

Sponsor Statement for HJR 29

A Constitutional Amendment to Protect Subsistence Activities for all Alaskans

A workable solution to Alaska's subsistence dilemma has been presented to us all before and has lain buried in the tailing piles of previous attempts to solve this vexing and divisive issue.

Former legislator, Mark Hanley, said three years ago that the Clinton/Knowles/Babbit Subsistence Solution (C/K/BS) did not protect many rural subsistence users in that towns like Barrow, Dillingham, and Bethel are close to being ruled "Urban" under Federal guidelines. In addition, the C/K/BS provides almost nothing for "urban" natives or other urban Alaskans. To my knowledge no one followed up on this observation. Last year I introduced HJR 11 to amend our State Constitution to make it clear that Alaskan's believe that "in times of shortages, the highest and best use of fish and wildlife resources is real subsistence."

When Former Governor Jay Hammond suggested in August that the rural preference Federal requirement could be met by giving "local" people the subsistence priority during times of shortage it seemed like a genius solution. I talked to several native leaders and friends and they liked it too. This idea is essentially the same as the Hickel commission came up with a decade ago.

I spent an afternoon visiting with Gov. Hammond about this and he recommended inserting the Hanley/ Hammond concept into a new resolution. HJR 29, the Hammond/Hickel/Hanley Subsistence Solution, is the result.

Why it Should Work

The new leadership in the Department of the Interior (DOI) should be able to accept and defend the concept that this solution allows rural people to have the priority subsistence access to fish and game IN THEIR AREA. If the DOI agrees, they should then stop and reverse the Federal take-over of our game management.

Our congressional delegation should be in a much better position to negotiate changes to ANILCA definitions and provisions because Alaskans will have demonstrated their support of authentic subsistence uses of fish and game by putting a very high priority on subsistence in our most fundamental document, our constitution.

Alaskan native elders and activists should be supportive because the Hammond/Hickel/Hanley Subsistence Solution, (3H2S?) is a significant NET GAIN in subsistence protection in that it protects subsistence users near the larger bush communities and allows for urban natives to practice subsistence if they have a demonstrable historic pattern of doing so. Finally the Eklutna people in my district will no longer be disqualified from subsistence fishing in their own 1000

year old fish camp. The plight of the Eklutna people is an absurd example of how flawed the C/K/BS allocation of subsistence rights is.

Urban, Non Native, and Constitutional protection enthusiasts like myself, should be comforted by a constitutional amendment that does not do great damage to our precious “Equal access, Equal protection” clauses in our State Constitution.

Problems and Unresolved Issues

While something like the Hammond/Hickel/Hanley Subsistence Solution should get us started on solving this Gordian knot that is tearing parts of the Alaskan population apart, it does not solve all potential problems.

Commercial fishing interests will be concerned that the primacy of the subsistence users under this proposal might mean that all commercial fishing would be shut down until the needs and demands of the last subsistence user on the last creek in a drainage was met. This is a valid concern and my position is that it is a very real problem better dealt with under Alaskan Management then by the Federal Government.

This constitutional amendment will not solve the problems of inadequate definitions of “subsistence” and “customary and traditional” under ANILCA. Once again, with the 3H2S constitutional amendment in place, our powerful congressional delegation should be in an excellent position to negotiate more clear and fair ANILCA definitions. With our own Drue Pearce and Cam Tooley as advisors, Gail Norton of the Department of Interior should be in a position to facilitate a workable solution.

This solution also does not guarantee that Alaska’s administration of subsistence will be out from under Federal Court Jurisdiction or that the issue of who has control over “submerged lands” and “reserved water rights” will be rectified.

These issues will probably be resolved in subsequent court decisions. BUT...

THE HAMMOND/HICKEL/HANLEY SUBSISTENCE SOLUTION GETS US STARTED. IF THE LEGISLATURE PUTS SOMETHING LIKE THE 3H2S CONSTITUTIONAL AMENDMENT ON THE BALLOT, I AM CONFIDENT THE ALASKA PEOPLE WILL PASS IT OVERWHEAMINLY. WITH THE STATE CONSTITUTIONAL ISSUE BEHIND US, WE CAN USE THE PUBLIC SPIRIT AND UNITY WE HAVE SEEN IN AMERICA LATELY TO SIT DOWN TOGETHER TO MAKE AUTHENTIC SUBSISTENCE RIGHTS WORK FOR EVERY ALASKAN.