

Transcription from House Resources Committee Hearing on [HJR22](#)

March 20, 2024

Invited Testimony from Alaska Federation of Natives President Julie Kitka

[\(begins at minute 34:31\)](#)

AFN President Julie Kitka: Thank you Mr Chairman, it is an honor to be here today. My name is Julie Kitka, and I have the honor of serving as the president of the Alaska Federation of Natives. With me today is Dr. Rosita Worl, a long time native leader, very distinguished, I'm proud to have her join us at the table today. She's on the AFN subsistence committee and as well as Gayla Hoeseth, who's online, who is the the Chairman of our AFN subsistence committee. So we were told we had about 15 minutes. So I hope that's about right. So I thought I'd do five minutes, five minutes and five minutes, give or take, but try to be fast to...

Chair McKay: Take your time President Kitka, we've got some time. So we want to, we definitely want to hear what you have to say.

President Kitka: Thank you, sir. It is an honor to be here. It is a monumental task to raise the constitutional amendment on subsistence kind of out of the blue. And I'll tell you why I described that. It was first raised in 1990 as a result of the McDowell case, which the state Supreme Court found that the state of Alaska did not have the authority in the state constitution to have a statute that was in compliance with Title eight of the ANILCA. And that created a crisis in the state. We worked with Senator Stevens, Senator Frank Murkowski, Congressman Don Young, the governor, the native leadership, many stakeholders across the state to try to address that. We knew that the state wanted to have a unified management system. And they were prohibited from doing it just because of the way that the Court ruled, and the way the Constitution was. So that was the beginning. Again, this was in December of 1989. And the first session of the legislature dealing with this was in 1990. So for nearly 34 years ago, that this first came out in front of the legislature, and I wanted to highlight a few things about that, before I get into some recommendations that we have for you.

The first constitutional amendment was introduced in the 16th legislature in 1989 to 1990, and that nearly passed, as you know, a constitutional amendment requires the supermajority on that, and we failed by one vote in that timeframe. The 17th legislature from 1991 to 1992, There's a legislature that that didn't deal with it, the 18th legislatures, there were several constitutional

amendments proposed that were introduced, and none of those were voted on. In the 19th. Legislature in 1995 to 1996, Governor Knowles proposed another constitutional amendment this time and I'll cover the types of constitutional amendments that these were, but that did not go anywhere. Then in the 20th Legislature, Governor Knowles introduced subsistence legislation, including a constitutional amendment, and that's 1997 to 1998. And again, did not have the support of the two thirds. The 21st legislature from 1991 to 2000, Governor Knowles introduced another amendment that the legislature failed to pass it.

So you can see, this is an issue that's been before the legislature for a long time. Our organization, the Alaska Federation of Natives, worked hand in hand with our congressional delegation and our Governor and leaders across the state to try to obtain that constitutional amendment and help the state regain the legal authority to be able to do a statute on that. After 10 years, we gave up because the state appeared to us did not want that authority. And so it has not been on the table in front of the legislature or before us since 2000. So 25 years.

So the first recommendation I have to you on this amendment that Representative Baker put forward is you need to take your time for Alaskans are not aware of this. I don't believe that there's time in this session to adopt this. And I'd urge that you set up maybe with your colleagues from the Senate Resources Committee, a fact finding group that can tackle a number of questions, that when you bring this back to the legislature in January of 2025, that you have some things that you've reached out to people. Plus Alaskans have a chance to express their views to you directly. Because we found over the years, there is nothing like this issue to galvanize people's wanting to express their views and very strong views. And there's no way that a small group of people even in the legislature can move fast on this and kind of like, let's deal with oil taxes. But let's do it in this one room. And let's not have all the stakeholders around the table. Right, you could imagine how that would infuriate people. It's the same thing on this issue.

The common themes in the proposed amendments were a rural subsistence priority. Another one was a native and rural subsistence priority. And another one was a rural plus priority. And another one was a flexible party. So there's many different ways to do a constitutional amendment. And I think that if you take the time and the fact finding, and you open up a process that allows a lot of input on that, you'll find that people will have some very good ideas.

The other thing to keep in mind, and it's a little criticism of Representative Baker's legislation is subsistence is basically an Alaska Native hunting and fishing and cultural tradition, and to have no mention of our people in the constitutional amendment, or any recognition of our 12,000 years of history, in occupying and living on this land ... that really comes across offensive. And I'm being really honest with you, but also, it ignores that Alaska Natives have a special federal trust responsibility with the federal government. So where the state says, we're looking at federal overreach - Alaska Natives are looking at, we're looking at federal protection. You're looking at overreach, we're looking at protections. Our goal in coming to talk to you today is we would like to help you in what you're doing. But we also want to accommodate the realities that deal with our people, the realities of our special trust relationship with the federal government, which is based from the US Constitution. And there's references in the state could compact when Alaska became a state that we weren't to be disturbed in our hunting and gathering cultures and ethic. If we could mesh those type of things together through dialogue, and everything, might be able to pull out a rabbit out of the hat and have a solution. I'm not saying that people will agree with it, because on the current system, that we have a dual management, it's been going on for nearly 34 years. And it is a direct result of the failure of the state to give itself the legal authority. So the federal government came in, we petitioned them to come in, we have engaged with them over across all these years, to try to improve the system that they've put in. Its been numerous litigation that's been going on during this timeframe in which he had clarifications, the terms and processes and so forth. And our people have spent decades now trying to make that federal subsistence board and the dual management system work, people put, you know, 20 years of their life on that, they're not going to instantly say, oh, I want the state to do it now, after I spent 20 years doing it.

So my second recommendation besides doing a fact finding trip on that is, I think that you need to get rid of the non-subsistence use areas. And this is something that you could do in this session right now - repeal the non subsistence use areas, that pulls out a segment of Alaskans that are not involved in this. That was done during Governor Hickel's term. And his people even after as he signed it, he called it a Frankenstein bill, it wasn't even what he had in mind. And so our view is you should level the playing field by getting rid of the non subsistence use areas, and then getting rid of the the use of 'all Alaskans are subsistence users'. And I use the example of plumbers. If the state came and said, 'All Alaskans are plumbers. And now I'm going to do something for plumbers'. Everybody knows who's a plumber and who's not a plumber. So why does the state have a policy saying everybody is- it makes all the continuing efforts such a

constitution amendment meaningless, because they're going, they're not even talking about us? Or they're talking about people that aren't even subsistence people? Right. So I think that that's something that the legislature can do this session is remove that and again, to me, that gets us to a level playing field to begin the dialogue and go forward.

Chair McKay: President Kitka, I have to just stop briefly here. I'd like to recognize Representative Edgemon has joined us. Please continue, Sorry.

President Kitka: Okay, the next thing I'd like to recommend that you do, as you're doing your fact finding, is scope out what a unified state management system looks like, and spend time scoping out something that's the best in the entire country. Alaska is two and a half times the size of Texas. It's the largest state in our union. It's an area that's got some of the largest runs of fish, animals and whatever - we deserve to have the very best system that there is. And I for one cannot say that's what we have now. And I will grant that people have spent a lot of time improving it and working on it and dedication. And so I'm not saying that to insult anybody, or whatever. But our sense is, if you want to say people- we want to help the state get a unified system, you need to develop the best there is. And a system that's there for the future, that takes into account climate change that takes into account the warming of the oceans and the migration of the fish. And so I really urge that you spend some time and you do it with stakeholders and say, in an ideal world, what should this look like? How should it be funded? How is science meshed into it? How is indigenous knowledge meshed into it? And I think that that would help the process going forward. Also evaluating the court cases that the state is involved in that are against subsistence people and Alaska Natives on that. We all know that right now, in the District Court, the United States versus the State of Alaska is a very significant and important case that we should be getting the first court decision by early May of this year. That's a really important issue to us. And I know it's important to the state on that. But recognize this litigation that's going on is influencing people's attitudes about the state and what the state's doing. And how can the state say, Well, I want to do all this stuff. And then you're in litigation and the state's lawyers are saying all this other stuff on that. It mixes it up. And it appears to be in conflict. Again, the reason why we have a dual system is in our view, the failure of the state, the fact that they didn't give themselves the legal authority to do that.

The other area that we know that the state is looking at is possible ANILCA amendments, if you are thinking about trying to support that, put those on the table so people know what you're

talking about. Nobody ever says federal or state law is ever perfect on that. But those ought not be surprises to people, people ought to know what it is. And as you're looking at constitutional amendments, I just want to warn you there's things that we've rejected in the past as not acceptable. We won't accept having subsistence turned into a welfare program that's just based on need. Subsistence is much more than that; it's our culture. It's our people feeding their families, it's sharing and so forth on that. So really resist the idea of supporting anything that turns it into that because you just won't get people's support behind that. Let's see

On this scoping or our fact finding on that. Really urge that what you do is explore in the fact finding the history of this conflict between the federal and state government and explore the inherent rights of Alaska Natives from time immemorial, protected in the statehood compact, and protected the special trust relationship with the federal government derived from the US Constitution. Understand that. We can send you documentation that you can read to do that. We've submitted that a couple of years ago and in the Senate when the education compacting Bill, we did extensive, legal briefing on that. Fact finding - Find out what is going on with the shortages right now with the fish and with the low caribou on that and be prepared to have the state to be crystal clear. What are they doing about it? That's the burning issues that are on people's minds right now. It's not helping the state get a unified system, it is what are we going to do when we don't get any fish this spring or this summer? Or no caribou? What are you going to do? The State's got to be crystal clear. This is what's going on, This is how we back that up. This is what we're doing about it and this is our plan. Nobody knows what the state is doing. And the federal government the same way, needs to be held their feet to the fire. What are you doing on this shortage and what are you going to do about this, how it affects real people on that.

We offered to put together a lunch and learn for this committee as I mentioned earlier for the House and Senate one later on this session if you want to spend more time on that we could pull some people together. But approach this with some really concrete goals. Because it's a very complex there's many pieces to this whole thing. And we would want you to be experts in this and what comes out of your deliberations to be something that's successful.