

# **Record of Decision**

## **Subsistence Management for Federal Public Lands in Alaska**

### **I. INTRODUCTION**

The Department of the Interior with the Department of Agriculture prepared an Environmental Impact Statement (EIS) for Subsistence Management for Federal public lands in Alaska pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969. The EIS (1) describes four alternatives for developing a Federal Subsistence Management Program (FSMP) in Alaska and examines the environmental consequences of these alternatives, (2) describes the major issues associated with Federal subsistence management that were identified through public meetings and staff analysis, (3) addresses comments made during the public-review process, and (4) includes in the appendices the proposed programmatic regulations that will implement the proposed action.

This Record of Decision (ROD) documents the decision by the Secretary of the Interior, and concurred in by the Secretary of Agriculture, regarding the subsistence management program for Federal public lands in Alaska. It presents reasons for selecting the course of action and the alternatives that were considered. The record briefly discusses elements considered in reaching a final decision and supporting rationale. It summarizes the views expressed by government agencies, organizations, special interest groups, and the general public. The format was selected to provide a concise summary of the decision, identify principal program components, options considered, and to present any divergent points of view. The ROD consists of this introduction, a summary decision sheet, and extensive background material. The decision and the EIS consider the estimated environmental consequences to biological resources, economic and sociocultural systems, subsistence use patterns, and sport hunting.

The Federal Government is required by Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) of 1980 (Public Law 96-487, 16 U.S.C. 3111-3126) to provide a preference for the subsistence taking of fish and wildlife over other consumptive uses of fish and wildlife on Federal public lands in Alaska. The State of Alaska operated a subsistence management program on all lands in Alaska that met the Federal requirements until July, 1990, when the Alaska Supreme Court decision in McDowell v. Alaska became effective. In the McDowell decision, the court ruled that the statutes used by the State to provide a subsistence priority for rural Alaskans violated the Alaska Constitution. The court allowed the State government six months to remedy the situation before the decision became effective. The State was unsuccessful in amending its laws to comply with ANILCA Title VIII. On July 1, 1990, the Federal Government was forced to assume the management of subsistence activities on Federal public lands in the State of Alaska.

## DECISION

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The Federal Government's temporary subsistence management regulations for Federal public lands in Alaska were published in the Federal Register on June 29, 1990. The introductory part of these regulations was included as Appendix C in the EIS. These regulations created the Federal Subsistence Board (Board) and charged it with the responsibility for subsistence activities on Federal public lands in Alaska. The Board is composed of the Alaska Regional Directors of the U.S. Fish and Wildlife Service (FWS) and National Park Service (NPS); the Alaska Regional Forester, U.S. Forest Service (USFS); the Alaska State Director, Bureau of Land Management (BLM), and the Alaska Area Director, Bureau of Indian Affairs (BIA). The Chairman of the Board is appointed by the Secretary of the Interior with concurrence by the Secretary of Agriculture. Currently, a Special Assistant to the Secretary of the Interior serves as chairman. The Fish and Wildlife Service has been designated as the lead Federal agency for the Federal Subsistence Management Program.

The proposed FSMP and implementing regulations comply with the requirements of Title VIII of ANILCA. The ANILCA provides that rural residents of Alaska shall have a priority for non-wasteful subsistence use of fish and wildlife and other wild renewable resources on Federal public lands in Alaska.

The FSMP would most affect the rural residents participating in subsistence activities on the approximately 200 million acres of Federal public lands in Alaska. These lands are managed by one of the five Federal agencies: the Fish and Wildlife Service, the Forest Service, the National Park Service, the Bureau of Land Management, and the Bureau of Indian Affairs.

Public lands are specifically defined in ANILCA in Section 102(3). Because the U.S. usually does not hold title to navigable waters within a State, they generally are not included within the definition of public lands in this instance. Within the EIS and the final regulations, the scope and extent of Federal public lands in Alaska available for subsistence uses is further defined and clarified.