Alaskans claim rights violated by federal managers

At Senate field hearings across Alaska earlier this summer, Senator Frank Murkowski heard one horror story after another from Alaskans who claim their rights have been violated by federal land managers.

Despite 11 years of effort, a Kodiak man has still not received a permit to build a road to a lodge on land he owns inside the Kodiak National Wildlife Refuge.

A fishing lodge operator said federal officials won’t let him use a silent battery-operated water pump in his camp because they claim it would impair one’s wilderness experience.

Another fishing guide described how eight pounds of paperwork were required to get a permit for a remote camp site. And a Fairbanks miner pointed out that federal officials would not let him transport fuel across six miles of park land last summer, so he spent $3,800 to fly in $2,700 worth of fuel to his claim.

There were many other stories from Alaskans who charged that their right of access, right to work their mining claims and right to make a living was being denied by overzealous land managers violating federal laws specific to Alaska’s parks and wildlife refuges.

Murkowski, Chairman of the Senate Energy and Natural Resources Committee, held the June hearings in Anchorage, Wrangell and Fairbanks to hear testimony on the regulation of the use of federal lands by inholders, miners, guides, tour operators, hunters, fishermen and others who have access and use rights protected by the Alaska National Interest Lands Conservation Act (ANILCA) and the Alaska Native Claims Settlement Act (ANCSA).

Murkowski was told that federal land agencies are not following the intent of the laws and the assurances they provide for access and traditional activity. He heard how government regulations make it difficult for Alaskans to earn a living on mining claims and personal property consumed by the expansion of conservation units. He also heard reports of BLM officials conducting personal vendettas against some miners in the Forty-Mile District.

Murkowski has not decided on whether to open up ANILCA for amendments, but is now evaluating it.

“We are not going to tear down ANILCA, but if it is broken, we are going to fix it,” Murkowski said.

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Opening ANWR: It’s been a long time coming

Now dubbed the Arctic Oil Reserve (AOR), the basic issues really haven’t changed, the merits are more clearly defined, and many of the decision makers are the same, but the politics are more encouraging than ever before.

RDC has stepped up its efforts to help the Alaska delegation successfully win the debate. This time around we may finally reap the rewards of many years of hard work we have all worked building the case, explaining the merits and correcting the misinformation which abounds on AOR.

Here is a synopsis of what RDC is doing on ANWR/AOR these days and with your help, we will be successful at least.

RDC is again spearheading the collection of Alaska community resolutions supporting opening the 1002 area. As of June 1996 resolutions from Bristol Bay Borough, Fairbanks North Star Borough, and Kodiak Island Borough, and the cities of Ketchikan, Valdez, Homer, Seward, Sitka, Ruby, Wrangell and Wrangell are available at RDC. Big Lake Chamber of Commerce and Community Council also recently passed resolutions. Most importantly, the Alaska Federation of Natives has passed a resolution supporting development.

ANWR was the lead story in the June 1995 issue of Resource Review. A special editorial by North Slope Borough Mayor George Ashmoagak, Sr. appeared in the May issue and was quoted in a Anchorage Times editorial.

RDC conducts an annual statewide essay contest at the junior high school level, with winners stepping up a “friends and family for ANWR” campaign nationwide.

RDC maintains its publications library to distribute ANWR materials of all types to any source requesting it, from schools to speakers. RDC’s ANWR brochure is in its seventh printing.

RDC works directly with APL-CIO, as well as the oil and gas industry, to make the case on ANWR at every level possible. Leading officials from labor and industry serve on RDC’s statewide board, several on RDC’s policy body — the Executive Committee.

In brief

State exports top $5 billion

The booming air freight business in Alaska boosted the value of state exports last year to $5 billion, according to the University of Alaska’s Center for International Business.

Air freight exports, mainly products manufactured in the Lower 48 and shipped through the state, rose to more than $2.6 billion, up 30% the year before.

Exports that originate in Alaska, including timber, fish, minerals and petroleum, dropped to $2.45 billion, down 5% from 1993. Raising exports of minerals and petroleum last year were not enough to offset declines in fish and timber.

Coastal Zone Management

The state government appears to be making progress in fulfilling its commitment to protect the state’s coastal resources. At least 10 new towns have been designated as “no-harvest” areas, and 90% of the state’s coastal wetlands are closed to harvesting.

ANLCA

Access to mineral deposits...

(Continued from page 6)

Wetlands reform in Senate...

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Wetlands reform package now before Senate

By Ken Freeman

A comprehensive wetlands bill outlining major regulatory changes on wetlands in the lower 48 and Alaska is under consideration in the U.S. Senate. S.851, the Wetlands Regulatory Reform Act of 1995, was introduced last month by Senators Bennett Johnston (D-LA) and Lauch Faircloth (R-NC) and is sponsored by a coalition of senators, including Alaska's Frank Murkowski.

Borel said, "These four deposits are Bortie, Arctic, Sun and Smucker. If they were located on a road system, they would already be in production, providing jobs and economic opportunity for Alaskans."

Borel requested that the intent of Congress be clarified by "amending Title XI of ANILCA to require approval of reasonable surface access to inholdings across a CSU within a specific time frame from the date of application. The agencies must be required to provide a route for reasonable surface access which would include plowable roads that can later become improved roads.

Other recommendations included the establishment of infrastructure and transportation access packages (Continued to page 7)

“Thanks to years of hard work and effort, RDC and Alaska's congressional delegation are moving forward to reach closure on a host of issues, ranging from wetland regulations, mining law reform and timber harvesting in the Tongass to the oil export ban and drilling in the Arctic Oil Reserve. We've come a long way, but we still have a long way to go, and a tiny window of opportunity in which to work.”

Anilca designed to block access

Anilca was designed by its authors to block access to some State and Native lands not included in conservation system units, charged Steve Borel, Executive Director of the Alaska Miners Association.

In testimony delivered to Senator Frank Murkowski at a Senate Energy Committee hearing in Anchorage last month, Borel said that some CSUs were positioned to block normal routes of access to mineral deposits in the Ambler Mining District of the Brooks Range.

There are at least four major mineral deposits in this area that have already been discovered," Borel said. "These four deposits are Bortie, Arctic, Sun and Smucker. If they were located on a road system, they would already be in production, providing jobs and economic opportunity for Alaskans."

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RDC staff Carl Portman and Ken Freeman met with Congressman Jimmy Hayes (D-LA) in Washington, D.C. last month. Portman and Freeman also met with key congressional staff and committees to address Alaska issues, including wetlands. (Photo by John Doyle)

HB 197, a bill designed to stimulate the Alaska mining industry by offering financial incentives to mining companies, was signed into law last month in Fairbanks by Governor Tony Knowles. The legislation grants a 100% credit for certain mining exploration costs against future taxes and royalties that miners would owe the state. The credit would be limited to no more than half of a miner's tax bill each year. "This legislation tells the mining industry that Alaska is willing to be a good partner, to share some of the risks and rewards of development in our state, while for Alaskans, it means jobs," Knowles said. At far right is House Speaker Billy Phillips. Also pictured is Steve Borel and Pat Pourchot. (Photo by Carl Portman)

Flora and fauna: One of the most important economic activities in Barrow is its support of subsistence hunters. Many local families live on subsistence hunting and fishing. A comprehensive wetlands bill would provide Alaska relief from avoidance, compensatory mitigation and value.

Thoughts from the President

By Elizabeth Rensch

Where to from here?

This was the thought and question I asked myself at the end of the RDC Annual Meeting last month. As your newly-elected President, I find myself engaged in the middle of very exciting and evolutionary changes taking place in Alaska and Washington, D.C. Changes that to many Alaskans seem to have come in due course. But to those in our membership and other resource development organizations throughout Alaska, these changes are long overdue.

Resource industries in Alaska such as timber, oil and gas, mining, seafood and tourism have been plagued for years by overzealous and cumbersome regulatory constraints evolving from unbalanced regulatory legislation. Many times over these mandates have proven to run amok, and even the most liberal in Congress now cannot deny the need for addressing first the cost-benefit of each. The time has come for reformation, and the wind of change are definitely blowing in Congress.

Thanks to years of hard work and effort, RDC and Alaska's congressional delegation are moving forward to reach closure on a host of issues, ranging from wetland regulations, mining law reform and timber harvesting in the Tongass to the oil export ban and drilling in the Arctic Oil Reserve. We've come a long way, but we still have a long way to go, and a tiny window of opportunity in which to work.

As your new President, I will rise to each new challenge and make the most of all opportunities for sensible and progressive resource development. Your membership is uniquely important to me and I will focus my efforts on your individual, as well as corporate needs. With one voice we can see beyond tomorrow and share each victory along the way.

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We must ask whether the access provisions of ANILCA will be followed, or whether the regulations concerning that access should be so burdensome with restrictive language and interpretations that access will become an elusive goal rather than a practical reality.

- Paul Glavinovich

Specifically, the Court ruled that ANILCA permits pipeline and transmission line access to inholdings, that validity examinations of mining claims are not required before allowing access, and that inholdings created after the enactment of ANILCA are excluded in its protections.

The Court also ruled that the special access provisions of ANILCA were properly construed. Specifically, there is no statutory requirement to unduly restrict airplane and motorboat access, and there is no preexisting use for special access.

The Court also ruled off-road vehicle and helicopter use is permitted by ANILCA. RDC, the Alaska Miners Association and the Alaska Forest Association were intervenors in the Trustees for Alaska challenging the regulations.

"We find it appalling that Assistant Secretary of the Interior George Frampton — an ardent opponent of the ANILCA provisions in his former capacity as chief of the Wilderness Society — pulled the regulations off the shelf," Glavinovich noted in testimony submitted to the Congressional Record. "One has to wonder whether he took that action to appease the environmental community, especially given the fact that time-member of Congress was elected in the dark.

The only time that the Department of Interior listened to comments of the public was a series of two or three meetings in 1983 when a few members of the public, including RDC and the Pacific Legal Foundation, were asked if there were any problems with the regulations. RDC said it preferred to leave them alone.

"We must ask whether the access provisions of ANILCA will be followed, or whether the regulations concerning that access should be so burdensome with restrictive language and interpretations that access will become an elusive goal rather than a practical reality," said Glavinovich, a former RDC President.

Erosion of access rights

Despite the access guarantees provided by ANILCA, RDC believes there continues to be a general deterioration of public access to federal lands and inholdings in Alaska. Inholders seeking access have typically been met with burdensome requirements and a less-than-honest attitude on the part of federal managers.

RDC cited a number of examples pointing to an increase erosion of public access to government units:

- The list of lakes on the Kenai Refuge which are closed to aircraft access continues to grow nearly every year with little or no notice, no finding of resource damage, and no opportunity for public comment, in spite of regulatory requirements.
- Certain closures contained in the compendia of superintendent’s orders (which contain restrictions on access and other public uses in various park units), were implemented without following the procedures contained in Title XI regulations. These are excellent examples of the agencies’ abuse of the regulations.
- Proposed access restrictions in the Kodiak Refuge similarly circumvent the required process for regulating access.
- The National Park Service has effectively closed airstrips in Katmai and Yukon-Charley Rivers park units by utilizing procedure of a mechanism to perform required strip maintenance.

Fixed-wing aircraft landings have been banned in the few level upland spots in the Kodiak Refuge.

In the Tongass National Forest, the Forest Service is taking steps to limit helicopter access to sites traditionally opened to helicopters. The Tongass has been progressively put off-limits and helicopter access has developed as an environment-round trade-off for roads.

Access between Seward Peninsula villages across the Bering Land Bridge National Preserve and into Serpentine HotSprings using ORVs has been prohibited by the National Park Service even though under the “generally occurring use” test discussed in legislative history, such use should be allowed.

Other issues addressed in the RDC testimony were Kantesia inholdings, tourism and transportation, wilderness designations and delisting, and wilderness management.

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