

**ALASKA BOARD OF GAME  
2005-155-BOG**

**A RESOLUTION OF THE ALASKA BOARD OF GAME IN SUPPORT OF  
GOVERNOR MURKOWSKI'S DECISION TO FILE A LAWSUIT AGAINST  
THE FEDERAL GOVERNMENT OVER THE EXTENT AND REACH OF  
SUBSISTENCE REGULATIONS IN STATE NAVIGABLE WATERS**

WHEREAS, the Board of Game agrees that the federal courts have concluded, in the *Katie John Case*, that the federal subsistence law applies to some state navigable waters where there is a Federal Reserved Water Right; and

WHEREAS, the Board of Game concurs that the state lost its chance to appeal the Ninth Circuit Court of Appeals decision when Governor Knowles conceded jurisdiction to the federal government by not appealing the *Katie John Case* to the U.S. Supreme Court; and

WHEREAS, the Board of Game concurs that the federal courts have, as a result, created hazy and unenforceable jurisdictional boundaries with the decision in the *Katie John Case*; and

WHEREAS, the Board of Game concurs that the federal agencies have further exacerbated the jurisdiction problem by adopting expansive regulations intended to expand federal jurisdiction over the state's fish and wildlife management programs; and

WHEREAS, the Board of Game concurs that there appears to be little or no immediate chance that the federal subsistence law will be modified and, similarly, little or no chance the state will agree to come into compliance with the federal mandates for return of subsistence management on federal public lands to the state; and

WHEREAS, the Board of Game concurs that the state's fish and wildlife management authorities have been significantly eroded because of the federal government's over-reaching subsistence management regulations; and

WHEREAS, the Board of Game concurs that the federal regulations governing subsistence uses have produced significant negative impacts on Alaska's fish and wildlife management programs; and

WHEREAS, the Board of Game maintains that the public and, in some cases, the resources have experienced major negative impacts in the present jurisdictional disputes; and

WHEREAS, the Board of Game maintains that the "minimal intrusion" promises of former Secretary Babbitt have been a failure; and

WHEREAS, the Board of Game supports the maximum retention of state fish and wildlife management authorities; and

WHEREAS, the Board of Game maintains that it is essential for the courts to clarify the jurisdictional boundaries of the federal subsistence law;

NOW THEREFORE BE IT RESOLVED, that the Board of Game strongly supports the decision by Governor Murkowski to file litigation against the reach of federal government subsistence regulations in navigable waters to clarify the degree and extent of federal jurisdiction; and

BE IT FURTHER RESOLVED, that the Board of Game encourages the Alaska State Legislature to place a high priority on this action and to continue to adequately support and fund this litigation effort.

PASSED AND ADOPTED by the Alaska Board of Game on this 17<sup>th</sup> day of January, 2005.

Vote: 6 - 0 - 1 member abstaining  
Teleconference Meeting January 17, 2005

  
Mike Fleagle, Chair

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JAN 31 2005  
BOARDS