



# Community Conversations on Subsistence and Stewardship

Options and Considerations for Improving Alaska  
Native Subsistence Rights and Use in Alaska

*Hosted by the Alaska Federation of Natives*

Summer/Fall 2026

# Welcome & Context

- **Why are we here?**
  - Governor Dunleavy's recent call for a subsistence task force to amend the Alaska Constitution highlighted the need for immediate action by the Alaska Native community
- **Today's goal:**
  - Seize this opportunity for robust internal discussion within the Alaska Native community and start setting concrete goals to protect and advance Alaska Native subsistence rights and uses
- **We want to hear:**
  - What problems communities are facing today
  - What community values must be protected
  - What conditions must be in place before Alaska Native people can support major changes
- **AFN is here to listen, not advocate for a particular solution**

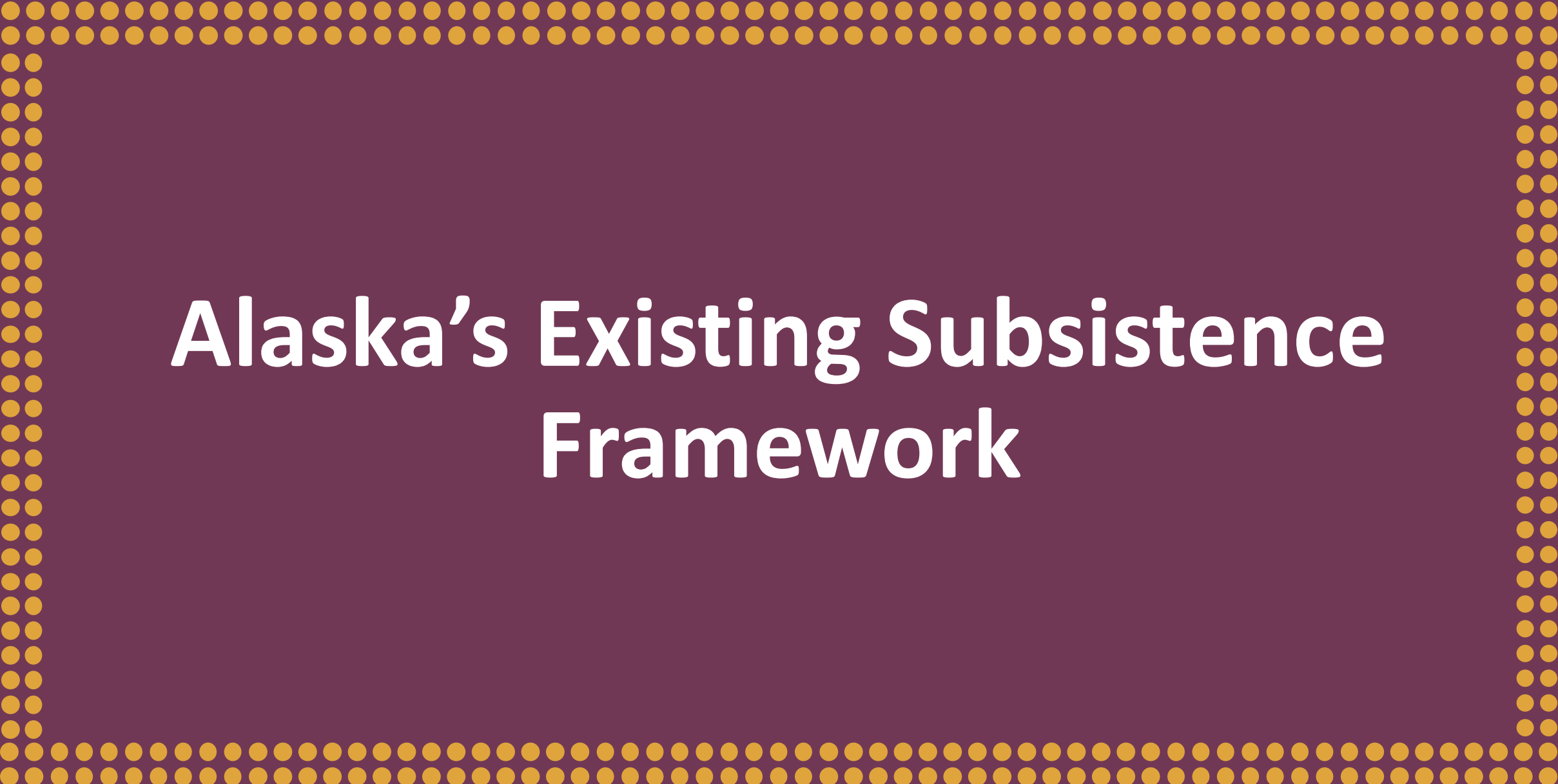


# Roadmap for Today's Discussion

Brief education on Alaska's existing subsistence framework

Overview of potential actions to improve subsistence  
at the federal and state level

In-depth discussion on topics to protect and improve Alaska Native  
subsistence rights and uses



# Alaska's Existing Subsistence Framework

# Historical Background

- **Alaska Native subsistence use has occurred since time immemorial**
- **Russia “discovers” Alaska (1741)**
  - Under international law, discovering or colonizing nations had exclusive right to engage with Indigenous people with respect to land ownership and intergovernmental relations.
- **Treaty of Cession (1867)**
  - United States acquires Alaska from Russia.
- **Organic Act (1884)**
  - Established a civil government within Alaska.
  - “[T]he Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress....”
- **Other laws exempt Alaska Native people from harvest restrictions**
  - Extension of federal mining laws to Alaska provided that Alaska Native people were not to be disturbed in their use and occupancy of lands.
  - Hunting for food, clothing, and boat manufacture exempted from take restrictions on fur seals.
  - Hunting regulations exempted hunting for food or clothing by “native Indian or Eskimos or by miners, explorers, or travelers on a journey when in need of food.”



# Early Statehood Era

- **Statehood Act (1958)**
  - Did not resolve Alaska Native land claims or subsistence rights.
  - Sec. 4: the State must disclaim any right to the property of Alaska Native people (including fishing rights) and that such property remained under the “absolute jurisdiction and control of the United States....”
  - Sec. 6(b): granted the State the right to select an amount of public lands (not to exceed 102,550,000 acres) which “are vacant, unappropriated, and unreserved at the time of their selection.”
- **Protests over State selection of lands**
  - Selected land was occupied and used by Alaska Native people under aboriginal title.
  - Formation of AFN in 1966.
- **Discovery of oil in Prudhoe Bay in 1968**
  - Further exacerbated the need to address Alaska Native land and use rights.

# Alaska Native Claims Settlement Act (ANCSA) (1971)

- **Extinguished any aboriginal title and hunting/fishing rights**
  - 43 U.S.C. § 1603(b): “All aboriginal titles, if any, and claims of aboriginal title in Alaska based on use and occupancy, including submerged land underneath all water areas, both inland and offshore, and including any aboriginal hunting or fishing rights that may exist, are hereby extinguished.”
- **No explicit protection of subsistence rights**
  - Congressional Conference Report states: “The Conference Committee expects both the Secretary and the State to take any action necessary to protect the subsistence needs of the Natives.” H.R. Rep. No. 92-746 at 37 (1971).



# Alaska National Interest Lands Conservation Act (ANILCA) – Title VIII (1980)

- **Protects subsistence uses on public lands:**
  - “The continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, . . . is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence.”
  - “The utilization of the public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands.”



# ANILCA - Federal Subsistence “Rural” Priority

- **Priority for subsistence uses:**
  - “The taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded **priority** over the taking on such lands of fish and wildlife for other purposes.”
- **Subsistence uses are defined as:**
  - “the **customary and traditional uses** by **rural Alaska residents** of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade.”



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# *McDowell Decision*

Alaska Supreme Court (1989)

# McDowell Decision (1989)

- **Alaska Supreme Court found that “rural” priority for subsistence use was unconstitutional.**
  - Determined that a State statute granting preference to rural residents to take fish and game for subsistence purposes violated the Alaska Constitution’s “Equal Access” clauses.
    - **Article 8, Section 3:** “Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.”
    - **Article 8, Section 15:** “There shall be no exclusive right or special privilege of fishery ... in the natural waters of the state.”
    - **Article 8, Section 17:** “Laws and regulations governing the use or disposal of natural resources ... apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation.”



# Result of *McDowell*

- 1990 to present:
  - Alaska is not in compliance with ANILCA.
  - Federal subsistence regulations for hunting (1990) and fishing (1999).
- Dual Federal and State management.
  - Federal government assumes management of subsistence on federal public lands and affords priority to rural Alaskan subsistence uses.
  - State fishing, hunting, and trapping regulations apply to all Alaska residents.



Photo by Rosa Kruse

# In Sum:

- **ANCSA extinguished any aboriginal title and hunting/fishing rights.**
  - No explicit protection of subsistence rights, but Congress expected the federal government and State of Alaska would protect the subsistence needs of Alaska Native people.
- **ANILCA provides current subsistence management regime, but priority is for “rural” residents.**
  - Protects subsistence uses on federal lands.
- **State *could* have managed subsistence uses on federal lands *if* it had adopted a rural preference on non-federal lands.**
  - State lost regulatory authority over federal lands following *McDowell* (1989)

Result → dual federal-state management system



# ANILCA – Federal-State Relationship

ANILCA authorizes State of Alaska to manage subsistence uses on federal public lands *if* the State enacts law extending the priority for rural residents to all lands.

**1982**

Alaska assumed management responsibility with regulatory regime consistent with ANILCA

**1989**

Alaska Supreme Court found that “rural” priority for subsistence use was unconstitutional

**1990-present**

Federal government assumes management of subsistence on Federal public lands, and affords priority to rural Alaskan subsistence uses; State fishing, hunting, and trapping regulations apply to all Alaska residents



# Current Subsistence Management Framework

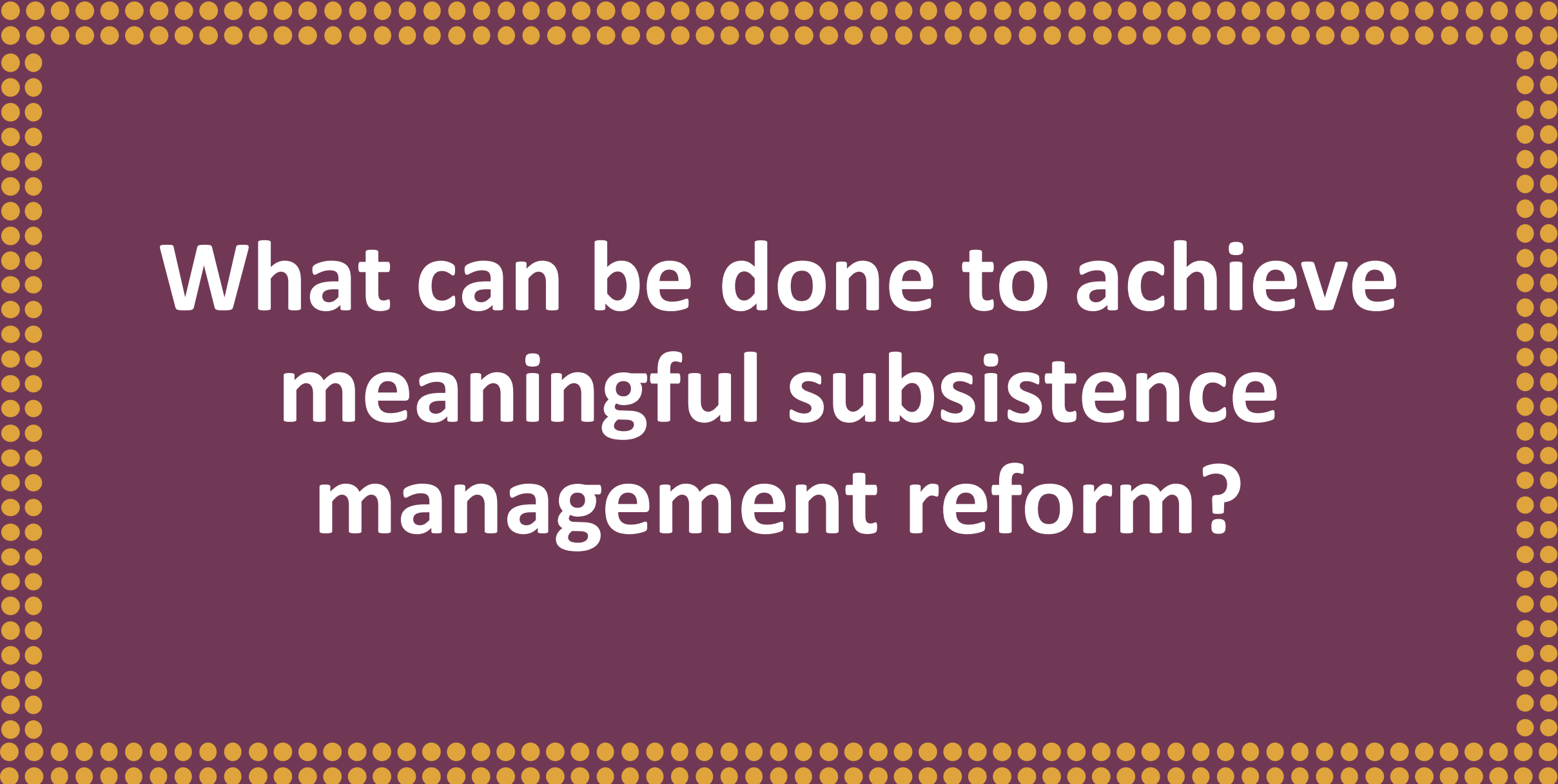
- Multi-faceted management structure based on location, species, purpose of harvest, status of species
- Federal priority from ANILCA Title VIII applies on federal lands.
- Non-federal lands (including ANC-owned and tribally owned lands) are subject to the State's subsistence laws.
- Other federal statutes have subsistence implications:
  - Marine Mammal Protection Act
  - Endangered Species Act
  - Migratory Bird Treaty Act
  - Whaling Convention Act
  - Magnuson-Stevens Fishery Conservation and Management Act



# Some Challenges for Subsistence Management

- **Lack of priority for Alaska Natives' subsistence use**
  - Federal management based on rural residents
  - State management reflects interests of urban residents
- **Different management approaches and values**
  - Western science versus Indigenous Knowledge
  - Species management versus traditional/cultural practices
- **Multiple species and multiple management frameworks**
  - Complex interplay between jurisdictions, agencies, forums, entities
  - Different restrictions and seasons depending on location
  - Varying roles in subsistence management decisions
  - Obstacles to informed participation
- **No consistent framework for co-management**
  - Approaches differ by statute, agency, and species





**What can be done to achieve  
meaningful subsistence  
management reform?**

# Potential Federal Options

# Federal Legislative Options

- **Repeal ANCSA extinguishment clause**
  - Would require implementing a replacement framework
- **Amend ANILCA to provide Alaska Native or “Native Plus” priority**
- **Revise definition of “Alaska Native”**
  - Depending on context, could be addressed through regulation
- **Revise ANILCA Title VIII to improve federal subsistence management program**
- **Targeted ANILCA amendments to address specific management issues**
- **Revisions to other federal statutes to address discrete issues**
- **Address Alaska Native handicraft issues**
- **Appropriations**

***BUT every option requires thorough analysis!***



# Example: Repeal ANCSA extinguishment clause

- ANCSA extinguished any aboriginal title and hunting/fishing rights.
  - 43 U.S.C. § 1603(b): “All aboriginal titles, if any, and claims of aboriginal title in Alaska based on use and occupancy, including submerged land underneath all water areas, both inland and offshore, and including any aboriginal hunting or fishing rights that may exist, are hereby extinguished.”
- Options:
  - Total repeal
  - Repeal limited to public lands
  - Repeal limited to ANCSA lands
- **Would require implementing a replacement framework – How would management occur under Aboriginal Title?**
  - Note – Extinguishment resulted in the direction from Congress to the State and the Secretary of the Interior to address hunting and fishing rights.
  - When they did not act, Congress created Title VIII of ANILCA.
  - So what does repeal of the Extinguishment Clause do to Title VIII of ANILCA or to existing management?



# Federal Administrative Options

- Executive Order mandating co-management on federal lands
- Incorporate IK/TEK into federal decision-making
- Amend definition of “rural”
- Adopt regulations for Alaska Native co-management
- Extend federal jurisdiction under Title VIII of ANILCA to Alaska Native allotments
- Secretarial Order declaring Title VIII of ANILCA as “Indian legislation”
- Expand tribal compacting/contracting of subsistence programs
- Presidentially authorized working group to examine subsistence reform
- Revise structure and operation of FSB and RACs



# Potential State Options

# State constitutional amendment authorizing a rural, Native, or “Native plus” subsistence priority

- Amendment adopting a rural preference would bring Alaska into compliance with Section 805 of ANILCA.
- Would allow State of Alaska to seek restoration of management on federal lands.



Photo by Tamra Andrew



*Photo by Andre Simon*

## Governor commitment to co-management and/or other reforms

- Pursue executive action increasing or requiring co-management of resources on State lands, Alaska Native-owned lands, etc.
- Identify other opportunities for tribes, ANCs, and ANOs to increase participation in State subsistence management programs.



# Post-*McDowell* State Constitution Amendment Efforts

- Between 1990 and 2003, over 30 proposed amendments were introduced in the State Legislature.
- Four general variations:
  - Rural subsistence priority
  - Alaska Native and rural subsistence priority
  - Rural plus priority
  - Flexible priority
- ***Most of these amendments did not proceed to a vote.***

Photo by Essie Charlie

# Latest Efforts to Amend State Constitution

## HJR 22 (2/20/24)

- The resolution, introduced by Rep. Baker, would have, in relevant part, amend Article VIII of the Alaska Constitution to add a section stating:
  - “Consistent with the sustained yield principle, the legislature may provide a preference to and among residents of the State in the taking of a replenishable natural resource for subsistence use based on customary and traditional use, direct dependence, the availability of alternative resources, place of residence, or proximity to the resource. When the harvestable surplus of a replenishable resource is insufficient to provide for all beneficial uses, other beneficial uses shall be limited to protect subsistence uses of the resource.”



# HJR 22 (2/20/24)

- Would have allowed the State to:
  1. differentiate between subsistence users for purposes of providing a preference between users;
  2. provide for subsistence preferences that could comply with Title VIII of ANILCA.
- However, the resolution used different terms than those in Title VIII; may have led to competing interpretations and potential outcomes that are contrary to the intended objective of State compliance with ANILCA and/or with the purpose of Title VIII of ANILCA.
  - Notably, the proposed amendment did not specifically refer to “rural” Alaska residents, which is the term utilized in ANILCA. While the State could provide for a preference to “rural” residents, it would not be required to do so.
- State Legislature would have needed to pass implementing legislation to effectuate any subsistence preference for Alaska residents, rural or others.
  - Unclear how the State would have intended to implement any Constitutional amendment.



# Considerations for a Potential State Constitutional Amendment

- What would unified management mean to the management system?
  - The State of Alaska would manage Subsistence on State and Federal Land.
  - What happens to FSB?
    - FSB ceases to exist – no longer necessary?
    - New federal entity in place to monitor/protect/oversee?
    - What role do the various federal agencies have under a new management system?
- What would Alaska Native people have to do within the State regulatory/administrative system to meet our needs?
  - Alter the State Board of Fish and Board of Game to ensure representation (subsistence, rural, Alaska Native)?
  - Some mechanism for federal oversight or participation in the state management system to ensure implementation of the rural priority?
  - Ensure that state regulations provide for adequate protections and enforcement for subsistence priority and stop criminalizing subsistence users?



# Discussion on State Constitutional Amendment

- **What are the political challenges to navigate?**

- State and National
  - Alaska Resource Equality
  - Current political environment
- Different for Rural and Rural plus?
  - Rural Plus – Some claim Racial Discrimination
  - Defining "Native"

- **Who are potential allies?**

- State and National
  - We need Unity or close to it
  - Conservation? Mixed
  - Lower 48 Tribes and entities
- Different for Rural and Rural plus?
  - Likely more allies for Rural

- **Who are potential adversaries?**

- State and National
  - Recreation and Commercial users
  - State of Alaska or legislature?
- Different for Rural and Rural Plus?
  - May have more adversaries for Rural Plus

- **Could an amendment (rural or rural plus) would survive a legal challenge?**

- Drafting the language to survive challenge as a "political" classification vs a "racial" classification for Alaska Natives
- Ensuring classification as Indian Legislation and as necessary for cultural preservation
- Continuing to strengthen the arguments for "rural" necessity for subsistence practices



# AFN Resolution 24-01

- **At the 2024 Convention, AFN's membership passed Resolution 24-01, which calls for:**
  - An overhaul of the existing subsistence management system to better protect subsistence rights for Natives.
  - Creation of a Native-led framework that centers Native knowledge, traditions, and rights.
  - Amendment of ANCSA to allow Native management of fish and wildlife on Native Corporation-owned lands and co-management on public lands in partnership with state and federal agencies.
  - Repeal of the ANCSA extinguishment clause and expansion of Native subsistence hunting and fishing rights.
  - Creation of a unified definition of "Alaska Native," applicable to all statutes, that removes references to blood quantum.
  - State and federal agencies to seek long-term restoration of depleted natural resource stocks.



# We Need to hear from Alaska Natives – Prioritize, Strategize, and then Advocate

- **What are the biggest threats to subsistence?**
  - What isn't working?
  - Impacts?
- **What's working in the current system?**
  - Federal Subsistence Board? RACS?
  - Co-Management?
- **Top priorities in your Region?**
  - Species specific?
  - Co-management?
  - Access?
- **Who should have a seat at the table?**
  - Tribes, ANCs, Advisory Councils, individuals
  - Federal government, State
- **What are the non-negotiables?**
  - Native Priority/rural priority?
  - Conservation standards?
  - Federal oversight/protection?
- **What does successful subsistence management look like?**
  - Healthy salmon runs?
  - Partnership?
  - Reduced Conflict?
- **What role should AFN play?**
  - Educate
  - Convene
  - Neutral?
  - Advocate?



# Topics for Discussion



**What does subsistence mean  
to you and your community?**

**What are the top subsistence  
priorities for your community  
or region?**

**What are the greatest challenges  
or threats to subsistence in your  
community today?**

**What principles or values should guide any future changes to subsistence management?**

**What protections, rights, or priorities should Alaska Native people consider non-negotiable when discussing future changes to subsistence management?**

**If you could change one thing  
about subsistence management in  
Alaska, what would it be?**

**What role should Tribes and  
Alaska Native communities have  
in subsistence management  
decisions?**

**What role should AFN play in  
protecting and advancing  
subsistence rights and ways of life?**

# Other considerations?





Quyanaqvaa | Gunalchéesh | Quyanaasinaq  
Quyana cakneq | Quyanaqpak | Aarigaa, taikuu  
Chin'an | Qağaasakuq | Taikuullapiaq | Haw'aa  
N'doyukshn | Anaa' baasee | Thank you