have a higher priority than a rural preference. To accomplish this, some organizations will have to quit saying that it's not politi-

cally feasible because what they rely mean is they don't want to push the issue with our congressional delegation because it may interfere with their ability to obtain other special interest legislation. Any organization that can't push for the protection of our cultural right to subsist should consider not saying anything.

We've got good competent Alaska Native people willing to push Congress for legislation protecting a Native cultural subsistence preference. Many other outside Native tribes and fair minded people would lobby on our behalf. All we need to do is make up our minds to go to work.