



ALASKA FEDERATION OF NATIVES
2023 ANNUAL CONVENTION
RESOLUTION 23-01

- TITLE:** A RESOLUTION IN SUPPORT OF ALASKA NATIVE ABORIGINAL HUNTING AND FISHING RIGHTS AND CONGRESSIONAL ACTION TO TAKE IMMEDIATE ACTION TO PERMANENTLY PROTECT THE RIGHT OF ALASKA NATIVE PEOPLE TO ENGAGE IN SUBSISTENCE FISHING IN ALASKA’S NAVIGABLE WATERS
- WHEREAS:** The Alaska Federation of Natives (AFN) is the largest statewide Native organization in Alaska, and its membership includes 179 federally recognized tribes, 154 village corporations, 9 regional corporations, and 10 regional nonprofit and tribal consortiums that contract and compact to run federal and state programs; and
- WHEREAS:** The mission of AFN is to enhance and promote the cultural, economic, and political voice of the Alaska Native community; and
- WHEREAS:** Alaska Native people have occupied and stewarded our territories since time immemorial, and our traditional ways of life are intimately bound to the land, waters, animals, and seasons of the natural world; and
- WHEREAS:** Our hunting, fishing, and gathering practices—including the harvesting and sharing of fish, game, and other resources and the ceremonies that accompany these practices—are essential to the social, cultural, spiritual, and economic wellbeing and survival of Alaska Native people; and
- WHEREAS:** Alaska Native people have relied on fishing, hunting, trapping, and gathering to sustain our customary and traditional way of life for centuries, and fishing in particular remains an essential subsistence practice to this day; and
- WHEREAS:** The right to continue to harvest our traditional resources and live our traditional subsistence way of life was one of the commitments that Congress made to Alaska Native people when it enacted Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) in 1980; and
- WHEREAS:** In ANILCA, Congress declared that the continuation of the opportunity for subsistence uses on public lands is “essential to Native physical, economic, traditional, and cultural existence” and expressly provided a subsistence priority for rural Alaskans on most federal lands and waters in Alaska; and
- WHEREAS:** In ANILCA, Congress recognized that subsistence activities are a matter of food security because “in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife, which supply rural residents dependent on subsistence uses”; and

WHEREAS: the State of Alaska attempted to accommodate the federal requirements in Title VIII of ANILCA and, for several years, had a state subsistence regime supported by state statutes, regulations, and administrative capability. In late 1989, the State Supreme Court, in the McDowell decision, undercut the constitutional authority for the State to remain in compliance with Title VIII of ANILCA and have a unified state management plan for fish and game, including subsistence uses; and

WHEREAS: under Title VIII of ANILCA, once the State of Alaska no longer had a unified state management system that protected subsistence hunting and fishing, the US Department of Interior and the US Department of Agriculture responded to the failure by taking back its delegated authority to the State of Alaska over federal public lands and waters for subsistence uses; and

WHEREAS: the Governor and Alaska State Legislative leadership of the State of Alaska, together with the Alaska Congressional Delegation, the U.S. Secretary of Interior, Alaska Native leaders, and others attempted to address the state constitutional barrier by proposing a state constitutional amendment to give the Alaska State Legislature the authority to have an adequate state statute and regain the ability to have unified state management; and

WHEREAS: the Governor called numerous Special Sessions of the Alaska State Legislature and engaged in consecutive regular sessions over a ten-year timeframe to adopt a State Constitutional amendment to put forward to Alaskan voters to ratify. Despite surveys that demonstrated a majority of citizens supported a vote on the Constitutional amendment guaranteeing a rural subsistence priority, The Governor and the Alaska State Legislature failed to advance a state constitutional amendment by one vote; and

WHEREAS: the US Secretary of Interior and US Secretary of Agriculture exercised their responsibilities to protect subsistence hunting and fishing opportunities by setting up a federal regulatory scheme – the Federal Subsistence Board and Advisory Council. Over the last 30 years, the Federal Subsistence Board and advisory councils have implemented the federal responsibility, changing and improving implementation over time; and

WHEREAS: throughout the 1980s and early 1990s, the State of Alaska proved itself repeatedly incapable of and unwilling to protect Alaska Native subsistence fishing and hunting rights across rural Alaska; and

WHEREAS: Katie John, Gene Henry, and Doris Charles, respected and cherished Ahtna Elders, were the lead plaintiffs in a series of successful cases that protected federal subsistence fisheries pursuant to Title VIII of ANILCA; and

WHEREAS: The *Katie John* litigation spanned nearly thirty years; it ended in 2014 and affirmed a rural priority for subsistence fishing; and

WHEREAS: The State of Alaska has nonetheless chosen, for decades, to continue to attack the federal subsistence fisheries and hunting protections enshrined in Title VIII of ANILCA and the *Katie John* cases despite the fact that commercial fisheries harvest over 98% of fish stocks, subsistence hunting and fishing represents less than 1% of all fish and wildlife harvest in; and

WHEREAS: The State of Alaska has escalated its attacks in recent years and has undertaken a series of new, aggressive litigation aimed at actively undermining Alaska Natives' right to subsistence; and

WHEREAS: In one of those cases, *United States v. Alaska*, the State of Alaska now attempts to rewrite longstanding law and erase the *Katie John* decisions; and

WHEREAS: A decision from the United States Supreme Court could mean the elimination of all remaining federally protected subsistence fishing rights for Alaska Native people at a time of immediate critical need for the rural subsistence priority in times of shortage; and

WHEREAS: Subsistence fishing constitutes the majority of all subsistence foods taken by Alaska Native people, but is much less than one percent of all fish caught in Alaska; and

WHEREAS: AFN has a broad and deep interest in protecting the food security, sovereignty, and Traditional Knowledge of Alaska Tribes, Alaska Native people, and their continued ability to practice traditional lifeways for current and future generations; and

WHEREAS: As a matter of public policy, ANCSA and the 1987 amendments were declared Indian legislation enacted under the authority of Congress to regulate Indian affairs; and said obligations have not been repealed or revoked; and

WHEREAS: Given the critical importance of subsistence hunting and fishing rights, Alaska Natives' negotiation of its rights in the drafting of ANCSA and subsequent amendments thereto cannot be construed as extinguishing aboriginal hunting and fishing rights; and

WHEREAS: The State's refusal to protect and honor subsistence fishing and hunting rights has created extreme hardship for families and Native communities and a need for congressional intervention to protect Alaska Native fishing rights.

NOW THEREFORE BE IT RESOLVED, the delegates of the 2023 Annual Convention of the Alaska Federation of Natives will:

1. urge the federal government to aggressively protect Alaska Native hunting and fishing rights in court; and

2. urge the White House and Secretaries of Interior and Agriculture to utilize their full authority to protect Alaska Native subsistence families and communities; and
3. seek repeal of ANCSA Section 4(b) and replacement of that section with an affirmation of inherent Alaska Native aboriginal hunting and fishing rights; and

NOW THEREFORE BE IT FINALLY RESOLVED, the delegates of the 2023 Annual Convention of the Alaska Federation of Natives call upon Congress to take immediate action to revisit and strengthen Title VIII of ANILCA to permanently protect the right of all Alaska Native people to engage in subsistence fishing and hunting in Alaska's navigable waters and adequately fund efforts.

SUBMITTED BY: ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS AND COMBINED WITH SIMILAR RESOLUTIONS FROM THE BOARD OF DIRECTORS OF THE ALASKA FEDERATION OF NATIVES
BOARD ACTION: DO PASS
CONVENTION ACTION: AMENDED AND ADOPTED ON SATURDAY, OCTOBER 21, 2023