



IN REPLY REFER TO:

# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

1011 E. Tudor Road  
Anchorage, Alaska 99503-6199



AFES/MMM

JUN 20 2011

Mr. Bertrand Adams, Sr.  
Chair  
Southeast Alaska Subsistence Regional Advisory Council  
U.S. Forest Service  
Box 1328  
Petersburg, Alaska 99833

Dear Chairman Adams:

Following the March 2011 meeting of the Southeast Alaska Subsistence Regional Advisory Council (Council), my staff informed me of the Council's continued concerns about increasing sea otter populations in southeast Alaska and their potential effects on commercial and subsistence users. We would like to continue dialogue with users on the issue. We are working with the Alaska Department of Fish and Game and others to seek solutions. We have laid out below the issues that we believe continue to need discussion and/or current positions.

- 1. The Council recommends a thorough review of current regulations. Regulations appropriate to protect a small fragile population are likely too restrictive to encourage harvest of a robust and rapidly increasing population.**

Currently we are participating in a joint NOAA Fisheries/U.S. Fish and Wildlife Service (Service) working group reviewing regulations regarding marine mammal parts. At the suggestion of the Service, representatives from the Indigenous People's Council for Marine Mammals have been included in this working group and participated in the most recent teleconference. As for whether the regulations are too restrictive in the context of a robust population, consistent with the MMPA our regulations provide for harvest of sea otters by coastal dwelling Alaska Natives for subsistence and handicraft purposes provided that harvest is not wasteful; this is regardless of population size.

- 2. Regulations need to be amended to encourage harvest when and where there is a significant level of harvest opportunity commonly referred to as potential biological removal. The use of Alaska Department of Fish and Game fishing districts may be well suited to define area boundaries.**

The purpose of the MMPA is to maintain marine mammal species and population stocks at levels where they are significant functioning elements in the ecosystems of which they are a part. Under the current statute and regulations, Alaska Native Tribes have the ability to develop sea otter management plans for their Tribal members. These plans could identify management goals and objectives, including the identification of areas where sea otter

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hunting would be encouraged (such as subsistence food gathering areas) or discouraged (such as tour boat routes). At a recent meeting in Sitka with representatives from Federally-recognized Alaska Native Tribes, my staff offered to assist Tribes with the preparation of such management plans.

- 3. The process of tanning sea otter pelts results in a product that is certainly "significantly altered." That concept should be clearly described in regulation by amending Section 18.3 "Definitions" in the code of Federal regulations to include tanned hides as significantly altered.**

Amending the definition in our regulations to include tanned hides as "significantly altered" would not be consistent with the statute. The MMPA defines the term "marine mammal" to include any part of a marine mammal, including its raw, dressed, or dyed fur or skin (16 U.S.C. 1362). The term "dressed" in this context means "to put through a finishing process," and is synonymous with "tanning" among taxidermists. Thus, a tanned hide is a marine mammal part and not a "significantly altered" product. In September 2010, Congressman Don Young of Alaska introduced a bill to amend the MMPA to allow the sale of sea otter pelts, as it is not legal under the current law to sell pelts.

- 4. Requiring the use of registered agents inhibits the potential utilization of sea otters. Section 18.23 (b)(1)(i) (ii) and 2 (i)(ii) "Native exemptions" should be amended to remove the requirement to utilize registered agents and allow the direct sale and transportation of sea otters by qualified users. Current language in these paragraphs is exceedingly confusing and unnecessarily restrictive.**

The Service will work with Alaska Natives to develop outreach materials that present this information more clearly. The regulations referenced above are not intended to prohibit the direct sale and transportation of sea otters between Alaska Natives. The use of Registered Agents is a way to connect buyers and sellers but is not a requirement.

- 5. There is no need for tags to remain affixed to the skin through the tanning process. Section 18.23 (1)(9)(iii) (E) should be deleted in its entirety.**

The requirement for tagging is included in our regulations to help control the illegal trade in sea otter hides. However, we understand that tags may impair the tanning process and are working with staff of the marine mammal Marking, Tagging, and Reporting Program and the Office of Law Enforcement to explore the possibility of developing a system for re-tagging hides once the tanning process is complete.

- 6. Even though you did not ask the question in your letter, we feel there needs to be clarification on the definition of "subsistence" under the MMPA.**

Trade, barter, or sale of raw sea otter pelts to non-Natives is not considered "subsistence." Our regulations regarding the Native exemption at 50 CFR Part 18.23 clearly state that "no marine mammal taken for purposes of creating and selling authentic Native articles of handicraft or clothing may be sold or transferred to any person other than an Indian, Aleut, or Eskimo ... "unless" ... it has first been transformed into an authentic Native article of

handicraft or clothing." Raw or dressed/tanned furs may be traded or sold between Alaska Natives, but not to non-Natives (with the exception of Registered Agents).

My staff remains fully engaged in this issue. Mr. Douglas Burn, Sea Otter Program Leader for the Alaska Region, provided information to the Council at your last meeting in Sitka, Alaska. In recent months we have assisted in the formation of a southeast Alaska sea otter task force to increase communication among interested parties, including the Council. In addition to a web site that serves as a clearinghouse for information, this task force has also convened several teleconferences to discuss ongoing activities.

If you have additional questions about the information in this letter or sea otter management in southeast Alaska, please contact Mr. Douglas Burn, Sea Otter Program Leader, at (907) 786-3807, or by electronic mail at [Douglas\\_Burn@fws.gov](mailto:Douglas_Burn@fws.gov).

Bert, I know this doesn't answer all your concerns but wanted to make sure you know we are still working on this with you & others in this

Sincerely,



Regional Director

cc: Robert Larson, U.S. Forest Service