



# Outdoor Alaska



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"Protecting your hunting, fishing, trapping, and access to public lands since 1955"

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Spring 2018

## Struggle for Fish & Game Management Authority in Alaska Continues

By Rod Arno, AOC Executive Director

Thanks to Alaska's Senior U.S. Senator, Lisa Murkowski, the largest lands bill in Alaska's history, The Alaska National Interest Lands Conservation Act (ANILCA) will not be amended outside the public process. Passage of ANILCA was a tough battle ending in a bizarre compromise among the nation's preservationist organizations, representatives of Alaskan Native Corporations and villages, believers in the traditional way of turning over fish & game management and allocation authority to each state as they entered the nation (as is the current law in all 49 remaining states) and those Alaskans who wanted less federal land manager oversight.

The recent amendment went to Senator Murkowski from the Alaska Department of Law. Of all people, Alaska's Attorney General (AG) Jahn Lindemuth should have known the repercussions of what an amendment to ANILCA would inflict upon the Sturgeon case now waiting to be heard in the U.S. Supreme Court, for the second time. A completely new sentence in the proposed amendment



Bill Iverson & Rob Mathews on the Kenai Red fishing

would have placed federal management and allocation **regulations** currently being applied on all federal lands and some waters by the Federal Subsistence Board (FSB) into **statute**. Why did the state's AG sign-off on relinquishing the state's sovereign authority to manage and allocate fish and game resources on over 60% of Alaska lands and a still undetermined amount of its waters?

Another signer to the proposed ANILCA amendment was Matthew T. Findley, John Sturgeon's successful attorney before the US Supreme Court in 2016. Matt knew exactly what his client John Sturgeon was asking for after years of hearing from federal attorneys in court where ANILCA didn't allow him to drive his hovercraft up the Nation River. It's a rare occurrence where an attorney would have an opportunity to re-write a federal statute that he was defending in federal court.

The proposed amendment to ANILCA would make it much

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### Upcoming Events

#### Palmer State Fair

August 23th - September 3th

#### AOC Annual Wasilla Banquet & Fund-raiser

Evangelo's Restaurant  
Saturday - October 13, 2018

#### AOC Annual Fairbanks Banquet & Fundraiser

Westmark Hotel  
Saturday - November 10th, 2018

#### WE NEED DONATIONS.

Please contact:  
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# Presidents' Message

By Bill Iverson, AOC President

As we melt our way into Spring, I am glad to report that AOC had a successful and sold-out Anchorage banquet fundraiser in February. Our annual meeting in Juneau in March was very informative (which Rod Arno will discuss in his executive director's report). I cannot stress enough how important the upcoming State election will be as to the direction of management of our fish & game resources.

Last fall we bought a wood shed/booth for the Alaska State Fair (after the wind torn our tent apart) -our volunteers are much happier to have a place to get out of the weather at the fair. We bought a new stand-up back drop for our booth at the sport shows. We are slated to have a booth at the Anchorage, Fairbanks and Kenai sport shows this spring and at the Alaska State Fair in the fall.

Show your support for AOC and find our booth, as we will be raffling off some fantastic prizes this year.

Consider volunteering to help whenever you can, and you will gain a better understanding of just what AOC board members give of themselves on behalf of the AOC membership and all outdoor folks in Alaska,

Thank you for being AOC members and donors. Your financial contributions keep AOC at the table when conservation and allocation of public resources comes up in the regulatory process, year after year.

**I would like to stress the importance of supporting the Sustaining Business Members in this newsletter. They put their name and reputation on the line by openly supporting AOC, because they believe in our vision.**



Bill Iverson with Todd Clark's airboat in Gods Country



Rod Arno, Executive Director awarding Bill & Pam Iverson with the Sam McDowell award



Bill Iverson in new booth backdrop 2018

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# Executive Director Report

By Rod Arno, AOC executive Director



## All in.

The Alaska Outdoor Council and its sister organization the Alaska Fish and Wildlife Conservation Fund are fully committed to raising the necessary funds for John Sturgeon's challenge in federal court of the U.S. Department of the Interior and Agriculture's implementation of the Alaska National Interests Land and Conservation Act (ANILCA). As the Chief Justices of the U.S. Supreme Court, John Roberts

wrote in his opinion when John won his case in 2016;

**“The parties arguments in this respect touch on valid issues of state sovereignty, on the one hand, and federal authority, on the other. We find that in this case those issues should be addressed by the lower courts in the first instance.”**

With that said the U.S. Supreme Court remanded the Sturgeon v. Frost case back to the lower court, the 9th Circuit Court of Appeals to fix their wrong decision. Not surprisingly the 9th Circuit Court came out with an even more egregious opinion of what Congress was trying to achieve with the passage ANILCA then they did the first time they ruled on the case. Thus forcing John to incur the expenses of having to return to the U.S. Supreme Court or leave an even more expansive takeover of federal management authority on all waters of the state.

Tax deductible contributions to John Sturgeon's attorneys can be made to the Alaska Fish and Wildlife Conservation Fund. All Alaskans will benefit from a clear legal opinion of what authorities Congress granted to the State of Alaska regarding public access to both state and private property located within the conservation system units created by ANILCA.

## Hunters, trappers, and anglers pay their own way.

While state funding declines money for the management of fish and game was increased by the willingness of hunters, trappers, and anglers to pay more for their licenses and tags in 2016. This money, around \$10 million annually, goes directly into one of very few dedicated funds in the state, AS 16.05.130 Fish and Game Fund. Fish and Game funds can be used as state match for another approximately \$50 million annually from the Fish and Wildlife Restoration Funds. Restoration Funds are collected from excise taxes on the sale of firearms, ammunition, bows, fishing gear, and related goods.

The Walker administration has chosen to reduce General Funds once available to the Alaska Department of Fish & Game, Division of Wildlife Conservation and replace that funding source with Fish and Game Funds. In FY2018 hunters and trappers license and tag fees are paying for 25% of the Divisions' budget.

Due partly to a lack of funds for match from the Fish and Game Fund and partly because the Department did not reach out for other sources of funds necessary to match the available Wildlife Restoration funds \$1.9 million, was returned to the U.S. Fish & Wildlife Service unused in Alaska for FY2017. AOC will work with the ADF&G to help make sure Alaska does not have to revert available Restoration Funds for projects that would benefit hunters and trappers because of a lack of non-federal matching funds in the future.

## Two regulatory bodies for allocating fish and game in Alaska.

Like no other state in the union Alaska has two sets of hunting and fishing regulations.

The Alaska Boards of Fisheries and Game regulate the harvest of fish and game for subsistence use, personal use, commercial fisheries harvest, sport fish, guided sport fish, trapping, and general hunting on all lands open to hunting and trapping and on all waters. The state boards may differentiate among residents, non-residents, and aliens and may close hunting and fishing for reasons of conservation and to assure Alaskan residents have adequate access to wildfood sources for their personal consumption. Most often state hunting and fishing regulations apply on federal lands until such time that the Federal Subsistence Board (FSB) chooses to adopt their own regulations.

The federal government sets regulations for harvest of fish and game for local residents only. Both the U.S. Department of the Interior, 50 CFR Part 100, and Agriculture 36 CFR Part 242, have created regulations that allow the FSB to:

## “Close public lands (and waters) to the non-subsistence taking of fish and game”

The FSB is authorized, Title VIII of ANILCA, to close federal public lands, over 60% of the state; to hunting, trapping, or fishing for all non-local residents for any number of reasons:

- To conserve healthy populations of fish and wildlife;
- For the continued subsistence use of populations of fish and wildlife by all local residents
- For reasons of public safety or administration.

Currently before the FSB are proposals that if adopted would allow the Ahtna Inter-Tribal Resource Commission to distribute moose permits to federally qualified tribal members in Game Management Unit (GMU) 11, GMU 13E, and caribou in GMU 13A and B. This action if adopted would require the U.S. Secretary of the Interior to modify their own subsistence regulations, 50 CFR 100.10, to allow an Alaskan Native tribe to determine which rural residents would receive hunting permits on federal lands. Unfortunately, the Ahtna Native Corporation feels that the current federal hunting permitting system allows too much of the harvest in the Copper River Basin to be taken by federally qualified non-tribal residents of Delta Junction and Glennallen. Should these proposals become regulations it would be a radical departure from the intent of the Alaska Native Claims Settlement Act (ANCSA) of 1971. With the passage of ANCSA Congress was hoping to prevent the divisive nature of having a racial priority to public resources while at the same time protecting subsistence lifestyles. The Alaska Federation of Natives (AFN) made it clear to the **Committee on Energy and Natural Resources United States Senate** that they want:

## “the U.S. Congress to restore and protect Native hunting and fishing rights in Alaska.”

AFN asked the Senate Committee on January 12, 2016, “to fulfill the federal government's trust responsibility to Alaska's Native people with respect to subsistence culture and economy”. Clearly AFN does not believe the Alaska Boards of Fish & Game nor the Federal Subsistence Board are providing Alaska Natives the fish and wildlife resources needed for their subsistence culture or economy. The question for all Alaskans to work on is how can we provide the Alaskan Native population adequate assurance that there will be fish and game resources available for their continued subsistence use under one management regime that honors common use of public resources. It's either Alaskans support the state's sovereign authority, or we

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balkanize the state into fiefdoms. AOC bylaws require the board to advocate for state management of fish and game.

### **AOC 2018 Annual Business Meeting.**

The AOC Annual Business meeting was held in Juneau this year to coincide with the Territorial Sportsman Inc. annual banquet/fundraiser. AOC Delegates from the Interior and Southcentral meet with Southeast delegates and AOC board members and staff to hear presentations from ADF&G staff on how AOC Clubs could help out to assure no more Fish and Wildlife Restoration Funds had to be reverted back to the USFWS.

Brent Goodrum, DNR Director of Mining, Land, and Water gave an update on efforts taken by the Public Access Assertion and Defense (PAAD Unit) related to assuring public access of outdoor recreation, hunting, trapping, and fishing. Brent had good news on the state's efforts at acquiring state title to the Knik River as well as to the Delta River. Also, we discussed how DNR could better work with ADF&G to receive wildlife Restoration Funds in the future to improve hunter and trapper access, as well as how funds could be used to mark public access on 17(b) easements through private lands to public lands beyond.

AOC was also fortunate to have Joe Balash, newly appointed Assistant Secretary of the Department of the Interior, as our noon speaker. Joe shared with AOC members his perspective of what he felt could be achieved over the next three years under the leadership of Ryan Zinke as the Secretary of the U.S. department of the Interior, to improve outdoor opportunities on federal public lands in Alaska. Leila Kimbrell, State Director for Senator Lisa Murkowski, gave an update on how Alaska was fairing in Congress on several important issues specifically affecting Alaska. AOC members were encouraged by the level of coordination with Alaska's congressional delegation to ensure Alaska was well represented in Wash. D.C. We were also fortunate to have Connie Mckenzie from the Alaska Congressional Delegation's Juneau office attend and listen in on our discussions. Sara Taylor called in from Senator Dan Sullivan's Anchorage office with updates on several current federal lands issues that the AOC board has been engaged with. AOC is appreciative of all the presenters who were able to attend and share valuable information with AOC's membership.

Four AOC board members who were up for election to the board were all reappointed for another term. The 2019 AOC Annual meeting will be held in Fairbanks, notices of the time and location of the meetings will be made available next fall. The AOC board and staff thank all club delegates and AOC members who were able to attend the event and are looking forward to meeting with each other next year.

### **2018 Alaska Governor's Race.**

The Walker/Mallott administration has been a disaster for Alaska's outdoor folks and the prospect of a united Alaska. Hopefully we will only have to endure less than another year.

In late 2015 AOC and other outdoor NGOs were asked by the ADF&G to support a hunting, trapping, and fishing license/tag increase in order to provide the state with matching funds for what has been a record amount of federal Fish and Wildlife Restoration Funds, \$50 million, available for fish/game surveys and inventories, shooting ranges, hunter/trapper access, hunter education, and boating access. Early in 2016 Gov. Walker and Lt. Gov. Mallott attended meetings with AOC and others where they expressed their support for legislation, HB137, with the understanding that the increased fees would prevent having to revert any federal dollars back

to the USFWS due to lack of state matching funds. In FY2017 the state returned \$1.9 million due to insufficient funds in the Fish and Game Fund - the fund where hunting, trapping, and fishing licenses and tag fees are deposited. **Why? Because instead of putting our increased license and tag fees into programs that support us, starting in 2017 the Governor cut general funds for the ADF&G budget and started using money from the Fish and Game Fund. Bottomline: they told us one thing and did another.**

In their first year in office the Walker/Mallott team chose to veto funding for the legislatively-created Citizens Advisory Commission on Federal Areas (CACFA) denying Alaskans a forum to identify conflicts between state and federal management of lands and waters, as well as an opportunity to hear from and interact with, land managers. After 8 years of abuse by federal land managers in Alaska under the Obama administration Walker's veto was a big blow. It was a small amount of money - much less than the governor has wasted on other things - but important to resource users. CACFA not only helped advise DNR and the Dept. of Law but interacted with our federal congressional delegation so they knew what federal managers were doing to Alaskans.

Walker's first year was also tough on snowmachiners. Many of us license our sleds and pay the fee for the sticker. Every other governor has followed the formula of putting that money into a fund that goes to trail grooming grants, but not Bill Walker. He took the money and transferred it into the general fund, where it could be used for any state government expense. After a public outcry - even people who don't ride sleds saw the injustice here - Walker returned the money he took, but snowmachiners won't forget being used like a political football.

After the US 10th Circuit Court of Appeals ruled against the state in the Akiachak Native Community v. State of Alaska case on July 1, 2016 Governor Walker chose not to challenge the decision, which effectively eliminated the Alaska exception to Lands-into-Trust, 25 CFR 151.1. Ignoring a strong dissenting opinion from Justice Janice Brown, Governor Walker, by allowing the decision to stand, opened the door for Alaska Native landowners to place their private lands into a trust with the federal government. AOC respects private land ownership, and the right of land owners - native or otherwise - to do what they want with their land. However, as a public policy, the concern is that Native private lands placed into federal trust would fall under fish and game management by the Federal Subsistence Board (FSB) and fall out from a unified state fish and game management regime. The potential for that occurring still remains as the Walker administration chose to consider the request for Land-into-Trust on a case by case basis.

The erosion of access to public lands continued under the Walker/Mallott administration when they agreed to a settlement with the Ahtna Native Corporation that would have diminished traditional access on a long-established RS2477 right-of-way to Klutina Lake. The agreement also included relocating public access to the Gulkana River to a less desirable and less safe boat launch. After public outcry the state's Attorney General was still supportive of the settlement agreement, fortunately Ahtna was not and chose to continue a court challenge. How well the state defends this historic public access is yet to be seen as the court date is set for next fall.

Add to these losses the state's willingness to concede its sovereign authority to manage fish and game resources on federal lands and water by attempting a last minute, late-night amendment to ANILCA and its plain to see that outdoor folks could use a new Governor. Accordingly, the AOC Board of Directors has voted to support Mike Dunleavy's campaign for governor.



Struggle - Continued from Page 1

clearer to future Department of the Interior (DOI) employees what authority the federal government did not have. Why wouldn't a respectable attorney choose to get his client all he asked for in law and save him the cost and agony of continuing a decade long court battle back to the U.S. Supreme Court?

The third and final signer of the request to amend ANILCA was the President of the Alaska Federation of Natives (AFN). The proposed amendment would have been beneficial to all Alaska Native Corporations and villages. If passed into law the amendment, thanks to John Sturgeon's challenge, would have more clearly articulated what Alaska Natives could do on their 18 million acres of privately-owned lands, conveyed to them within the exterior boundaries of Nation Parks and Monuments, United States Fish & Wildlife Service (USFWS) Refuges, and Wild & Scenic Rivers created by ANILCA. While that would have been reason enough for AFN to support the amendment, add to that additional language that would enshrine the regulations that determine where the FSB can implement a rural priority to fish and game on federal lands (and waters) and it's easy to understand why AFN would endorse the amendment.

Fortunately, Alaska Senator Lisa Murkowski understood this amendment would not resolve the conflict over where the Federal government can usurp state management and allocation authority of publicly owned resources of fish and game. Hunting, trapping, fishing, and outdoor recreation are highly valued by many Alaskan residents, all of these residents would most likely want to know if their rights under the equal protection clause, 5th Amendment of the U.S. Constitution, was being applied or if the government's trust responsibility to Alaskan Natives trumped equal access based on your home address. There will be less willingness to resolve this user conflict until the U.S. Supreme Court finally acts. Until then, amending ANILCA to match DOI regulations, to implement a priority on federal lands and waters won't help reduce the conflict.

John Sturgeon was not looking to open the debate on implementation of the federal subsistence law in Title VIII of ANILCA in federal court, he just wanted to operate his water craft under state boating regulations applicable on navigable waters. It's the October 2, 2017 opinion of the 9th Circuit Court on remand from the US Supreme Court in the Sturgeon case that opened the debate on where the Feds could regulate and allocate fish and game resources on federal lands and some waters. **John never asked for that.**

Alaska's Congressional Delegation will be the only ones to ultimately resolve this user conflict now occurring on over 60% of Alaska's lands and most waters, now managed under Codified Federal Rules made up by the DOI and Agriculture. Resolving the user conflict

won't start until the highest federal court in the nation acts to clear up just what authority did ANILCA give the federal government regarding management and allocation of a public resource on federal lands/waters in Alaska.

Over 25 years ago Alaska sued to challenge federal authority to manage fish and game on federal lands, Alaska vs. Babbitt (1992). Unfortunately for Alaska, Tony Knowles was running for governor and secured support from AFN needed for his election, by dropping the challenge.

On June 10, 1996 the U.S. Supreme Court refused to address a conflict between the 9th U.S. Circuit Court of Appeals and the

Alaska Supreme court over whether the state or federal government has the highest regulatory authority over hunting and fishing along Alaska's waterways. Michael Totemoff was convicted of using a spotlight to harvest deer. The practice violated state hunting regulations. Totemoff appealed the decision to the U.S. Supreme Court who let stand the Alaska Supreme Court ruling that the state - not the federal government - has regulatory authority over subsistence hunting and fishing.

Whether or not the federal government can legally takeover management and allocation of state resources remains an unanswered question for 35

years after the passage of ANILCA. Every year hunters, trappers, and fish gathers watch as the FSB reduces their opportunity to harvest fish and game on federally managed lands and waters under federal regulations. In most of these closures to non-rural residents their harvest was not considered a threat to the health of the stocks or populations.

The U.S. Departments of the Interior and Agriculture have issued regulations that allow the FSB to deny public access to public resources on public lands/waters based on user conflict. That was not what many Alaskans expected when Alaska's governor and congressional delegation agreed to support the passage of ANILCA in 1980.

Alaskan hunters, trappers, and fish gathers need to determine how best to continue the opportunity for those that choose to participate in an Alaskan Native subsistence livelihood while at the same time providing the opportunity for others who would like to partake in gathering a wildfood harvest as part of their way of being. That was the intent of ANILCA when it passed. ANILCA was not crafted to eliminate the opportunity of hunting, trapping, and fishing on public lands, but to continue hunting, trapping, and fishing opportunity by local rural residents.

Please contact Senator Lisa Murkowski and thank her for not making a confrontational issue worse by amending ANILCA outside of the public process. Subsistence use of wildfood resources is a part of the fabric of the country that makes Alaska a special place, most of us would agree to that.



Preparing smoked canned Red Salmon



Smoked canned Red Salmon

# Pack animals denied on BLM lands in the Eastern Interior RMP.

By AOC members Phil & Linda Nuechterlein

In December 2016, the Bureau of Land Management (BLM) approved the Eastern Interior Resource Management Plan (EIRMP). The EIRMP prohibits the pack llama (camelid) user group from accessing lands in or near Dall's sheep habitat within the Eastern Interior Resource Management Area (RMA). Subunits within the Eastern Interior RMA include Fortymile, Steese, and White Mountains.

This prohibition violates Alaska National Interest Lands Conservation Act (ANILCA) access provisions. It was approved based on BLM's unsubstantiated claim that pack llamas pose a disease transmission risk to Dall's sheep populations. To the best of my knowledge, BLM is the only government agency (state or federal) in the United States that prohibits pack llama access based on a threat of disease transmission to wildlife. Other Alaska government agencies have proposed similar pack llama bans based on a perceived disease threat that were overturned through the public comment process (Alaska Board of Game 2012, National Park Service Alaska Region 2015).

The National Park Service (NPS) looked at the same Canadian studies (that BLM based this decision upon) but came to a completely different conclusion than BLM. For example, pack llamas are welcome in Yellowstone, Glacier, and Rocky Mountain National Parks. They all have sensitive wild sheep and/or goat habitat. Pack llamas are not prohibited on any of Alaska's NPS administered lands or US Forest Service lands that have wild sheep and goat habitat. Rocky Mountain National Park has been using llamas for packing and trail maintenance for over 30 years.

Now that a precedent has been set, other BLM resource management areas in Alaska with wild sheep and/or goat habitat will likely soon follow. Other government agencies may also soon follow BLM's lead in a domino effect. What user group will be next? Will horses be next? Will dogs be next? If you think I am kidding, check out these links:[http://www.adfg.alaska.gov/index.cfm?adfg=wildlifeneews.view\\_article&articles\\_id=557](http://www.adfg.alaska.gov/index.cfm?adfg=wildlifeneews.view_article&articles_id=557)  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2600154/>

Dr. Gregg P. Adams DVM, MS, PhD professor at the Western College of Veterinary Medicine, University of Saskatchewan stated it succinctly, "Camelids are not new nor exotic to North America - they originated in North America. The diseases listed as a risk posed by llamas are no different than a list that could be made up for any species entering the back country, not least, humans. For example, every mammalian species harbours mycoplasma. Contagious ecthema, chlamydiosis and MAP in camelids are rare - far less than in humans. In any risk assessment, the objective is to determine the probability of an event happening and the consequences of such an event. There is no such thing as zero risk, and a zero-risk policy is not a legitimate argument to "strongly support a precautionary approach", if for no other reason than this approach is not being applied to all equally."

BLM categorized llamas along with domestic sheep and goats as posing a significant disease risk to Dall's sheep. This reflects a basic ignorance of the Tylopod sub-order. BLM fails to recognize that strong species barriers make llamas far less likely to transmit disease to wildlife than the Bovidae family (i.e. cattle, sheep, and goats) and no more likely than the Equidae (horse) family. BLM has now effectively eliminated a user group based on anecdotal evidence and hypothetical risk scenarios.

There is a preponderance of US scientific literature that found no endemic diseases in llamas or transmission to wildlife. Instead BLM chose to prohibit pack llamas citing two Canadian publications by Garde1 and Schwantje2 which state there is no clear evidence of a communicable disease risk. The Garde publication states, "Conversely, contact between llamas and wild Dall's sheep or goats may result in disease in wild species, but there is insufficient data available to clearly assess the role of camelids as a source of disease at this time (for additional information see Communicable Diseases Risks to Wildlife from Camelids in British Columbia)." The Schwantje publication states, "Risks from camelids to wildlife in British Columbia remain hypothetical after this risk assessment, as no direct evidence was found to implicate camelids as sources of significant diseases in wildlife in BC or elsewhere."



Llama pack photo by Linda Nuechterlein

BLM's characteristic "fake science" starts with a hypothesis (pack llama disease threat) and then looks only for evidence to support it. Fake science was recently

discussed in Newsweek article Fake News Is Bad Enough. But Fake Science Is Even More Dangerous. Another equally worrisome trend is the increasing frequency of publishing of flawed advocacy research that is designed to give a false result to support a certain cause or position and can be cited by activists long after the findings have been discredited.<sup>3</sup> Here's a link to the full article: <http://www.newsweek.com/fake-news-bad-enough-fake-science-even-more-dangerous-735814>.

BLM received little or no input objecting to their proposal because the Environmental Impact Statement (EIS) notification process was so ineffective. The notification process did not make an effort to target the llama industry, llama organizations, llama outfitters, or any pack llama users.

It is a sad reality that many of our wildlife professionals and land managers cite pseudoscience (fake science) to support regulatory decisions that block access to public lands.

1. Garde, E., et al. 2005. *Examining the Risk of Disease Transmission between Wild Dall Sheep and Mountain Goats and Introduced Domestic Sheep, Goats, and Llamas in the Northwest Territories.* (p. 2)
2. Schwantje, et al. 2003. *Communicable Diseases Risks to Wildlife from Camelids in British Columbia.* (p. v Executive Summary)
3. Miller, Henry I., *Newsweek*, Dec. 6, 2017, *Fake News Is Bad Enough. But Fake Science Is Even More Dangerous.*



# Amendments continue; state rights nixed by liberal majority

By: Suzanne Downing, *Must Read Alaska*



**AMENDMENT #73 DIES ON CAUCUS LINES**  
 The Alaska House of Representatives heard and rejected dozens of amendments over the past three days, adding some \$211,000 for rural emergency response, but rejecting \$28 million in cuts that the conservative minority offered.

Amendment 73 went down, like so many offered by conservatives. It related to a well-known public lands access case brought by John Sturgeon against the National Park Service for denying him access to a navigable waterway so he could get to his moose hunting grounds. Rep. George Rauscher, a member of the conservative minority from District 9, offered an amendment that would have had the State cover up to \$500,000 of legal costs for Alaskan John Sturgeon, if he decides to take his case back to the U.S. Supreme Court. Rauscher's amendment didn't increase the budget, but would have moved funds from a contingency fund to the Department of Commerce. As Sturgeon's legal fees came in, he could apply to the State for reimbursement.

The state has an interest in this case because it affects all Alaskans' right to access public lands.

Rauscher noted that Attorney General Jahna Lindemuth wrote in her amicus brief filed in this case, "Alaska has a direct and profound interest in maintaining its authority to keep its waterways open as Congress intended ... If left uncorrected this decision has broad ramifications that extend well beyond its blow to Alaska's sovereignty. "It (the Ninth Circuit decision) ignores the needs and realities of rural Alaskans who face unparalleled changes in accessing the transportation thoroughfares they rely upon to provide for their families. Alaska has a compelling interest in preserving its sovereign right to responsibly manage its lands and waters and protecting its citizens ability to use the States's waterways.

Rep. Paul Seaton, a Homer Republican who joined the liberal majority, rose to argue against it. He said that Rauscher was asking the State to pay private lawyers for something that was a "private benefit" to one Alaskan. Rep. Les Gara, an Anchorage Democrat, said it was like giving money to one person.

But Reps. Mark Neuman, Tammie Wilson, Dan Saddler and David Eastman said that this is a state sovereignty case.

"The battle is not for him," said Rep. Wilson. "It's for all Alaskans."

A day earlier Seaton had gotten his amendment passed for the same amount, adding \$500,000 to a strained state budget to pay for a study of the importance of Vitamin D in the diets of Alaskans.

In October, Gov. Bill Walker said he would do everything in the state's power "to protect Alaska State rights."

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CSHB 286(FIN) am		Second Reading		Amendment No. 73					
Yeas	18	Nays	22	Excused	0	Absent	0	OPEN	
YBIRCH		YJOHNSON		YMILLETT		NSTUTES			
YCHENAULT		YJOHNSTON		YNEUMAN		YSULLIVAN-LEONARD			
NCLAMAN		NJOSEPHSON		NORTIZ		YTALERICO			
NDRUMMOND		NKAJASAKI		NPARISH		NTARR			
YEASTMAN		NKILTO		YPRUITT		YTHOMPSON			
NEDGMON		YKNOPP		YRAUSCHER		YTILTON			
NFOSTER		YKOPP		YREINBOLD		NTUCK			
NGARA		NKREISS-TOMKINS		YSADDLER		YWILSON			
NGRENN		NLEDoux		NSEATON		NUOOL			
NWITTENBERG		NLINCOLN		N SPOHNHOLZ		NZULKOSKY			



# Who Owns/Manages Alaska?

**Private Ownership - 12.1%**  
45.2 million acres

**State of Alaska - 24.1%**  
89.8 million acres

**U.S. Government - 63.8%**  
237.8 million acres



Russian traders arrived in Alaska in the mid-1700's and established small, scattered trading posts and settlements, Alaska Natives (the Eskimo, Indian, and Aleut peoples) continued as the primary landowners during this period of Russian occupation. On October 18, 1867, Russia sold Alaska to the United States government. As a result, the federal government owned the Alaska Territory, approximately 373 million acres - about one-fifth the size of the rest of the U.S.



**State of Alaska - 89.8 million acres**

Under the terms of the Alaska Statehood Act of 1959, the federal government granted the new state 28% ownership of its total area. Approximately 103,350,000 acres were to be elected under three types of grants:

- 1) Community - 400,000 acres
- 2) National Forest Community - 400,000 acres
- 3) General - 102,550,000 acres

Additional territorial grants for schools, university and mental health trust lands, totaling 1.2 million acres were confirmed with statehood.

All grants combined gave the State of Alaska approximately 105 million acres. To date, 89.9 million acres has been granted with the balance expected to be granted by 2009.

**ANCSA Native Corporation (Private) 39.3 million acres**

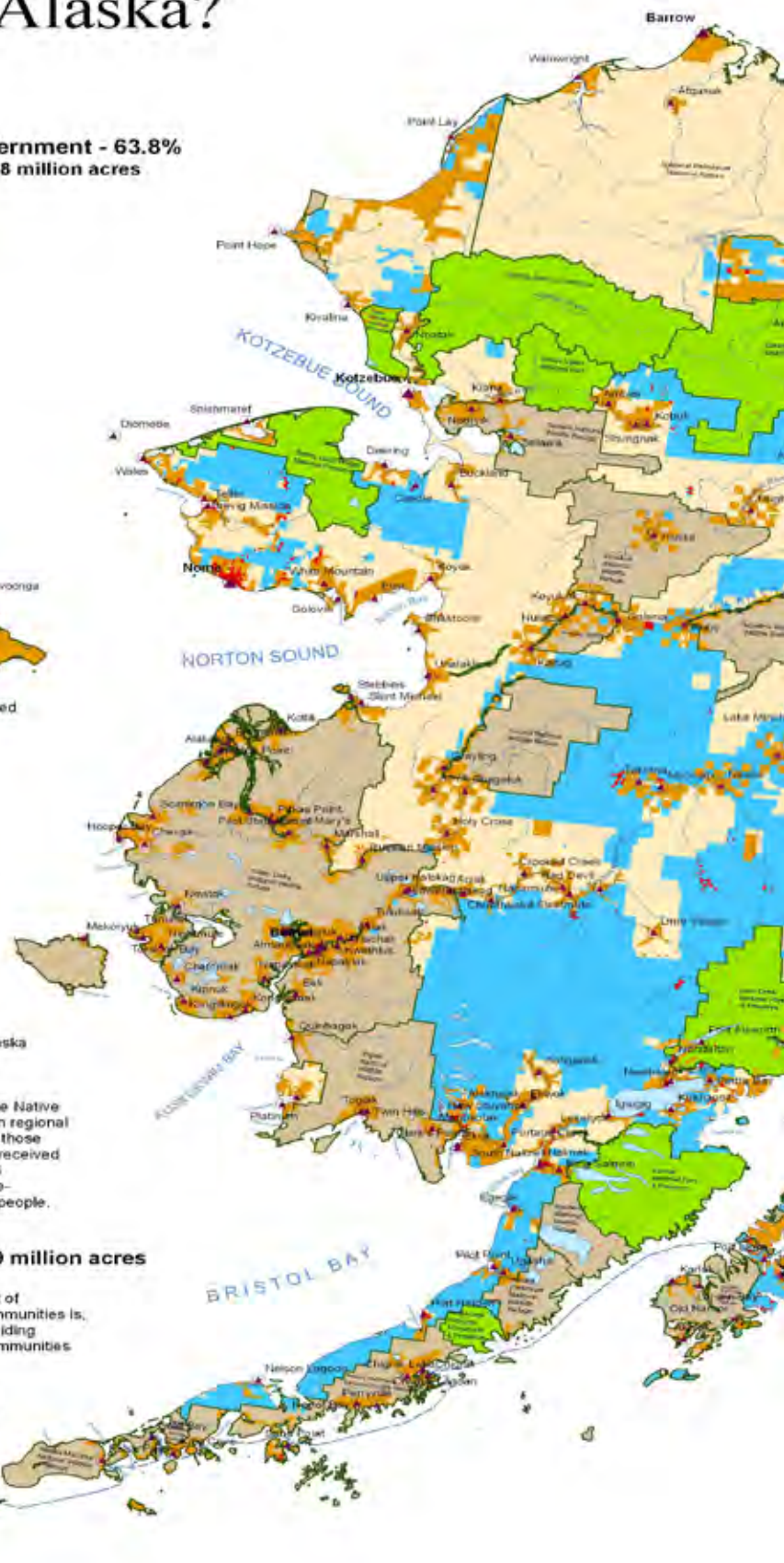
On December 18, 1971, P. L. 92-203, the Alaska Native Claims Settlement Act was signed into law. The purpose of ANCSA was to legislate the terms by which Alaska Natives could acquire title to their lands. This claim had been unresolved for more than 100 years since the United States purchased Alaska from Russia in 1867.

Native lands are private lands. ANCSA mandated the creation of regional and village Native corporations to manage 44 million acres and payment of one billion dollars. Thirteen regional corporations were created for the distribution of ANCSA land and money. Twelve of those shared in selection of 16 million acres, the thirteenth corporation, based in Seattle, received a cash settlement only. 224 village corporations, of 25 or more residents, shared 26 million acres. The remaining acres, which include historical sites and existing Native-owned lands, went into a land pool to provide land to small villages of less than 25 people. To date, 39.3 million acres have been transferred to ANCSA corporations.

**Non-ANCSA Private & Local Government - 5.9 million acres**

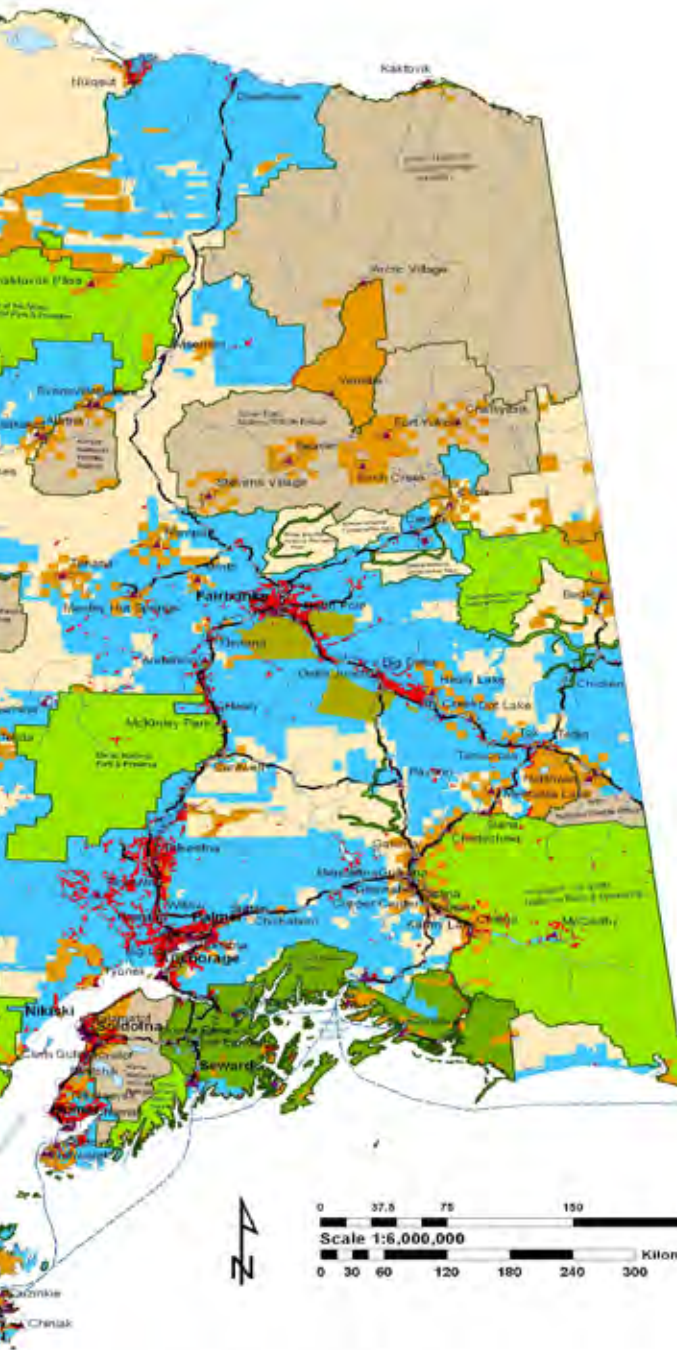
Land in private ownership (other than Native land) comprises less than one percent of the total land in Alaska. Much of the best land for development around Alaska's communities is, or will be, privately owned. Private land development meets people's needs by providing places to live, work, shop and recreate. It also provides a tax base for cities and communities to help support public services.

Because local governments in Alaska have individual methods of transferring land into private ownership, land currently owned by them is grouped into this category.

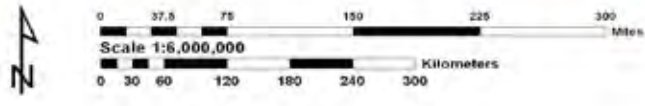








Alaska is one-fifth the size of the conterminous 48 states.



- 
**Bureau of Land Management - 82.5 million acres**  
 In Alaska, BLM's focus is conveying land, wildland fire management, overseeing the Joint Pipeline Office (a partnership with the state and other federal agencies with oversight responsibility of the Trans-Alaska Pipeline), and responding to the public demand for use of the land they manage.
- 
**U.S. Fish & Wildlife Service - 78.8 million acres**  
 The USFWS manages 16 wildlife refuges in Alaska. The two largest are the Yukon Delta National Wildlife Refuge and much storied Arctic National Wildlife Refuge (ANWR), both of which are approximately 19 million acres.
- 
**National Park Service - 52.4 million acres**  
 There are eight national parks in Alaska, including the five largest in the national park system:  
 Wrangell-St. Elias National Park & Preserve - 13,175,901 acres  
 Gates of the Arctic National Park & Preserve - 8,472,506 acres  
 Denali National Park & Preserve - 6,075,030 acres  
 Katmai National Park & Preserve - 4,093,229 acres  
 Lake Clark National Park & Preserve - 4,030,025 acres
- 
**U.S. Forest Service - 22.3 million acres**  
 The USFS manages two National Forests in Alaska. The Tongass NF, 16.8 million acres, and the Chugach NF, 5.5 million acres are the two largest national forests in the U.S. The USFS manages these lands for a wide range of goods and services while conserving and protecting them.
- 
**Department of Defense - 1.7 million acres**  
 Dept. of Defense lands in Alaska provide for a unique training environment, most notably at the Northern Warfare Training Center in the Tanana Valley in the Interior.



-  Highway
-  Alaska Marine Highway System (state ferry) Route
-  Town, population more than 2500
-  Town, population less than 2500

Maps produced by the  
**Alaska Dept of Natural Resources  
 Division of Forestry**

# Managing Alaska

By: Craig Medred

The wolf-kill-loving Alaska Outdoor Council and the wolf-kill-hating National Parks and Conservation Association would appear to have found common ground in trying to stop a last-minute Congressional amendment to the Alaska National Interest Lands and Conservation Act (ANILCA).

Sen. Lisa Murkowski, R-Alaska - the powerful chair of the Senate Committee on Energy & Natural Resources - has been lobbied by the administration of Gov. Bill Walker to attach a rider to the omnibus spending bill to amend ANILCA to specifically allow hovercraft in national parks in the 49th state.

But the idea has run into strong opposition from interest groups usually on opposite sides on Alaska land issues and may be dead on arrival. A spokeswoman for the Parks Association said this morning she doesn't think the amendment is making it onto the spending bill.

## Old fights

The hovercraft issue traces back to Alaska moose hunter John Sturgeon who got chased off the Nation River in the remote Yukon-Charley Rivers National Preserve by National Park Service Rangers in 2007.

Sturgeon got mad and sued the federal agency.

Now about \$1 million deep in litigation, Sturgeon has over the course of the past decade pushed his case all the way to the Supreme Court of the United States (SCOTUS).

There he won a monumental victory only to lose. SCOTUS tossed his case back to the liberal Ninth Circuit Court of Appeals where Sturgeon lost again on different grounds. He is appealing once more to SCOTUS as he watches the legal bills pile up once more.

His attorney, Matthew Findley, went to Alaska Attorney General Jahna Lindemuth, a Walker appointee, looking for a fix. They huddled privately with Julie Kitka, the president of the Alaska Federation of Natives, to work out a possible Congressional resolution to Sturgeon's dispute.

With his 78th birthday approaching in August, Sturgeon is nearing the end of his day's hunting moose - animals that weigh up to 2,000 pounds and are a chore for even young, fit men to butcher and pack out of the field.

The deal worked out by Findley behind closed doors would have eliminated federal oversight on "submerged lands, owned by the state, any Native corporation, or any private party, or to navigable waters flowing over such lands."

That was a potentially big win for Sturgeon, along with the state and some Alaska Native corporations, which own potential mineral or oil and gas lands inside the 104 million acres of national parks and wildlife refuges in the 49th state.

The latter inholdings caused heartburn for conservationists who saw a potential problem suddenly a whole lot bigger than Sturgeon using a hovercraft in a remote part of Alaska where almost no one, with the possible exception of a couple other moose hunters might see it. Conservationists want federal oversight on state and private lands within national parks and refuges.



Moose hunter John Sturgeon, the man in the eye of the storm/John Sturgeon photo

## More problems

More open-minded as regards development than Outside conservation groups, the Outdoor Council was fine with the lands and waters plans, but had issues with another part of the proposed amendment dealing with subsistence.

It stipulated that "nothing in this section shall be interpreted to limit the (Interior) Secretary's authority under Title VIII to protect and provide the opportunity for continued subsistence uses, and to implement the subsistence priority..."

The Council, which has been the most active organization in Alaska trying to help raise money to fund Sturgeon's suit, wants the subsistence issue litigated. The way the system works now with state and federal managers of fish and wildlife tripping over each other is costly, inefficient and confusing to the public, said Arno.

"Are we ever going to get rid of this dual management?" he asked. The Outdoor Council sees the courts as the only entity that answer that question. Arno said he

feels for Sturgeon's financial \$1 million struggle to take on Uncle Sam, and he understands why Sturgeon signed off the amendment. But, Arno added, settling the lawsuit would just continue a long and bitter fight over fish and wildlife management in the north that needs to be resolved.

## Subsistence

ANILCA and subsequent court decisions have given federal officials authority to oversee the management of many of the state's major fisheries to protect an ANILCA-mandated harvest priority for rural Alaskans. In no other state does a rule this apply.



The issue has bitterly divided Alaskans along urban-rural lines since ANILCA passed in 1980. Congress decided the subsistence priority was necessary to protect the lifestyle of the state's rural residents at time when the world was threatening to begin changing at mobile-phone speed.

The first mobile phones went on sale in the United States, though not in Alaska, three years later at a cost of \$4,000 each. Alaska in 1980 was just beginning the age of live television.

A lot has changed since then. Smartphones are now as ubiquitous in rural Alaska as in the rest of the country. But a lot remains the same. Food remains costly in rural Alaska. People still depend heavily on fish and wildlife for food. And rural remains firmly undefined by the feds.

The booming, commercial fishing port of Kodiak is considered rural. The wide spot on the Kenai Peninsula's Seward Highway called "Moose Pass" is considered urban. The community of Houston, population 2,290 on the George Parks Highway about 60 miles north of Anchorage, is urban; the community of Willow, population 2,100, and 17 miles up the road, is rural.

Both Willow and Houston are in the Matanuska-Susitna Borough, which is considered part of the Anchorage Metropolitan Area home to more than half the state's population. Everyone in the Anchorage Borough proper, which covers nearly 2,000-square-miles and has in its heart a half-million acre wilderness park, is considered urban even though there are people living rural around the fringes.

### Subsistence and subsistence

Meanwhile, the federal subsistence law isn't the only subsistence law in Alaska. The state has its own subsistence law that distinguishes between Alaskans based on their past hunting and fishing experiences, dependence on fish and wildlife for food, and place of residence if - the magic "if" - resources are judged to be in such short supply general seasons for hunting and fishing for everyone appear inadequate to meet food needs.

With Alaska salmon returning in record numbers, there have been few state subsistence fights over fish, but there are regular state battles over who gets to harvest wildlife. Against this backdrop, the Outdoor Council has pushed what the state calls "intensive management" and what conservationist groups blast as "predator control."

No matter what it is called, the intent is to try to maximize the number moose and caribou, the most popular food animals in Alaska, to minimize the to draw lines between Alaskans to decide who gets to hunt.

Suffice to say, nothing gets much more complicated in the 49th state than the politics and regulation of fish and game. The issues would be difficult and complicated with only one political entity managing things.

They are doubly complicated with the state and federal government often managing the same resources in different ways. Not to mention doubly expensive with two governments entities involved.

Were this not enough, the situation gets yet more complicated thanks to a federal process that limits the involvement of urban Alaskans, and the increasing willingness of government officials, both state and federal, to manage by fiat, using broad "emergency" authorities. Months before the start of fishing seasons in Alaska's Copper River basin last year, Alaska Department of Fish and Game officials ordered that entire Eastern Alaska drainage closed to sport fishing and

personal-use dipnetting for king salmon and sharply restricted commercial and subsistence harvests. The agency has done much the same thing this year in the Susitna River drainage north of the state's largest city.

Such actions in the past usually went to the Alaska Board of Fisheries, the state policy-making body, for consideration and public review before action. The Outdoor Council has regularly complained about the public now being cut out of the loop, and Arno said the latest action by the Walker administration appears more of the same.

### Smoke-filled room

The proposed ANILCA amendments were drafted in secret by Lindemuth, Findley and Kitka, and sent by letter to Murkowski. Only then did the news of what was up leak out.

Kitka's role in the process was to protect the interests of both Native corporations and individual Natives. Though most of Native Alaskans now live in what the federal government considers "urban" areas of Alaska and are those denied subsistence priorities, subsistence remains a vital, cultural touchstone to the Native community in a world that has accelerated from changing at the speed of a brick-size mobile phone to changing at the much higher speed of a smart phone that puts the internet in your hand.

Walker - who is facing re-election and vitally needs the Native vote, especially the rural Native vote, according the political pundits right and left agree - has committed himself to protecting that federal subsistence priority even while chastising the federal government for too much involvement in state affairs in the north.

If the Walker administration could settle the Sturgeon suit, thus helping out an old, long-time Alaskan, and at the same time reinforce the federal subsistence priority for rural Alaska, most political analysts believe it would be a win-win for the governor, whose negatives among conservatives are already so high as to make that voting block a right off.

When Arno queried the AG's office about the latest lack of public involvement in a fish and wildlife issue, he got an email back from Assistant Attorney General Cori Mills saying, "First, I hope everyone realizes the amendment language was agreed to by John Sturgeon, which is why his attorney signed the letter."

The missive went on to add that "the only other clarification is that rural subsistence preference still applies which doesn't change existing law.

"I hope that helps. All involved felt this could fix this issue long-term."

Mills was apparently unaware the last thing the conservatively inclined Outdoor Council hoped for was continuation of the complicated and costly system of state-federal, joint management.

After decades of this, Arno said, the situation has reached the point where it would be better - if comes to that - to just let the feds takeover the management of Alaska fisheries on all of the state's big, navigable rivers, and let the state and feds individually manage wildlife and freshwater fishes on the lands they control.

At least that way, he argued, Average Joe Alaska might be able to figure out what has become on an almost insanely complicated regulatory structure. And the only way to get that point, he argued, is to litigate the Sturgeon suit to an end.

"The Supremes should say 'yeah or nay,' and get it over with," Arno said. "Either way, tell us now," so everyone can move on.

# ALASKA FISH & WILDLIFE CONSERVATION FUND

For 32 years AOC's sister corporation, the Alaska Fish & Wildlife Conservation Fund, has sponsored a banquet and auction fund-raiser for the Fund. This year's event is Saturday November 4, 2017, at the Westmark Hotel.

For most of its history the Fairbanks event has been the leading fund-raiser for the Fund. The tremendous support of Interior residents has enabled the Fund to defend in court the privileges of all Alaskans to be equal under the law with regard to fishing, hunting, trapping and public access to public lands and waters.

Donations to the Fund help support lawsuits important to Alaskans continued use of our fish and wildlife resources. For example, the Fund has made substantial donations in support of the Sturgeon case which challenges federal overreach. See AOC website for details

On March 22, 2016, the U.S. Supreme Court ruled unanimously in favor of Sturgeon, rejecting the argument that the "Alaska Lands Act" (ANILCA) gives federal land managers authority over both federal "public" lands and state/private lands within the boundaries of National Park Service lands created by ANILCA. Chief Justice Roberts wrote in the opinion: "The parties' arguments in this respect touch on vital issues of state sovereignty, on the one hand, and federal authority, on the other. We find that in this case those issues should be addressed by the lower courts in the first instance."

So the battle continues over Alaska's management authority over the beds of navigable waterways. Let's hope that the "break in the lines" of federal overreach provided by the U.S. Supreme Court decision can ultimately end in victory for the State and its citizenry.



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## Alaskans are being “Railroaded”

By: Jack Brown and Ken Federico

What’s up with the Alaska Railroad Right of Way?

At 470 miles in length, the Alaska RR bisects much of Alaska’s prime wilderness. Traditional legal and safe access to Alaska’s Wild lands and waters across the tracks is a right grounded in both common law and common sense and has been in place for over 100 years. Or at least we thought it was....

To keep the tone “civil” let’s just assume there was “confusion” when the Alaska RR was transferred to the state from the Feds in 1983. The issue boils down to what the Federal Government actually owned at the time of transfer to legally convey to the state. Now to be clear, right of way law has certainly earned a prominent place in the courts of our land over time. However, in this matter, the Federal and

Alaskans are being “Railroaded”



State Supreme Court have weighed in loud and clear. Despite the obvious, in recent testimony in Juneau before the House State Affairs Committee for HJR38, the crossing gates came down permanently on all 470 miles of track. The RR’s legal team, led by their CEO, proclaimed to all that the RR held “fee simple title” to the entire right of way. That means “ownership”, not easement rights.

Having a 200’ swath of private land bisecting our state takes us right back to the Wild Railroad West of the 1800s and the land barons who ruled the day. Endless conflict and dispute over access issues are precisely why congress passed the General Railway Act of 1875 to define what the RR actually owned.

The RR does “own” the obvious interest in the dirt under the tracks tied to operational needs for track construction, etc. Of course, that portion of the row necessary for the safe operation of the train is “Exclusive” to the RR. However, the assertion that they hold fee simple title to the entire easement is patently false. The RR simply

maintains “an interest” in the property for the operation of railroad, telegraph, and telephone. That is the unequivocal law of the land, and with Alaska’s vast open spaces and few public crossings it’s even more critical that the traditional legal nature of the row owned by the Feds at the time of transfer be maintained for all Alaskans.

The Alaska RR corporation shall have no authority over any right, title, or interest in land conveyed pursuant to the Alaska Railroad Transfer Act of 1982 which was not vested in the United States at the time of transfer.

To simplify, the DOI and the Alaska RR went behind closed doors and completely off the rails by claiming “Exclusive Use” to all right of way lands after transfer in 83. Fencing anytime, anywhere, for any reason with no public process. Claiming “fee simple ownership” takes the RR/DOI land grab across the finish line. Expect “Alaska RR General Track Crossing Permit fees” available online and to be implemented in all traditional recreational access locations. The RR will vehemently deny this, but actual past practice speaks volumes. Just look at the attempted RRUP or Residential Right-of-way User Permit \$\$fee\$\$ program in South Anchorage.

What this is similar to is what AHTNA native corporation is attempting to do at Klutina river/lake, out of Copper Center. For 90 plus years there was access grandfathered in and now there is a squabble and court fight on access. Will the RR attempt to put up fences or toll stations on access points? It’s unknown but if left unchecked it could happen. Don’t be locked out from access.

To learn more and add your voice to the growing grass roots effort to protect traditional access across the tracks you can connect with us on FB. Just type AASPR in the main search bar or find us at [aaspr.org](http://aaspr.org).

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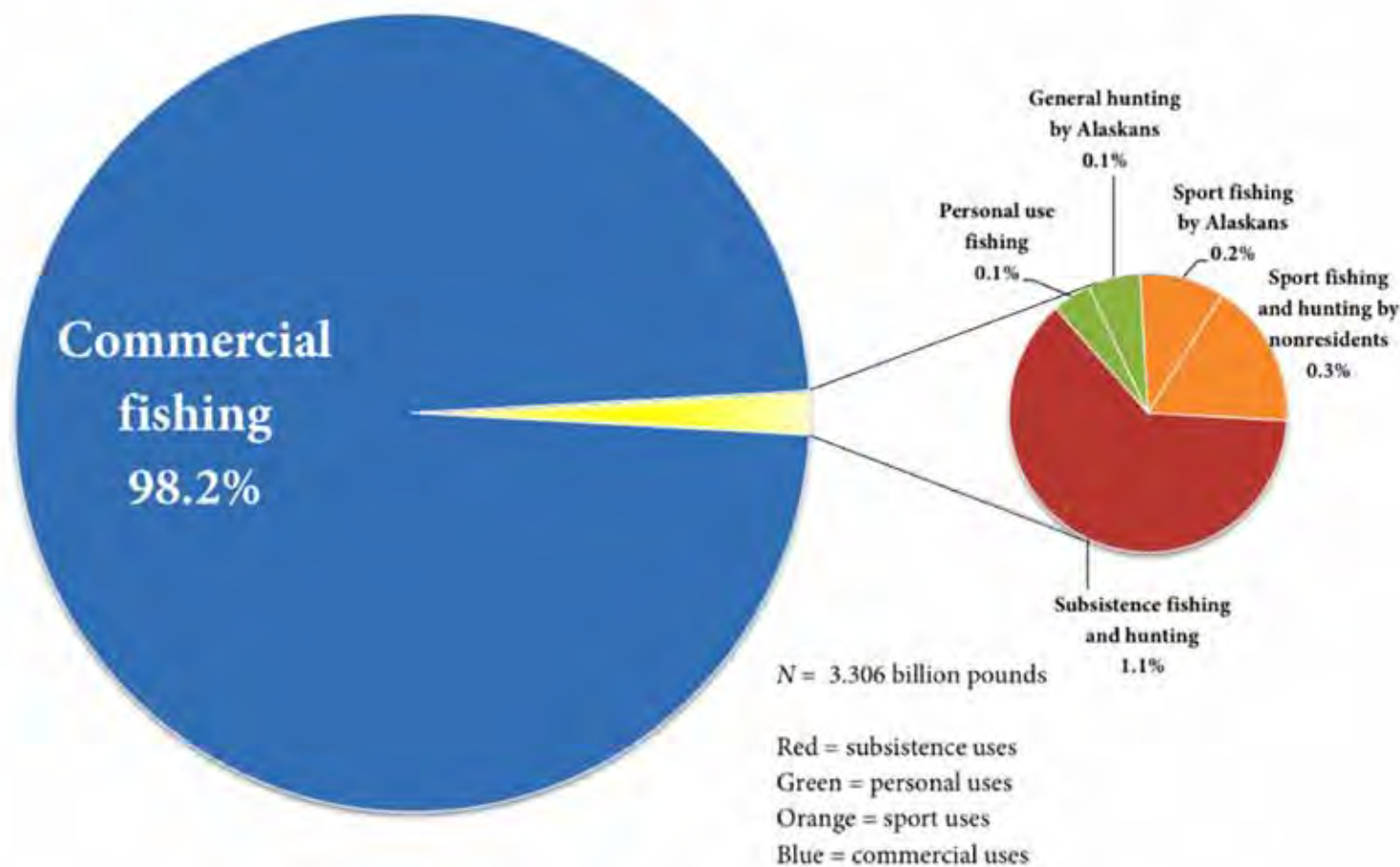
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# Who harvests fish and game? Resource Harvest by use in Alaska



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Alaska Waterfowl Association . . . . .	Anchorage	Matanuska Valley Sportsmen, Inc. . . . .	Palmer
Alaska Wild Sheep Foundation . . . . .	Anchorage	McKinley Mountainmen Muzzle Loading Rifle Club . . . . .	Wasilla
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