

## Case 1

In Alaska about half of the State's native population of 100,000 people live partially or entirely off the land. Several thousand Alaskan Native Americans depend upon fishing, hunting, and gathering for more than ninety per-cent of their food supply. About two thirds of Alaska's lands are owned by the federal government but managed by the State. In the summer of 1999 U.S. Interior Secretary Bruce Babbitt announced that the federal government would take over the allocation of fishing rights in federally owned sections of Alaska unless the State legislature agreed by October 1, 1999 upon an amendment to the State Constitution which would guarantee a "subsistence priority" in times of shortage to native peoples who live primarily off the land in Alaska. The State legislature was unable to reach agreement upon such an Amendment by October 1.

Title VIII of the Alaska Natural Interest Lands Conservation Act, which Congress passed in 1980, contained a provision which assured that in years of low yield Native American Alaskans who live off the land would have priority rights in regard to fishing and hunting. About ten years ago the Supreme Court of Alaska ruled that this provision violates Alaska's State Constitution. Since that time the federal government has urged the State to change its Constitution. This past summer Secretary Babbitt expressed disappointment that the State legislature had not yet brought the issue before voters, and announced it was time for the federal government to act.

Subsistence fishing and hunting involve two to three per-cent of the State's fish and game annually, and the issue of allocating priority rights arises only every few years, when fish run low in some streams or caribou herds thin. Nonetheless, the issue is complicated. In some cases streams have been closed off for weeks to everyone except subsistence fishermen, which not only upsets those who fish for sport, but also can make the difference between profit and loss for some commercial fishing operations. There are also issues of who qualifies as a subsistence fisherman or hunter. Some non-native Alaskans live off the land, and many Native Americans Alaskans live in Anchorage or Fairbanks, where they shop in supermarkets and eat at McDonalds. Even the Native Americans who depend upon fishing, hunting, and gathering for ninety per-cent of their food supply commonly own motorboats, snowmobiles, and satellite television dishes. The issue of allocating priority rights has elicited strong emotional responses throughout Alaska. In the words of George Irvine, Director of the Alaskan Federation of Natives: "This is not 19th century history here, some historical injustice we can do nothing about today. 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." On the other side of the issue, the Alaskan Outdoors Council, a group representing sportsman and sportswomen, of whom many were born in Alaska, decries as "special rights legislation" the efforts to establish priority fishing and hunting rights for native peoples in the State.

**Question: Do native American Alaskans, who live primarily off the land, have a moral right to a subsistence priority in regard to hunting and fishing on federally owned lands in Alaska? If so, why? If not, why not?**