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SUBSISTENCE SHEEP HUNTING IN ALASKA

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Abstract: Implementation of the Alaska National Interest Lands Conservation Act contributed to an ironic subsistence hunting situation. Attempts to satisfy the inconsistent mandates of the State and Federal subsistence titles resulted in establishment of subsistence hunts for trophy Dall sheep (Ovis dalli dalli) rams in areas previously managed for recreation. Subsistence hunting is still undefined, and situations such as these involving Dall sheep appear to be contributing to an unknown level of citizen dissatisfaction with the Alaska subsistence law. The future of nonresident hunting, the widespread subsistence use of Dall sheep, and possible management options are uncertain.

When the great oil fields on Alaska's north coast were discovered, it was apparent that a pipeline would have to be constructed to transport the oil to an ice-free port. From there oil could be transported, by tanker, to refineries on the west coast. The question of land ownership of the pipeline right-of-way was settled by passage of an act settling the aboriginal claims of Alaskan Natives. I have reviewed these occurrences and their impacts in previous transactions of this symposium (Heimer 1978, 1980, 1982, 1984).

When Congress passed the Alaska Native Claims Settlement Act there was provision for adding a minimum of 80,000,000 acres to Federal conservation systems. This land was to be included in national parks, wildlife refuges, national forests, and wild and scenic rivers. The Native claims settlement generally described how this was to be accomplished. Actual land selection and classification required another act of Congress, the Alaska National Interest Lands Conservation Act (ANILCA). This was a vigorously debated settlement, and it resulted in the present subsistence hunting situation in Alaska.

To secure passage of ANILCA, the special interests involved, Alaska Natives, Federal agencies, animal protection groups, and some environmental interests (which were generally opposed to hunting) compromised with each other. Interests seeking more Alaska land and those opposed to hunting exchanged their support for subsistence hunting for reciprocal support by Alaskan Natives of their interests in adding land to Federal conservation systems. As a result, ANILCA has a subsistence section which accords

subsistence hunting and fishing the highest priority consumptive use of fish and wildlife in certain national parks and all national park monuments, and the highest priority among consumptive uses on all other Federal lands in Alaska. Because it was politically unacceptable to define subsistence on a racial basis, it was defined as customary and traditional use by rural Alaska residents.

Under the terms of ANILCA, residents of certain rural communities are allowed to hunt for subsistence in some national parks. Urban residents must be excluded whenever it is necessary to limit harvest on Federal lands.

As the law is currently interpreted, this means that urban hunters may not participate in hunting until subsistence (rural) opportunities for use have been met. That is, if nonsubsistence hunting interferes with opportunities for subsistence use, subsistence uses may not be regulated until nonsubsistence use has been eliminated. When the subsistence provisions of ANILCA were being debated in Washington, D.C., the Alaska legislature was led to believe it could preclude Congressional inclusion of a subsistence section in the Federal law by passing a State law which would do the same thing. A state subsistence law was passed in 1978, but the Alaska legislature did not include "rural" in the definition of subsistence use. The legislature clearly intended for all Alaska residents to be classified as subsistence users.

Both subsistence titles became law, and the State, to comply with Federal law, began administratively to limit access to resources on the basis of residency with regulations favoring rural users. These regulations were adopted by the Alaska Boards of Fisheries and Game, the regulatory bodies for wildlife management in Alaska.

RESULTS

Eventually, an urban resident named Madison brought suit against the regulation limiting use on the basis of residency. He asserted that the intent of the Alaska legislature was that all Alaskans were subsistence users. The Alaska Supreme Court ruled that he was correct, and, by logical extension, all Alaskans were defined as subsistence users. Discrimination among Alaskans on the basis of residence was no longer legally possible. The constitutionality of the Alaska subsistence law was not tested in this suit, only its legislative intent.

Next, a Kodiak, Alaska resident named Eluska was cited for taking Sitka black-tailed deer (Odocoileus hemionus) out of season. On Kodiak, there was a 5-deer limit, and the open season ran from 1 August through 15 December or 7 January, depending on location. Eluska's lawyer maintained his client took the deer for subsistence purposes and that the long season and liberal bag limit were not specific subsistence regulations. As such, he argued, they did not accommodate traditional subsistence use. A magistrate in Kodiak agreed. This was seen as establishing a legal precedent: the absence of specifically designated subsistence seasons (to accommodate subsistence uses) constituted a failure to provide for subsistence uses under law.

The Madison case established that all Alaskans were subsistence users, and the Eluska case established that unless specific subsistence regulations closed the season in a given area, any Alaskan could legally take game without limit whenever he or she desired to hunt for subsistence purposes. Clearly, this was likely to compromise wildlife conservation in Alaska.

To solve this problem, the Alaska Board of Game undertook establishment of specific subsistence regulations for all game species. The Alaska Department of Law advised the Game Board that subsistence hunts should be created wherever there was a "significant restriction" of subsistence hunting opportunity. As a result, all lottery permit hunts, hunts where the Department of Law determined there was a "significant restriction" of subsistence hunting opportunity, were defined as subsistence hunts.

In these subsistence hunts, only Alaska residents were allowed to participate. To discriminate among residents (i.e., subsistence users), the Game Board implemented criteria found in the State and Federal laws to determine which of the Alaskan residents desiring to participate were most qualified as subsistence users. Alaskans were ranked on the basis of points they received when a questionnaire adopted by the Board was evaluated. The criteria for ranking included: (1) area of residence, (2) economic status and availability of alternate resources (considered measures of need), and (3) past history of using the resource in question (presumably a measure of tradition). The Alaskans who ranked highest as subsistence users of the game populations in questions were allowed to participate in the subsistence hunt allocation system. They received permits according to their numerical rank. When more qualified applicants were received than the number of permits, a drawing was held.

Existing lottery permit sheep hunts in the Alaska and Chugach mountain ranges became subsistence hunts, but season and bag limits were unchanged. It is notable that participation in these ram hunts was controlled by permit for differing reasons before the subsistence controversy developed. In the Chugach Mountains, permit hunting was instituted in 1980 to assure maximum participation by hunters. The Alaska State Park system, which owns the land upon which the hunt takes place, sought to limit hunter numbers in the field. This, they thought, was necessary because the area is immediately adjacent to Anchorage, a city of more than a quarter of a million people. To provide opportunity for as many hunters as possible to have access to the sheep there, the Alaska Department of Fish and Game negotiated development of a permit system limiting the number of hunters to that defined as acceptable by Parks criteria at any time. There are three different hunt areas with two separate hunt periods, each designed to allow the maximum participation compatible with the Alaska Park system limits.

In the Alaska Range, lottery permit hunts for sheep existed to limit participation by hunters for two different reasons. In the Tok Management Area, the management goal was production of trophy rams. Participation had to be limited to achieve this goal. In the Delta Management Area, the management goal was to provide aesthetically pleasing hunting conditions. Hunter numbers were kept low (by a permit system) so the quality of hunting experience enjoyed by those fortunate enough to draw a permit would not be compromised by crowding from other hunters. In summary, while these

continued restrictions limited opportunities for subsistence (local) use, the origin of the limitations had very little to do with actual resource scarcity or welfare. These restrictions were made to: (1) increase hunter participation, (2) allow for taking of unusually large and old rams; and (3) allow for a high-quality hunting experience. These management goals had been reviewed by local committees and implemented by the Board of Game. The turn-about to provide preference for local use represented a radical change in the purpose of the hunts and in permit allocation.

It should be noted that sheep hunts by Native, rural Alaskans (in the Brooks Range) were not covered by the new allocation system. These hunts continue to provide for subsistence (local) use of Dall sheep in the same management framework, season timing, access restrictions, and local registration-permit issuance, which favored local use before passage of the subsistence law.

Following the 1985 sheep season, a sheep conservation group, the Alaska Chapter of the Foundation for North American Wild Sheep (FNAWS-Alaska) with special interests in sheep hunting and conservation, polled recreational hunters and the newly defined subsistence sheep hunters. FNAWS-Alaska compared responses of these two groups of sheep hunters to questions concerning reasons for hunting sheep, time and effort expended, amount of meat retrieved, and hunter attitudes. FNAWS-Alaska provided the raw data from their poll to ADF&G.

FNAWS-Alaska sent a total of 402 questionnaires to subsistence hunters and 225 questionnaires to their membership. A total of 227 subsistence hunters (56%) returned their questionnaires while 122 FNAWS-Alaska members (assumed to represent recreational hunters) returned questionnaires. The overall return rate for the mail-in questionnaires was slightly less than 50%. FNAWS-Alaska entered all returned questionnaires in a drawing for a sheep rifle to stimulate response. A copy of the questionnaire is given in Appendix A.

I judged some questions to be ambiguous, and disregarded them in this discussion. Results showed recreational hunters had lived in Alaska longer, had more experience sheep hunting, and had taken more sheep in Alaska than the new group of designated subsistence hunters. In the past, the average sport hunter had taken as many sheep from the subsistence hunt areas in the Alaska and Chugach Ranges as the average new subsistence hunter. Recreational hunters hunted an average of 7 days, more than twice as long as subsistence hunters, and spent correspondingly more money ($823 compared with $309). Subsistence hunters most commonly used automobiles and offroad vehicles to get to the hunting area while most recreational hunters used aircraft to get into sheep country. There was no difference in size of rams harvested or average amount of meat brought home by successful hunters of both groups. However, there was a difference in the average cost of meat between groups. Recreational hunters (including unsuccessfuls) spent an average of $45 per pound of meat obtained. Subsistence hunters spent an average (also including expenditures by unsuccessful hunters) of $10 per pound of sheep meat.

Reasons for going sheep hunting were somewhat different. Recreational hunters rated the reasons for going sheep hunting in this order: first was

to enjoy sheep hunting in the mountains (65%); second was to take a trophy ram (26%); third was to get sheep meat (5%); and fourth was to just be in the mountains (4%). In comparison, subsistence hunters rated the first reason, to enjoy sheep hunting in the mountains, at 45%; second was to get sheep meat (33%); third was to take a trophy ram (19%); and fourth was to just be in the mountains (3%).

Twenty-nine percent of subsistence hunters thought limiting subsistence hunting by lottery permit to those qualified by the present ranking system was necessary for good sheep management. Only 2% of the recreational hunters agreed.

Classification of the lottery permit hunts as subsistence hunts seems to have weakened public support for these programs. Both groups of hunters were supportive of these hunts before application for the drawing was restricted to qualified subsistence users (80% in favor). After restrictions were imposed on applicants, 88% of recreational hunters and 76% of subsistence hunters were opposed to these hunts. Because public support is necessary for any successful management program, this aspect of subsistence hunting, as it is currently defined and practiced, could have serious detrimental effects on management programs designed to meet goals other than maximum game harvest. It is possible that the options of wildlife users and managers are legally limited to this one management goal by these laws.

Most respondents who wrote additional comments on the questionnaire were opposed to classification of Dall sheep for subsistence uses. These Alaskans typically stated that the small size of Dall sheep, the difficulty of obtaining them, and the costs involved should preclude subsistence as the primary use of this species. These Alaskans apparently consider getting meat to eat as the major component of subsistence. However, definition of subsistence use on the basis of residence, as in ANILCA, greatly broadens the concept of subsistence, though it remains legally undefined with respect to specifics such as need, lifestyle, etc.

Of the 227 subsistence hunters who responded, 211 wrote extra comments on the questionnaire. Seventy-nine (37%) of these hunters specifically stated Dall sheep should not be a subsistence animal. Among recreational hunters, 102 of 122 respondents made extra comments. Forty-seven percent of these individuals made the same comment. Of the 313 Alaskans who made extra comments, only 3 spoke in favor of retaining Dall sheep on the subsistence list. That is, the ratio of those opposed to those in favor of Dall sheep as a subsistence animal was 43 to 1.

Subsistence hunters most frequently used transportation types other than aircraft. This is expected of local residents. Their preference for offroad or all-terrain vehicles was notable. The environmental impacts of this type of mechanized ground transport in the Alaskan alpine environment may become an issue if this is a developing trend.

The administration of a subsistence law continues to be a divisive, emotionally charged issue in Alaska. Federal law (ANILCA) states that the Federal government must take control of fish and wildlife management on Federal lands in Alaska if the State does not comply with the ANILCA

subsistence title. The State of Alaska, even with the complicated mechanism for identifying subsistence users, was declared (after a review requested by the Alaska Federation of Natives) to be out of compliance with the subsistence title in ANILCA in fall 1985. Following its review, the U.S. Department of the Interior ruled that if the State does not comply before 1 June 1986, the Federal government must, under the terms of ANILCA, assume management of resident species on Federal lands. If that occurs, it will, of course, preclude Alaska's ability to manage that resident wildlife. Of course, compliance with the Federal law restricts the State's management options as well. The defined legal objective of the Federal management is to provide for subsistence use. What that means is not certain, but Alaskans appear to regard this as an unacceptable alternative. Consequently, the Alaska legislature is currently considering a bill which may bring the State into compliance with Federal law. Under provisions of the proposed legislation, the word "rural" would be inserted into the Alaska law. Differing versions of the bill would also allow the Board of Game to designate which species would be identified for subsistence use on State lands. Should this occur, there is certain to be an effort to remove Dall sheep from the subsistence list. One other thing is certain, the subsistence issue in Alaska will not be easily resolved. Alaskans react to the issue along racial and philosophical grounds, and the controversy is certain to continue.

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