

## Western Interior Alaska Subsistence Regional Advisory Council

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APR 07 2021

Anthony Christianson, Chair  
Federal Subsistence Board  
c/o Office of Subsistence Management  
1011 East Tudor Road, MS 121  
Anchorage, Alaska 99503

Dear Chairman Christianson:

The Western Interior Alaska Subsistence Regional Advisory Council submits this FY-2020 annual report to the Federal Subsistence Board (Board) under the provisions of Section 805 (a)(3)(D) of the Alaska National Interest Lands Conservation Act (ANILCA). At its public meeting via teleconference on October 14–15, 2020, the Council identified concerns and recommendations for this report. It approved this report at its winter 2021 meeting held February 17–18 via teleconference. The Council wishes to share information and raise a number of concerns aligned with the implementation of Title VIII of ANILCA and the continuation of subsistence uses in the Western Interior Region.

### **1. Mean High Water Mark Definition**

The Council appreciates that the Board responded to this concern in our 2019 Annual Report. As cited in your reply, the Army Corp of Engineers defined the term “ordinary high water mark” for purposes of the Clean Water Act lateral jurisdiction at 33 CFR 328.3(e), which states: “The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.”

The Council believes this definition is inadequate, particularly for Federally-qualified subsistence users who must hunt during the winter months to feed their families. The characteristics described above delineate the ordinary high water mark for bare ground and are not visible during the winter months. Subsistence hunters are therefore vulnerable to illegally harvesting an animal during the winter months when the boundary is not visible based on the

current definition. The regulation is therefore inadequate and needs further clarification to encompass seasonal variability.

Recommendation:

The Council is recommending that during winter months with snow cover, the “ordinary high water mark” be defined as the brush line, where willow and other vegetation occur above the snow column. This will enable a user to have a clear delineation of the brush line, and know whether they are on State or Federal lands for legal subsistence harvest.

## **2. Council Membership**

The Council continues to be extremely frustrated with the lack of both timely member appointments and fully seated Councils. The Council submitted detailed concerns in a letter to the Board dated December 8, 2020; notably unacceptable delays in appointments for seats expiring each year on December 2, and continued high vacancy rates on all Subsistence Regional Advisory Councils, which greatly diminish the abilities of the Councils to accomplish the statutory requirements under Section 805 of Title VIII in ANILCA. The Councils cannot be expected to meet the statutory requirement for a “meaningful role in fish and wildlife management” with decreased memberships and inexcusable delays in member appointments. The Council believes that this “de facto” reduction of Council seats has not been justified, and is in fact a violation of the Council’s charter and ANILCA. The Council has copied all Subsistence Regional Advisory Councils on its December 8, 2020 letter to ensure there is a collective voice with these concerns, as the continued mishandling of member appointments is adversely affecting all ten subsistence regions in Alaska.

Recommendation:

As stated in our letter to the Board, the Council is requesting that the Board contact the Secretary of the Interior’s office and call for immediate relief with timely appointments for both incumbent and new members for Subsistence Regional Advisory Councils in Alaska.

## **3. Bureau of Land Management Guide Use Permitting Process**

At its meeting held October 14–15 via teleconference, the Council queried representatives from the Bureau of Land Management (BLM) about the number of hunting guides permitted in the Brooks Range, and specifically along the Dalton Highway Corridor. Multiple factors have contributed to low populations of sheep and moose, including increased guiding pressure. These activities are threatening subsistence resources and the subsistence priority for Federally-qualified subsistence users in this region.

Moose and sheep populations have been depleted along the Dalton Highway Corridor due to harsh winters and low recruitment. This past year, only seven rams were observed in the Dalton Highway Corridor, south of Atigun Pass. Most of the rams seen were sub-legal, but will become legal size in two years and likely harvested. This could result in full reproductive failure in a population of sheep that is already suffering. Of the 31 ewes observed in this area, only three had lambs. Large populations of both wolves and lynx exist, both of which prey on sheep.

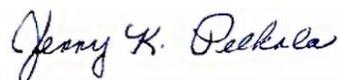
In addition to this conservation concern, there are increasing numbers of hunting guides and assistant guides in the area, some operating under one permit. The COVID-19 restrictions in Canada have pushed more guiding operations into the Brooks Range of Alaska. These guides are equipped with multiple aircraft, giving them clear advantages over subsistence users who depend on the resources. There appears to be little control of the potential for overharvest, and possible extirpation of sheep populations in the region. The lack of a guide-use permitting process with clear area delineations and limited harvest allocation exasperates this situation.

Recommendation:

The Council is requesting a guide-use permit program that ensures a priority for subsistence uses in the Brooks Range and along the Dalton Highway Corridor. In 2004, BLM promised a guide-use permitting process to select guides on BLM lands, if the State of Alaska failed to implement a guide use permitting process for these lands. The State has not done this. Therefore, the Council is requesting that BLM develop a guide-use permitting process similar to the National Park Service's preserve guide permitting process, and the National Wildlife Refuge permitting process. Guide use areas would be delineated, guides would compete for those permits, guides would not be permitted to hunt "over" one another, and guides would be held under specific allocation standards for resources in their areas. The Council believes its request is justified, as the State has not fulfilled its duty to subsistence use.

Thank you for the opportunity for this Council to assist the Federal Subsistence Management Program in meeting its charge of protecting subsistence resources and uses of these resources on Federal public lands and waters. We look forward to continuing discussions about the issues and concerns of subsistence users of the Western Interior Alaska Region. If you have questions about this report, please contact me via Karen Deatherage, Subsistence Council Coordinator, Office of Subsistence Management, at karen\_deatherage@fws.gov, or 1-800-478-1456 or 907-474-2270.

Sincerely



Jenny Pelkola,  
Acting Chair

cc Federal Subsistence Board  
Sue Detwiler, Assistant Regional Director, Office of Subsistence Management  
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