

**First RC Submittal to the Alaska Board of Game by Ahtna Tene Nene' on
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The 2012 decision by the Alaska Supreme Court quoted below demonstrates that Alaska's Subsistence Laws provide authority for the BOG to adopt regulations that "provide for actual subsistence uses and preserve a culture and way of life." The decision explicitly authorizes the BOG when implementing the subsistence law to consider the "cultural, social, spiritual and nutritional importance that the subsistence law protects." The decision also makes it clear that all Alaskan hunters are not subsistence users even if they are a "long-term user of an area" or if they harvest a moose or caribou for "personal use." Subsistence users are those who have a "traditional, social, or cultural relationship to and dependence upon the wild renewable resources produced by Alaska's land and water."

THE ALASKA FISH & WILDLIFE CONSERVATION FUND v. STATE OF ALASKA and AHTNA TENE, 289 P.3d 903 (Alaska 2012).

(at 909)"AFWCF argues that the subsistence statute was intended to grant subsistence rights to any long-term users of an area, but this argument ignores **the clear legislative intent in passing AS 16.05.940, which was to provide for actual subsistence uses and preserve a traditional culture and way of life.** [14] AFWCF cites *Madison v. State, Department of Fish & Game* [15] in support of its proposition, but *Madison* only barred the complete exclusion of urban residents from the classification of subsistence users, **it did not state that the subsistence statute was meant to classify those who do not have a " traditional, social, or cultural relationship to and dependence upon the wild renewable resources produced by Alaska's land and water " as subsistence users.**[16]

AFWCF also maintains that it is improper for the Board to consider the " cultural, social and economic context in which harvest takes place," but as noted above the legislature specifically intended the Board to take this information into account. Personal use fisheries may meet the subsistence statute's consistency and duration requirements, but they may also fail to carry **the cultural, social, spiritual, and nutritional importance that the subsistence statute protects.**[17]"

[14] Ch. 1, § 1(a)(3), SSSLA 1992 (" [C]ustomary and traditional uses of Alaska's fish and game originated with Alaska Natives, and have been adopted and supplemented by many non-Native Alaskans as well; these uses among others, are culturally, socially, spiritually, and nutritionally important and provide a sense of identity for many subsistence users.").

[15] 696 P.2d 168 (Alaska 1985).

[16] See *id.*; see also ch. 1, § 1(a)(1), SSSLA 1992 for intent of the subsistence statute.

[17] Ch. 1, § 1(a)(3), SSSLA 1992.