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Alaska Torn Over Rights to Live Off the Land

By SAM HOWE VERHOVEK, New York Times

KWETHLUK, Alaska— In the clearings along the broad Kuskokwim River where the Yup'ik Eskimos set up what they call their "fish camps," this is a busy time. Families are racing to catch, cut and cure the fish that will last them a year, and salmon turn scarlet as they hang by the hundreds to dry in the early summer sun.

James Nicori and his family were up until 3 the other morning, stringing fish and stoking the alderwood in the smokehouse, not that the time of day matters too much at a point in the season when it does not get dark at all. In August it will be time for gathering berries and wild celery out in the bush. In the fall the men will hunt caribou.

To a remarkable degree, thousands of native people still live off the land here in the Alaskan tundra, taking 90 percent or more of what they eat every year from the great back country, the rivers and the Bering Sea. "This," Mr. Nicori said, beckoning to the Kuskokwim and the vast bush land beyond, "is our supermarket."

But 40 years after Alaska became a state, 20 years after land-claim disputes in the oil rush led Congress to give the people known as "subsistence gatherers" priority rights to fish and game, and 10 years after the state's highest court declared that protection unconstitutional because such natural bounty was for the "common use" of all Alaskans, the debate has reached a crisis point.

Cheering the natives but enraging sportsmen's groups and the state's commercial fishing industry, which are both largely white, Interior Secretary Bruce Babbitt announced recently that the Federal Government would take over allocation of fishing rights and schedules in federally owned sections of Alaska, nearly two-thirds of the state, on Oct. 1 unless the State Legislature acted. State lawmakers could keep Washington from doing so, Mr. Babbitt said, if they agreed on a constitutional amendment to guarantee a "subsistence priority" in times of shortage for those who rely on the land and rivers here for their primary food supply.

But the state's Republican-controlled Legislature has not reached accord on a measure to put before the voters, prompting the Democratic Governor, Tony Knowles, to warn that they could be letting in "the Trojan horse of Federal management" in a state that fiercely values its last-frontier style of independence.

In many ways, the debate over Alaska's subsistence culture starkly echoes those elsewhere over affirmative action, creating similar racial tensions. The natives say the issue is their civil rights, while the sportsmen say the natives are demanding "special rights" and unfair quotas.

But this fight is not over schools, contracts or employment, but over food and a way of life that in some respects has remained strikingly unchanged for centuries.

"This is not 19th-century history here, some historical injustice we can do nothing about today," said George Irvin, policy director for the Alaskan Federation of Natives, which represents the Eskimos, Indians and Aleuts in their battle for subsistence rights. "These are the last aboriginal Americans still striving to live as they always have, on their homelands. There has to be room in the American system for them to survive."

To an outsider, the dispute at first seems eminently solvable. After all, the subsistence gatherers take only 2 percent or 3 percent of the state's fish and game harvest a year, and polls show that at least 60 percent of Alaskans favor granting priority rights to such people. And the issue mainly arises in times of scarcity, which come every few years when regulators determine that fish are running low in some rivers or that caribou or moose herds have thinned.

But allocating these rights can be immensely complicated, which partly explains why the Legislature has so far failed, despite years of trying, to resolve the issue.

Who, exactly, should be defined as a subsistence gatherer? Although subsistence is rooted in native cultures, some white people also live off the land, while many natives live in Anchorage and Fairbanks and are just as likely to shop in a supermarket or eat at McDonald's as a nonnative.

Furthermore, insuring subsistence gatherers the ability to carry out a traditional way of life sometimes means, say, closing off rivers for several weeks to everybody else. That not only irritates those who fish as a hobby but possibly makes the difference between profit and loss in the season of a commercial fishing operator.

Beyond the logistical considerations, it is clear that the issue has touched a deep emotional nerve.

That is particularly true for nonwhite Alaskans, or native peoples, as they prefer to call themselves, who were the majority in Alaska into the 1940's but now make up only about 15 percent of the state's population. Many native leaders complain of mistreatment by the white majority, a sentiment clearly in evidence at a rally in Anchorage in May in which native groups pressed for protection of subsistence rights.

"Apartheid is alive and well and it lives in the Arctic, it lives in our schools, and I'm sad to say it lives in the halls of the State Legislature," Desa Jacobsson, who is Gwich'in Indian on her mother's side and Yup'ik Eskimo on her father's, told the crowd. Ms. Jacobsson, who ran unsuccessfully for Governor last year as the Green Party candidate, was jailed briefly several years ago after a subsistence fishing protest.

But strong emotions are also felt by many whites, whose numbers swelled from migration in the oil rush of the 1970's, but also include many who were born here and feel they, too, are natives.

"Our adversaries marched for 'special rights' -- and called it civil rights," says a brochure produced by the Alaska Outdoor Council, one of the principal groups representing sportsmen and sportswomen in the state. It urges members to fight efforts to "enshrine that terrible Federal subsistence law in our state's Constitution."

That law, Title VIII of the Alaska National Interest Lands Conservation Act, was passed by Congress in 1980, establishing a subsistence priority, loosely defined as applying to rural residents of the state and thus covering what it termed the "customary and traditional" uses of subsistence gatherers. That measure guaranteed that in years of low yield, steps should be taken to guarantee that those gatherers had first rights to the harvests of fish and game. It grew out of an agreement a decade earlier, reached in the rush to clear a right-of-way for the building of the Trans-Alaska Pipeline, that native subsistence rights would be protected.

But those are the protections that the state court later deemed unconstitutional. And, after years of prodding the state to change its Constitution, the Federal Government is set to wield its hammer, in the form of Secretary Babbitt's threat to take over fishing management on federally owned property in Alaska.

The state has been managing fishing on those lands and has asked to keep doing so while it tries to work out language to protect subsistence rights, but Mr. Babbitt said earlier this month he was disappointed that the Legislature had not brought the issue before voters and that it was time to act.

About half of Alaska's 100,000 native peoples live off the land to a significant extent, according to the Alaska Federation of Natives. For some, that may mean taking only a third or so of their food from the land. But thousands, like Mr. Nicori and his family here on the Kuskokwim, get 90 percent or more this way.

The food involved runs the gamut, from berries and roe air seaweed to fish, moose, caribou, arctic hare and the parka squirrel.

The natives who live off the land are hardly living in the past. In many of their villages, there are motorboats and snowmobiles, satellite television dishes and Coca-Cola.

"There's no way you can stop it completely," said 64-year-old Mary John, laughing as she skinned a huge bucketful of herring one recent afternoon with her 14-year-old granddaughter Kimberly Kassaiuli in the village of Newtok, in southwestern Alaska. "Kids do like the taste of potato chips."

Across the village, hard by the Niutag River, several of Stanley and Elizabeth Tom's eight children were inside the house, watching a Disney "Mighty Ducks" cartoon movie as they also gutted and intricately braided fish with tundra grass, then hung them for drying. Except for a big bowl of rice, lunch that afternoon at the Toms' small home came from the land: half-smoked salmon, dried herring dipped in seal oil, salmon berries preserved last fall. "This is a big part of who we are and what we are all about," said Mr. Nicori, here on the Kuskokwim, who had nearly 100 king salmon and hundreds of smaller reds and chums hanging on the lines and in the smokehouse at his fish camp. "It is something we must never lose, no matter how modern the world becomes."

Under the current system, the state gives priority in some cases to subsistence gatherers. For instance, they were allowed to fish in the Kuskokwim for several weeks this year before it opened to commercial operators. But critics challenge that system, saying it is not strong enough to guarantee protection in all cases, as would the Federal law, which Mr. Babbitt wants enshrined in the state Constitution.

From 1994 to 1998, several rivers in southwest Alaska had poor fish runs, and around Bristol Bay, the state had to deliver fish caught elsewhere to nearly 100 communities, an act of compassion that was also deeply wounding to those who survive off the land.

Governor Knowles is expected to call one more special session, probably in September, in a last-ditch bid to avert the Federal takeover of fishing regulations on the Government's lakes and rivers.

Though both sides say they are open to compromise, it is not clear that much common ground exists. And an unlikely alliance of forces may work against an agreement: natives who favor the Federal action and conservative lawmakers who could reap considerable political hay out of the anger that a Federal intervention could spark among many white Alaskans.

Ron Somerville, a board member of Territorial Sportsmen Inc., one of the oldest and largest sportsmen's groups in the state, said it made no sense "to allow our state to institute a bad Federal law that discriminates against our own residents."

But Myron Naneng, president of the Association of Village Council Presidents, representing 56 native villages here in the Yukon-Kuskokwim Delta of southwest Alaska, put the matter in very different terms.

"We are a very law-abiding people," Mr. Naneng said. "But when obeying the law means that our children go hungry, something is wrong with the law."