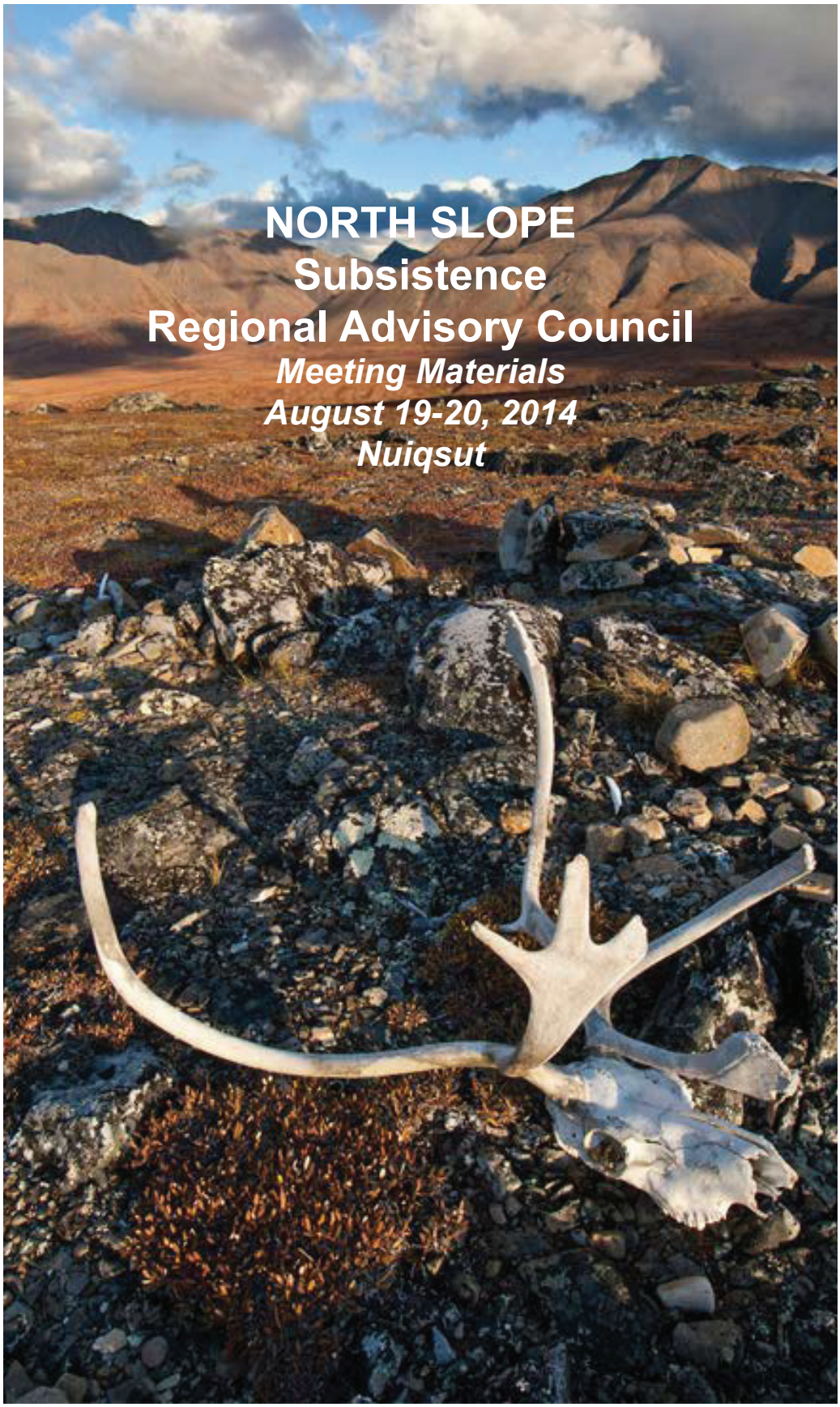

NORTH SLOPE Subsistence Regional Advisory Council

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August 19-20, 2014

Nuiqsut

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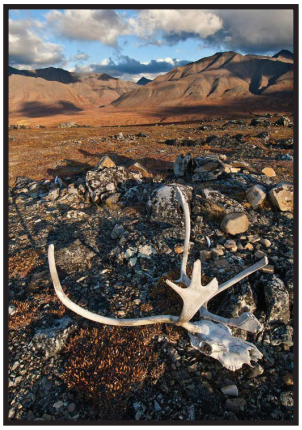

On the cover...

Caribou skull in John River Valley south of Anaktuvuk Pass.

Photo courtesy: Carl Johnson, USFWS.

NORTH SLOPE SUBSISTENCE REGIONAL ADVISORY COUNCIL

Nuiqsut, Kisik Community Center
August 19-20, 8:30 a.m. – 5:00 p.m.

PUBLIC COMMENTS: Public comments are welcome for each agenda item and for regional concerns not included on the agenda. The Council appreciates hearing your concerns and knowledge. Please fill out a comment form to be recognized by the Council chair. Time limits may be set to provide opportunity for all to testify and keep the meeting on schedule.

PLEASE NOTE: These are estimated times and the agenda is subject to change. Contact staff for the current schedule. Evening sessions are at the call of the chair.

AGENDA

*Asterisk identifies action item.

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Reports

Council member reports

805(c) Report

FSB Annual Report Reply

Chair's report

Presentation of Service Awards

Public and Tribal Comment on Non-Agenda Items (available each morning)

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New Business *(Chair)*

Temporary Special Action: WSA 14-02 for 26C & B remainder – Update (*Tom Evans*)……Supp. Handout

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FP15-01 - Statewide.....Supplementary Handout

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All-Council Meeting in Winter 2016 (*Council Coordinator*)

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Agency Reports

(Time limit of 15 minutes unless approved in advance)

Tribal Governments

Native Organizations

Office of Subsistence Management

US Fish and Wildlife Service – Arctic National Wildlife Refuge

National Park Service – Gates of the Arctic

Bureau of Land Management – NPR-A

Alaska Department of Fish and Game

Future Meeting Dates*

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Select date and location of fall 2015 meeting.....107

Closing Comments

Adjourn (*Chair*)

To teleconference into the meeting, call the toll free number: 1-866-560-5984, then when prompted enter the passcode: 12960066

The U.S. Fish and Wildlife is committed to providing access to this meeting for those with a disability who wish to participate. Please direct all requests for accommodation for a disability to the Office of Subsistence Management at least five business days prior to the meeting.
If you have any questions regarding this agenda or need additional information, please contact Eva Patton, Council Coordinator at 907-786-3358, eva_patton@fws.gov, or contact the Office of Subsistence Management at 1-800-478-1456 for general inquiries.

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REGION 10 - NORTH SLOPE

Seat	Yr Apptd *Term Expires*	Member Name & Address	
1	2011 ***2014***	**Gordon R. Brower,** Barrow	
2	2011 ***2016***	**Robert V. Shears** Wainwright	
3	***2016***	**VACANT**	
4	***2016***	**VACANT**	
5	1993 ***2014***	**Harry K. Brower Jr.** Barrow	**Chair**
6	***2014***	**VACANT**	
7	2008 ***2014***	**James M. Nageak** Anaktuvuk Pass	
8	2012 ***2015***	**Theodore A. Frankson, Jr.** Point Hope	
9	2006 ***2015***	**Lee Kayotuk** Kaktovik	**Secretary**
10	2009 ***2015***	**Rosemary Ahtuangaruak** Barrow	**Vice-Chair**

NORTH SLOPE FEDERAL SUBSISTENCE REGIONAL ADVISORY COUNCIL
PUBLIC MEETING

Inupiat Heritage Center
Barrow, Alaska

February 19-20, 2014
9:00 a.m.

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COUNCIL MEMBERS PRESENT:

Harry K. Brower, Jr. Chair
Rosemary Ahtuangaruak (via teleconference)
Gordon Brower
James Nageak
Robert Shears

Excused absence:
Theodore Frankson (family funeral)
Lee Kayotuk (overlapping meetings)

*Only 7 Council members - Secretarial appointments still pending

Meeting Attendees:

Agency staff:
David Jenkins, Policy Coordinator, Office of Subsistence Management
Karen Hyer, Fisheries Biologist, Office of Subsistence Management
Pat Petrivelli, Anthropologist, Interagency Staff Committee, Bureau of Indian Affairs
Vince Mathews, Subsistence Coordinator for Arctic, Kanuti and Yukon Flats
Ernest Nageak, Native Liaison, USFWS Barrow Field Office
Dave Yokel, Biologist, Bureau of Land Management
Denny Lassuy, North Slope Science Initiative
Brendan Scanlon, Fisheries Biologist, Alaska Department of Fish and Game, Fairbanks
Geoff Carroll, Wildlife Biologist, Alaska Department of Fish and Game, Barrow
Lincoln Perrett, Wildlife Biologist, Alaska Department of Fish and Game, Barrow

Isaac Leavitt, North Slope Borough Division of Wildlife Management, Barrow
Billy Adams, North Slope Borough Division of Wildlife Management, Barrow
Hugh Olemaun, North Slope Borough Division of Wildlife Management, Barrow
Todd Sformo, North Slope Borough Division of Wildlife Management, Barrow
Raphaela Stimmelofar, North Slope Borough Division of Wildlife Management, Barrow
Andy Van Dyke, North Slope Borough Division of Wildlife Management, Barrow
Ryan Klimstra, North Slope Borough Division of Wildlife Management, Barrow
Leslie Pier, North Slope Borough Division of Wildlife Management, Barrow
Nicole Kanayurak, North Slope Borough Division of Wildlife Management, Barrow
Arnold Brower, North Slope Borough Planning Division, Barrow
Brian Person, North Slope Borough Division of Wildlife Management, Barrow

Via teleconference:
Jeff Brooks, Social Scientist, Office of Subsistence Management
Chris McKee, Wildlife Biologist, OSM
Palma Ingles, Partners for Fisheries Monitoring Program Coordinator, OSM
Marcy Okada, Subsistence Coordinator, National Park Service.
Dan Sharp, Interagency Staff Committee, Bureau of Land Management
Jayde Ferguson, Pathology Lab, Alaska Department of Fish and Game
Jennifer Yuhas, State liaison, Alaska Department of Fish and Game

Tribal Organizations:
John Cody Hopson, Inupiat Community of the Arctic Slope
Doreen Lampe, Executive Director, Inupiat Community of the Arctic Slope

Public/NGO's:
Peter Matumeak, Barrow
Isaac Simmonds, Barrow

Roll Call:
Quorum was established on both days. One absence for Council member to attend family funeral services and another for Council member's participation on another regional Board meeting.

Welcome and Introductions:
Invocation by James Nageak: "In order to have a substantial lifestyle without subsidy, in the Inupiat culture, you must have a subsistence lifestyle that has substance for you to subsist with dignity."

Moment of silence honoring Point Hope Whaling Captain Joe Frankson.
James Nageak read a speech, "We are Inupiat on the shores of the seas," given by whaling captain Reverend Patrick Ahtuangaruak in 1985 that he had transcribed and translated from Inupiat: "We eat the animals of the seas and of the land, we exist because of those older than we are. We live because we follow their example. Our body fluids are mixed with the blood of animals, with the oil of the animals, like the Inupiat of all who use the same animals." See transcripts for the full speech and stories.

James Nageak also shared a poem about the whale that was written by his sister Martha Nageak Aiken in 1983.

Review and Adopt Agenda* (Asterisk indicates action items)
Agenda was adopted with modifications to order to accommodate guest speaker schedules and add information

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Election of Officers
The Council voted to table the election of officers (Chair, Vice Chair and secretary) until the next meeting in due to two absent current members and one seat was still pending official Secretarial appointment.

Review and Approve Previous Meeting Minutes*
The Council voted to approve the meeting minutes with two edits identified:

1) Council members James Nageak was present for the meeting Roy Nageak was not (correct names under Council members present pg.
2) Typo on page 11 – exchange though with THROUGH in "working through"

Council member reports: (See transcripts for full detailed information sharing by Council members about subsistence and observations of fish, wildlife, habitat, seasonality and more.)

Gordon Brower shared his caribou hunting experiences with his sons around Alaktak, Ikpikpuk, Topagoruk and Chipp River, noting caribou observations and movements. He stressed that caribou meat is different at different times of year and just because they are available to hunt does not meant they are the same. The fall hunt in September before the rut is the best for both cows and bulls before they are mating, stressed by winter, and the females are pregnant but winter hunts in February/March can be used for making fermented caribou meat.

Described his fishing activities and changes to both weather and landscape that was making it difficult to catch a preserve the fish in the amount and way he used to. Noted weather changes changed freeze-up and that a lake he usually fished in had washed out in part and the water level dropped.

Gordon discussed his observations and concerns about researcher tents and connex storage boxes being placed in the caribou migration path or peoples hunt area which was posing a problem for hunters. Also he expressed concerns about caribou antlers that were placed by forefathers for trap line anchors and animal attractants that had been pulled out of the ground by researchers. Asked again that researchers check with the Borough and local people before setting up camp and disturbing important hunting and travel markers such as antlers or drum barrels strategically placed for wayfinding.

James Nageak Noted weather changes and changes to caribou migration timing of the Western Artic Caribou Herd through Anaktuvuk Pass. He said it was a warm fall and no snow this year as there usually would be by late October and that the caribou rut timing changed so that by the time they arrived they could not harvest the big males for dry meat.

He noted that fishing at Chandler Lake was different this winter too – that usually people from Anaktuvuk Pass have to use 2 or 3 extensions on the ice auger for ice jigging for fish but this year the lake ice was very thin with no need for extensions.

The community has ongoing concerns about development around the northern part of the Brooks Range and are relieved that the Road to Umiat has been put on hold.

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Robert Shears Reported on subsistence activities for Wainwright including developments in fall whaling for the community. Noted an interesting freeze-up in September with caribou basking in the sun and not moving much which made it difficult to hunt until late September but then congregations of caribou hung around Wainwright and the community was able to hunt for about 6 weeks until November and had a very productive year. Fall fishing was very good on the Nunatak River. Some freeze / thaw events created melt water, overflow, and ice crusts that made snow machine travel dangerous.

Rosemary Ahtuangaruak Shared her experiences visiting back in Nuiqsut and sharing traditional foods of Arctic cisco and broad whitefish. Noted the concerns Nuiqsut has with numerous fish with fungal infections and other observations about the health of the fish and uncertainty about contaminants and healthy subsistence foods. She walked the tundra and collected plants, teaching kids and sharing the knowledge with their families. She noted observations of changes to plants. Her son was able to get out to the coast to hunt caribou and she was grateful for being able to share the meat and noted that the caribou seemed to have more fat this year.

Encouraged better communications between researchers and development activities to avoid conflict with subsistence uses. Also encouraged researchers to work with the communities on their observations of changes especially many recent concerns about increased activity by air and road that may be impacting caribou and erosion/fish passage.

Rosemary provided and overview of the Western Arctic Caribou Working Group meeting that she attended in November with funding from OSM to represent the NSRAC and help maintain Council engagement on very important subsistence caribou information and management. She noted that there was little time in the meeting for members of the public to participate directly and only Working Group members were included in the information sharing which limited the dialog to only a few people lacking representation for some North Slope communities.

Chair's Report Harry Brower, Jr Expressed concern about research and development activities on NPR-A disturbing subsistence activities and noted that people can be cited for moving antlers that disturb established trap lines. Encouraged again that government, industry, and researchers communicate with local communities and their activities to mitigate disturbance to subsistence and can work through the North Slope Borough wildlife department for guidance. Chair Harry Brower, Jr. discussed the letter that he helped draft on the Councils concerns about the vacant anthropology positions within OSM and staff support to the Councils and noted he had brought these concerns to the Board and FWS Director Haskett at the recent Federal Subsistence Board meeting in January. He reiterated the importance of the anthropology division to the Council and requested to be provided with an update on the status since he had not yet heard any developments.

Additionally, Harry stressed that the pre-meeting work session held the day before was very helpful in reviewing and preparing materials for the Councils work and encouraged OSM to support to NSRAC in holding a 1 day work sessions to learn more about the information, discuss an overview of the full agenda and ask questions in preparation for the decision making during the RAC meeting. He expressed the session was very helpful in having time to learn more about

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complicated proposals or processes and requested a follow up workshop on Customary and Traditional use determinations.

Council Discussion: The Council discussed at length the importance of the social and cultural aspects of subsistence and also encouraged the Federal Subsistence Management Program to allow the time and space for fuller discussion at RAC meeting and Board meeting to encompass all aspects of subsistence. Several Council members discussed the relationships with animals and the environment and the strength of the spiritual aspects that are part of this relationship. Food security was not just about subsistence but about family and community and maintaining good respectful relationships with the animals so that they would come back and allow themselves to be taken.

Public and Tribal Comment on Non-Agenda Items:
John Cody Hopson of Inupiat Community of the Arctic Slope (ICAS) asked the Council for an update and their perspective on the recent 9th Circuit Court Ruling on lease sales for oil drilling in the Beaufort Sea.

Doreen Lampe, Executive Director ICAS and Native Village of Barrow discussed the ongoing efforts, organizing and developments to establish and hunter/gatherer commission in an effort to address traditional harvest access issues. They have been working through an ANA grant to document tribal sensitive areas in villages outside of NPR-A.

Members of the public discussed their interest in an ANILCA training and a workshop on Customary and Traditional Use determinations. The Council discussed with the public and staff present and interest in community workshops such as this so that both the RAC and the communities could be more informed about how to effectively be engaged with the subsistence management process. The RAC discussed wanted to be able to network more with communities to share information and get feedback that would better guide their efforts. There were also requests by the Council to have a youth internship on the Council for mentorship and training the younger generation in the process.

The Council discussed with members of the public, North Slope Borough Wildlife Dept. and North Slope State Fish and Game Advisory Committee members a proposal to the Alaska State Board of Game generated by Point Lay and Kotzebue AC requesting a change in regulations for hunting wolverine and wolves from a moving snow machine.

Old Business:
"Road to Umiat" – Per Councils request Council Coordinator, Eva Patton, provided the Council with information and update on the "Road to Umiat" status. The State of Alaska suspended development of the road proposal and Army Corps of Engineers now has the EIS listed as "in suspension" unless it is pursued again in the future. The Army Corps will provide formal public notice in the event the road development and EIS is initiated again.

Wildlife Regulatory Proposals – The Council received an update on the wildlife regulatory process and a briefing on the action taken by the Eastern Interior Council on North Slope crossover proposal WP14-51 (Red Sheep Creek). Similar to the NSRAC, the EIRAC voted to

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oppose this proposal and supported maintaining the closure to non-Federally qualified users in the Arctic Village Sheep Management Area based on extensive testimony by Tribal and community members from Arctic Village.

Customary & Traditional Use Determination – The Council received a written summary on the basics of C&T and a comparative table on how C&T and ANILCA Sec. 804 are applied. The origins of C&T use in the State and Federal programs was discussed in addition to the 8 criteria that are used. The Council was provided with the request form the Southeast RAC that all Councils consider how C&T has been applied and to evaluate whether they would like to recommend any changes for its use in the Federal Subsistence Management program. The Council received a brief summary of recommendations made by others Council thus far and discussed examples of how C&T had been applied for Artic Village sheep and ANILCA .804 had been applied for Kaktovik moose. The Council requested that a one-day workshop be developed to fully discuss how these aspects of the Federal Subsistence Management program are implemented and better understand how they have been applied in the North Slope region, and what the implications could be for changing the current process. Council Chair Harry Brower stressed that the many Federal management programs that govern fishing and hunting activities greatly affect traditional and cultural practices and thus evaluating and any recommendations for potential changes to the process must be evaluated very carefully.

Rural Determination Process Review – OSM Policy Coordinator David Jenkins provided a briefing on the Rural Determination criteria that are currently used and the status of the review process and RAC and public comments thus far. The Council discussed their concerns about industrial development in the region increasing population size and infrastructure and how "Rural Characteristics" are defined and interpreted by the Federal Subsistence Board. The Council discussed concerns about industrial complexes such as Prudhoe Bay and communities that were developed to serve the industrial functions of oil development such as Deadhorse being granted rural status.

Fisheries Resource Monitoring Program – The Council received a briefing from OSM Fisheries Biologist Karen Hyer on the FRMP program, process for developing subsistence priority information needs from the region and RACs and opportunities for research projects addressing local subsistence fish concerns. The Council was provided with an update on projects that were submitted and the process for evaluating whether proposals met criteria for being funded and why. A Dolly Varden char radio telemetry project for the Kaktovik area was funded and the researcher presented his proposed project later in the meeting.

The Council discussed the FRMP process and expressed concern that many of their recommendations were not included or not fully articulated in the call for proposals. The Council requested more engagement in the process to ensure that their priority information needs were included with enough specific details so that researchers could better develop proposals in collaboration with communities in the region. The Council is very interested in pursuing options for local, Tribal, and Native non-profit.

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New Business:

Draft FY2013 Annual Report* – The Council reviewed and approved the draft annual report and made one addition to request more involvement in the developing detailed subsistence priority information needs for the FRMP process.

Council Nominations Process and Outreach – The Council received an update on Council Appointments from the Secretary of the Interior that are still pending, 3 seats on the Council are currently vacant. The Council expressed concern about lack of representation from several communities in the region and encouraged more outreach to those villages and Tribes not currently represented on the Council. The Council stressed the importance of having representation directly from each village and concerns of having a majority of Barrow representatives, especially when due to budgets the Council has been meeting only in Barrow for years and not had an opportunity to meet in other communities in the North Slope region. A youth mentorship program was also requested. The Council discussed options for a possible youth mentorship seat on the Council and requested to work further with OSM on this goal.

Call for Fisheries Regulatory Proposals – The Council did not have any fish regulatory proposals for the North Slope Region but did discuss that trade of muktuk or dried caribou meat for smoked salmon was very important and that regulations regarding salmon elsewhere in the state can impact traditional trade between friends and family.

Special Report on whitefish pathology results for broad whitefish near Nuiqsut – Jayde Ferguson of the ADF&G Fish Pathology lab provided the diagnostic report for broad whitefish from the Colville River with fungal-like patches. In October, 2013 the community of Nuiqsut submitted a total of 14 fish samples to the North Slope Borough and ADF&G. The fish were caught in gillnets along with other healthy broad whitefish but total effected population is unknown. The pathology lab necropsies found that all fish were in spawning or post spawning condition. Numerous tests were performed to investigate, infection, bacteria, virus, organ condition, molds, and radiation levels. All reports were normal. The cottony-like lesions on the exterior of the fish were determined to be Saprolegnia, a common water mold.

The full pathology report was provided to the Council and information on where to submit fish samples for any other abnormalities that were identified locally. The Council discussed environmental changes they have been observing in the region such as permafrost thaw causing large input of sediment, nutrients and tannins into the lakes and rivers or contamination form industrial development. Some local monitoring such as water temperature testing in the Colville River were elevated from normal levels and the Council enquired if this could be affecting the health of fish and presence of Saprolegnia.

Taqulik Hepa and other staff from the North Slope Borough Wildlife Department discussed their involvement in investigating the concerns brought to them by the community of Nuiqsut on the outreach the have been involved in to keep everyone informed of the results of the tests. Taqulik Hepa encouraged communities to use their traditional and customary practices when handling sick or diseased animals.

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Fisheries Resource Monitoring Program – Karen Hyer of OSM provided and update on the FRMP program, process, and research grant review results for the North Slope region was awarded FRMP grant funding. The Dolly Varden char radio telemetry project to be based in Kaktovik was selected for funding. Brendan Scanlon of ADF&G, Principal Investigator for this research project provided the Council with a presentation of the project objectives to track Dolly Varden char migration patterns and summer feeding areas in the Beaufort Sea and plans for working with the community of Kaktovik for tagging fish with satellite tags in Kaktovik Lagoon. The Council encouraged ongoing communications with local North Slope Borough staff and Kaktovik in the planning of the research and involvement of local people. Council members discussed their own knowledge of Dolly Varden char overwintering pools and observed feeding edges off of ice flows when hunting seals.

The Council discussed fisheries observations and subsistence fish activities and identified priority information needs for the next call of the FRMP process. The Council also received a brief report on the Partners for Fisheries Monitoring program and expressed interest in being engaged in local fisheries research and monitoring initiatives.

Agency Reports:

Tribal Governments – Native Village of Nuiqsut emailed Vice-Chair Rosemary Ahtuangaruak to share a resolution they just passed calling for a halt to research that has impacts on subsistence.

Native Organizations – Doreen Lampe, Executive Director ICAS and Native Village of Barrow, discussed the ongoing efforts, organizing and developments to establish and hunter/gatherer commission in an effort to address traditional harvest access issues. They have been working through an ANA grant to document Tribal sensitive areas in villages outside of NPR-A. They have been seeking additional funding to create GIS maps of these sensitive areas. ICAS has joined a lawsuit on the listing of Yellow-billed loons and requested Tribal consultation over this matter. The loon are not eaten, however ICAS supports the occasional hunting for dance groups loon headdress or mask which are important for customary and traditional Eskimo dancing.

Office of Subsistence Management – OSM Policy Coordinator David Jenkins provided a brief staffing updates 13 positions still remain vacant. A reply letter was delivered to the Council from USFWS addressing the Councils concerns about the vacant anthropology division positions and staff support the RACs. The Council requested to be further updated on any developments on the approval to fill the anthropology vacancies.

Jack Lorrigan, OSM Native Liaison, provided the Council with a very brief update on the draft Tribal Consultation Implementation Guidelines. The document has been in progress with the Working Group (NSRAC Vice –chair Rosemary Atuangaruak is one of the leads on the Working Group) and a draft for the public and Councils review was provided in meeting books. Feedback is requested on any comments and recommendations.

An update on the final appointments by the Secretary of the Interior's office to the Regional Advisory Councils was provided. Many appointments are still pending, including for the North

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Slope Subsistence Regional Advisory Council. Possible recommendations for how to improve the RAC applicant and appointment process were discussed.

US Fish and Wildlife Service – Vince Mathews, Subsistence Outreach Coordinator for Arctic National Wildlife Refuge, provided the Council with a written summary and brief updates, noting that there was not much new information since the fall RAC meeting. Mr. Mathews responded to the Councils earlier request for an ANILCA training workshop and offered to help develop one since he had some background in developing this type of training for new staff from his previous work with the Office of Subsistence Management. He is also working on education and outreach for the Refuges and would be happy to assist the Council in their efforts to develop a youth mentorship program for the RAC.

National Park Service – Marcy Okada, subsistence coordinator for Gates of the Arctic National Park & Preserve provided the Council with a handout summary and brief updates on wildlife population surveys in the park and other issues of importance to subsistence. Both Western Artic Caribou and Dall sheep have declined in the park in recent years and the long winter and cold spring may have contributed to further declines in ewes this year. Yellow-billed loon breeding populations have been surveyed by air for five years and the study also included contaminants sampling. The Yellow-billed loon is being considered for listing under the Endangered Species Act.

Gates of the Arctic Subsistence Resource Commission had a meeting in November in Fairbanks. Council member James Nageak of Anaktuvuk Pass serves on the SRC. James Nageak spoke to the importance of the Yellow-billed loon for ceremonial headbands and traditional dance groups.

The Ambler Mining District Access project is under analysis by the State and the National Park Service. In 2013, the Park Service issued research permits for the State sponsored research activities in the Park and Preserve related to resources which may impact or be impacted by a road. The research projects are centered in the southern portion of Gates and includes the snow survey, fishery survey, and wetland vegetation survey, hydrologic and hydraulic surveys of the Kobuk and the Reed Rivers and cultural resource reconnaissance surveys.

A National Park Service team of Park and Regional staff was formed in May 2013 to address Park Service responsibilities in responding to a right- of-way application and the Park Service team will be working with the Federal Highway Administration, which is the agent for the Secretary of Transportation.

Bureau of Land Management – Dr. Dave Yokel, biologist for the Arctic Field Office in Fairbanks, provided the Council with updates for the NPR-A region including new lease sales and other development activities. A draft EIS is being developed for the Greater Moose's Tooth area and the Council will be notified when it is released for public comment. Pat Pourchot and Assistant Secretary Tom Beaudreaux, the BLM's director from Washington, DC, Neil Kornze, were scheduled to meet with the community of Nuiqsut to talk about this potential development and then had hoped to attend an hour of the RAC meeting in Barrow but were held up by weather and did not make it.

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At the specific request of the Council, Dr. Yokel provided a detailed update on snow and ice roads development around Nuiqsut and the Connoco Phillips development around Alpine. NPR-A has many ice road developments that connect to other road systems outside of NPR-A. Snow trails are also being developed around Atqusuk to haul fuel on rologons.

BLM has been working on numerous research projects with other partners including monitoring the Teshekpuk Caribou herd, fish and anthropological work with subsistence users, polar bear studies with USGS and various bird studies in the region.

Alaska Department of Fish and Game – Lincoln Parrett ADF&G Wildlife biologist provided the Council with a comprehensive overview of the four North Slope region caribou herds (Western Arctic, Central Arctic, Teshekpuk, and Porcupine) with population and radio telemetry movement updates as well as recent research project results that involved partnerships with BLM and the North Slope Borough. Declines in the Western Arctic and Teshekpuk herds were noted and possible future conservation management changes were discussed by wildlife biologists, North Slope borough staff, public, and the Council. More planning and discussion will occur at the next Council meeting.

Geoff Carroll provided the Council with updates on regional actions taken by the Alaska State Board of Game at the recent January 2014 meeting. The Council discussed at length a proposal by the Kotzebue Fish and Game Advisory committee to allow the use of snow machines to hunt caribou, wolves, and wolverines.

There was a proposal to extend the moose season on the Colville River. The proposal was at the request of the Nuiqsut hunters primarily from the North Slope Advisory Committee and was passed by the Board of Game, so the season was extended until the end of September.

North Slope Science Initiative – Dr. Denny Lassuy, Deputy Director North Slope Science Initiative, provided the Council with an introduction and overview of the work of NSSI. The NSSI works on science coordination in the North Slope region and out to the edge of the exclusive economic zone of the off shore waters – anywhere there is an activity that affects the North Slope and its residents and was formed under the Energy Policy Act of 2005 to implement efforts to coordinate the collection of scientific data that will provide a better understanding of the terrestrial, aquatic, and marine ecosystems of the North Slope of Alaska. Their work has been to help avoid duplicative efforts between research, development, and climate change issues. It's a small organization with a few staff and governed by an advisory committee and technical advisory panel and composed of a mixture of Federal, State and local entities. A large part of the work has been coordinating research efforts and improving peoples access to that information.

The primary work and tool of NSSI is in the form of baseline terrestrial and aquatic mapping surveys and a data management system to track research and information relevant to the North Slope region. They also participate internationally on Arctic Council for circumpolar monitoring and northern oil and gas research forums and develop workshops and trainings such as on remote sensing.

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Dr. Lassuy provided an overview of the northslope.org website hosted by NSSI and what information is available and how to search for information of interest such as long-term monitoring projects or specific fish research. He noted that they are still working on ways to better incorporate and work with local communities and traditional knowledge. Dr. Lassuy further noted that the Council meetings, transcripts and minutes are rich with detailed information and amazing conversation that suggest important areas of further scientific investigation.

Future Meeting Dates*

Fall meeting: August 19, 20 and 21, 2014. Ongoing request to meet in Nuiqsut. Kaktovik was selected as a first choice for meeting location and Anaktuvuk Pass as a second choice due to subsistence concerns and issue in each of those communities that the Council felt would facilitate addressing those concerns directly by meeting there. Barrow was noted as a backup. Winter meeting: February TBD Barrow.

The Council requested to wait to decide on finalizing the winter meeting dates to allow Council members were not present to all vote on a time that works best. The Council Coordinator will follow up by email to poll which winter dates work best for the Councils schedule.

Council discussed closing comments and adjourned at approximately 5:30 p.m. on Feb. 20th.

I certify to the best of my knowledge the forgoing minutes are accurate and complete.

_____
Eva Patton, Designated Federal Officer
USFWS Office of Subsistence Management

_____
Harry K. Brower, Chair
North Slope Subsistence Regional Advisory Council

These minutes will be formally considered by the North Slope Subsistence Regional Advisory Council at its August 2014 public meeting. Any corrections or notations will be incorporated at that meeting.

DRAFT

General comparison of the Section 804 and customary and traditional use approaches used in the Federal Subsistence Management Program.

Element	804 analysis	C&T use determination analysis
Function	Used to identify the pool of qualified subsistence users when a population of fish or wildlife in a particular area is not sufficient to allow for all qualified subsistence users to harvest from it	Used to recognize a community or area whose residents generally exhibit characteristics of customary and traditional use of specific fish stocks and wildlife populations for subsistence
Authority	ANILCA Section 804 and 50 CFR 100.17	36 CFR 242.16 and 50 CFR 100.16
Legal language	Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes. Whenever it is necessary to restrict the taking of populations of fish and wildlife on such lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such priority shall be implemented through appropriate limitations based on the application of the following criteria:	(a) The Board shall determine which fish stocks and wildlife populations have been customarily and traditionally used for subsistence. These determinations shall identify the specific community's or area's use of specific fish stocks and wildlife populations. For areas managed by the National Park Service, where subsistence uses are allowed, the determinations may be made on an individual basis. (b) A community or area shall generally exhibit the following factors, which exemplify customary and traditional use. The Board shall make customary and traditional use determinations based on application of the following factors:
Criteria/ factors	(1) Customary and direct dependence upon the populations as the mainstay of livelihood; (2) Local residency; and (3) The availability of alternative resources.	(1) A long-term consistent pattern of use, excluding interruptions beyond the control of the community or area; (2) A pattern of use recurring in specific seasons for many years; (3) A pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics; (4) The consistent harvest and use of fish or wildlife as related to past methods and means of taking; near, or reasonably accessible from, the community or area; (5) A means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations, including consideration of alteration of past practices due to recent technological advances, where appropriate; (6) A pattern of use which includes the handing down of knowledge of fishing and hunting skills, values, and lore from generation to generation; (7) A pattern of use in which the harvest is shared or distributed within a definable community of persons; and (8) A pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social, and nutritional elements to the community or area.
Frequency	Since 1990, the Board has taken action on about twenty 804 analyses	Since 1990, the Board has made about 300 C&T determinations

Southeast Alaska Subsistence Regional Advisory Council

Bertrand Adams Sr., Chairman
P. O. Box 349
Yakutat, Alaska 99689

RAC SE14012.RL

APR 0 1 2014

Mr. Tim Towarak, Chair
Federal Subsistence Board
c/o U.S. Fish and Wildlife Service
Office of Subsistence Management
1011 East Tudor Road, Mail Stop 121
Anchorage, Alaska 99503

Dear Chairman Towarak:

Thank you for your diligence in providing expanded information on our Council's proposed changes to the customary and traditional use determination process (§ .16) to all of the other Regional Advisory Councils. It is our understanding that there has been quality discussion of this issue at many of those other Council meetings.

As a part of our Council's continued effort to review and revise § .16, we authorized a work group to develop preliminary regulatory language. The work group reported to the Council at its March 2014 meeting in Anchorage and the Council adopted the work group's product as our own.

Enclosed is the Council's background paper which includes our recommendation on § .16 regulatory language. Key aspects of our recommendation are that: 1) councils would have the autonomy to recommend customary and traditional use determinations specific to their Region; 2) any restrictions for the taking of fish and wildlife shall be implemented using the criteria established in ANILCA 804 (and repeated in this regulatory language); 3) deference on customary and traditional use determination recommendations would be given to the applicable Regional Advisory Council; and, 4) the current eight factors considered for making customary and traditional use determinations would be eliminated.

We request that Federal staff review our recommendation and provide to us an analysis at our fall 2014 meeting. That analysis should provide staff's best estimate of the effect on both the Southeast Region as well as the other regions of the state. The Council would also

Chairman Towarak 2

appreciate a review of the proposed language with possible modifications for regulatory clarity, while maintaining our intent.

Any questions regarding this letter can be addressed directly to me or through Mr. Robert Larson, Council Coordinator, U. S. Forest Service, Box 1328, Petersburg, Alaska 99833, (907) 772-5930, robertlarson@fs.fed.us. Thank you for your attention.

Gunalchéesh,

Bertrand Adams Sr.,
Chair

Enclosure

cc: Beth Pendleton, Regional Forester, USFS
Eugene R. Peltola, Jr., Assistant Regional Director, OSM
David Jenkins, Policy Coordinator, OSM
Jack Lorrigan, Native Liaison, OSM
Carl Johnson, Council Coordination Division Chief, OSM
Robert Larson, Subsistence Council Coordinator, USFS
Chairs, Federal Subsistence Regional Advisory Councils
Administrative Record

Customary and Traditional Use Determination Proposal and Rationale
Southeast Alaska Subsistence Regional Advisory Council

Introduction: During the fall 2013 regular council meeting, the Council tasked the customary and traditional determination (C&T) workgroup with developing a region-specific proposal for amending the current C&T determination regulations. The workgroup members (C. Needham, D. Hernandez, P. Phillips, and M. Bangs) submitted that work to the Council which adopted the recommendation as its own. The Council considers it vitally important that the intent of the proposal be clearly communicated to the Board and other councils.

Problem: The current federal C&T determination regulations, including the eight factor analysis, were adopted from pre-existing State Regulations. The federal program adopted this framework, with some differences, when it was thought that federal subsistence management would be temporary. As a result of the 2009-2010 comprehensive Federal Subsistence Program Review, the Secretary of the Interior issued a letter of direction, with the concurrence of the Secretary of Agriculture, requesting that the Federal Subsistence Board "review [the] customary and traditional determination process to provide clear, fair, and effective determinations in accord with Title VIII goals and provisions (changes would require new regulations)". It was stated that this be conducted with regional advisory councils input.

Recommended solution: The intent of this proposed regulation change is to provide a statewide framework for making C&T determinations (see subpart a) while providing an option for region specific regulations that match particular characteristic of each region (see subpart b). The proposal will also provide deference to regional councils (see subpart e).

The Council wanted each regional council to be able to develop region specific regulations that suit their own region, and therefore took the approach to change the umbrella statewide regulation in order to do so. Subpart b of the proposed regulation provides an opportunity for region specific process to be incorporated into the regulation.

The Council's intent for the Southeast Region would be to make very broad customary and traditional use determinations so that seasons on Federal public lands and waters would remain open to all Federally-qualified rural residents until there is a need to reduce the pool of eligible harvesters using the process described in ANILCA 804. In effect, ANILCA 804 would replace the current Federal C&T determination eight factors with a three-criterion method of restriction on who can harvest a resource.

CURRENT LANGUAGE OF §§ .16 and .17:

§242.16 Customary and traditional use determination process.

(a) The Board shall determine which fish stocks and wildlife populations have been customarily and traditionally used for subsistence. These determinations shall identify the specific community's or area's use of specific fish stocks and wildlife populations. For areas managed by the National Park Service, where subsistence uses are allowed, the determinations may be made on an individual basis.

(b) A community or area shall generally exhibit the following factors, which exemplify customary and traditional use. The Board shall make customary and traditional use determinations based on application of the following factors:

(1) A long-term consistent pattern of use, excluding interruptions beyond the control of the community or area;

(2) A pattern of use recurring in specific seasons for many years;

(3) A pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics;

(4) The consistent harvest and use of fish or wildlife as related to past methods and means of taking; near, or reasonably accessible from, the community or area;

(5) A means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations, including consideration of alteration of past practices due to recent technological advances, where appropriate;

(6) A pattern of use which includes the handing down of knowledge of fishing and hunting skills, values, and lore from generation to generation;

(7) A pattern of use in which the harvest is shared or distributed within a definable community of persons; and

(8) A pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social, and nutritional elements to the community or area.

(c) The Board shall take into consideration the reports and recommendations of any appropriate Regional Council regarding customary and traditional uses of subsistence resources.

(d) Current determinations are listed in §242.24.

§242.17 Determining priorities for subsistence uses among rural Alaska residents.

(a) Whenever it is necessary to restrict the subsistence taking of fish and wildlife on public lands in order to protect the continued viability of such populations, or to continue subsistence uses, the Board shall establish a priority among the rural Alaska residents after considering any recommendation submitted by an appropriate Regional Council.

(b) The priority shall be implemented through appropriate limitations based on the application of the following criteria to each area, community, or individual determined to have customary and traditional use, as necessary:

(1) Customary and direct dependence upon the populations as the mainstay of livelihood;

(2) Local residency; and

(3) The availability of alternative resources.

(c) If allocation on an area or community basis is not achievable, then the Board shall allocate subsistence opportunity on an individual basis through application of the criteria in paragraphs (b)(1) through (3) of this section.

(d) In addressing a situation where prioritized allocation becomes necessary, the Board shall solicit recommendations from the Regional Council in the area affected.

Southeast Alaska Council's Proposed Language

(36 CFR §242.16 and 50 CFR §100.16) Customary and traditional use determination process

(a) The Board shall determine which fish and wildlife have been customarily and traditionally used for subsistence within a geographic area. When it is necessary to restrict the taking of fish and wildlife, and other renewable resources to assure continued viability of a fish or wildlife population, a priority for the taking of such population for non-wasteful subsistence uses shall be implemented based on the application of the following criteria; customary and direct dependence upon the populations as the mainstay of livelihood; local residency; and the availability of alternative resources. For areas managed by the National Park Service, where subsistence uses are allowed, the determinations may be made on an individual basis.

(b) Each region shall have the autonomy to recommend customary and traditional use determinations specific to that region.

(c) The Board shall give deference to recommendations of the appropriate Regional Council(s). Councils will make recommendations regarding customary and traditional uses of subsistence resources based on its review and evaluation of all available information, including relevant technical and scientific support data and the traditional knowledge of local residents in the region.

(d) Current determinations are listed in § 100.24

***NOTE: The Council did not change §242.17, which would therefore remain in effect.**

Proposal in edited form

(36 CFR §242.16 and 50 CFR §100.16) Customary and traditional use determination process
(a) The Board shall determine which fish stocks and wildlife populations have been customarily and traditionally used for subsistence within a geographic area. ~~These determinations shall identify the specific community's or area's use of specific fish stocks and wildlife populations.~~ **When it is necessary to restrict the taking of fish and wildlife, and other renewable resources to assurance continued viability of a fish or wildlife population, a priority for the taking of such population for non-wasteful subsistence uses shall be implemented based on the application of the following criteria; customary and direct dependence upon the populations as the mainstay of livelihood; local residency; and the availability of alternative resources.** For areas managed by the National Park Service, where subsistence uses are allowed, the determinations may be made on an individual basis.
~~(b) A community or area shall generally exhibit the following factors, which exemplify customary and traditional use. The Board shall make customary and traditional use determinations based on application of the following factors:~~

~~(1) A long-term consistent pattern of use, excluding interruptions beyond the control of the community or area;~~
~~(2) A pattern of use recurring in specific seasons for many years;~~
~~(3) A pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics;~~
~~(4) The consistent harvest and use of fish or wildlife as related to past methods and means of taking; near, or reasonably accessible from, the community or area;~~
~~(5) A means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations, including consideration of alteration of past practices due to recent technological advances, where appropriate;~~
~~(6) A pattern of use which includes the handing down of knowledge of fishing and hunting skills, values, and lore from generation to generation;~~
~~(7) A pattern of use in which the harvest is shared or distributed within a definable community of persons; and~~
~~(8) A pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social, and nutritional elements to the community or area.~~

(b) Each region shall have the autonomy to recommend customary and traditional use determinations specific to that region.
~~(c) The Board shall take into consideration the reports and recommendations of any appropriate Regional Council regarding customary and traditional uses of subsistence resources.~~ **The Board shall give deference to recommendations of the appropriate Regional Council(s). Councils will make recommendations regarding customary and traditional uses of subsistence resources based on its review and evaluation of all available information, including relevant technical and scientific support data and the traditional knowledge of local residents in the region.**
(d) Current determinations are listed in § 100.24

Appendix

Southeast Alaska Council, 2011 Annual Report Topics

Issue 1: Customary and traditional determinations

At the March 2011 Council meeting, the Council was asked to review how the current customary and traditional use determination process was working. The Council observed that the Federal customary and traditional use determination process and the eight factor analysis is a carryover from State of Alaska regulation. Now that it appears the Federal program will be permanent; it would be appropriate to develop a Federal process based on ANILCA rather than a process developed to address State regulatory authorities. Unfortunately, the Office of Subsistence Management did not provide sufficient information to the Council regarding how the current customary and traditional use determination process was being applied to allow the Council to make definitive recommendations to the Board. The Council wishes to reiterate the recommendation made to the Board during the March 2011 meeting:

> Given that ANILCA does not require the Board make customary and traditional use determinations, the Council recommends the Federal Subsistence Board eliminate the current regulations for customary and traditional use determinations, and task the Office of Subsistence Management with drafting regulations which adhere to provisions contained within Section 804 of ANILCA.

The Council reiterates support for the following specific regulatory change as recommended at the March 2011 meeting:

> Modify 50 CFR 100.16 (a). The regulation should read: "The Board shall determine which fish and wildlife have been customarily and traditionally used for subsistence. These determinations shall identify the specific community's or area's use of [specific fish stock and wildlife population] all species of fish and wildlife that have traditionally used, in their (past and present) geographic areas".

Southeast Alaska Council, 2012 Annual Report Topics

Issue 1: Customary and Traditional Use Determination Recommendation

The Council believes the current method of restricting access to fish and wildlife resources through a customary and traditional use determination process was not intended by ANILCA. Although SE Council recognizes that there are a number of possible solutions to address this problem, it's preferred solution is to eliminate the customary and traditional use determination regulations (36 CFR 242.16 and 50 CFR 100.16) and allocate resources as directed in Section 804 of ANILCA. The Council wrote a letter to the other Councils requesting that they reconsider the issue of whether the current customary and traditional use determination process is appropriate and is truly meeting the needs of the residents of their regions. The Council requests the Board provide adequate staff resources to assist the other councils in making an informed decision regarding this complex issue.

Southeast Alaska Council letter to the other Councils, January 11, 2013

The SE Council's preferred solution is to eliminate the customary and traditional use determination regulations and allocate resources as directed in Section 804 of ANILCA.
We would like your Council to consider what would be most beneficial to your region: eliminate customary and traditional use determinations, change the way customary and traditional use determinations are made, or make no change.

RURAL REVIEW BRIEFING FOR THE FEDERAL SUBSISTENCE REGIONAL ADVISORY COUNCILS

In October 2009, Secretary of the Interior Salazar announced a review of the Federal subsistence program. The review was intended "to ensure that the program is best serving rural Alaskans and that the letter and spirit of Title VIII [of ANILCA] are being met." Secretary Salazar, with the concurrence of Secretary of Agriculture Vilsack, requested that the Federal Subsistence Board initiate a number of actions, one of which was to develop recommendations for regulatory changes to the process of making rural/nonrural determinations in Alaska.

Background

At its January 2012 public meeting, the Federal Subsistence Board elected to conduct a global review of the rural/nonrural determination process, starting with public and Subsistence Regional Advisory Council input. Logically, the global review required the Board to stay its 2007 final rule, whose rural provisions would otherwise have gone into effect in May 2012. The Board determined that the 1991 rural/nonrural determinations would remain in place pending the outcome of its review of the rural determination process (77 FR 12477). The conclusion of the review, and the determinations of rural status, must be completed by March 2017.

Two areas of Alaska—the community of Saxman and the Kenai Peninsula—have proven difficult for the Board to categorize under the current rural determination process. The Board has gone back and forth on whether these locations should be rural or non-rural. Based on the Secretaries' directive and these high-profile back and forth changes in rural status using the current rural determination process, the Board decided to engage in a year-long, public review of the current process. In December 31, 2012, the Board identified five elements in the rural determination process for public review (77 FR 77005): population thresholds; rural characteristics; aggregation of communities; timelines, and information sources. The Board posed eight general questions for public input concerning these five elements, and one question requesting any additional information. The comment period was open to November 1, 2013, which was extended to December 2, 2013 because of the partial federal government shutdown in October.

The Subsistence Regional Advisory Councils were briefed on the Federal Register notice during their winter 2013 meetings. At their fall 2013 meetings, the Councils provided a public forum to hear from residents of their regions, deliberate on the rural determination process, and provide recommendations for changes to the Board.

Testimonies from members of the public were also recorded during separate hearings held to solicit comments on the rural determination process. The Board held hearings in Barrow, Ketchikan, Sitka, Kodiak, Bethel, Anchorage, Fairbanks, Kotzebue, Nome, and Dillingham. Government-to-government consultations on the rural determination process were held between members of the Board and Tribes, and additional consultations were held between members of the Board and Alaska Native corporations formed under the Alaska Native Claims Settlement Act.

In aggregate, the Board received 475 substantive comments from various sources, including individual citizens, members of regional advisory councils, and other entities or organizations, such as non-profit Alaska Native corporations and borough governments.

Based on Council and public comments, government-to-government and Alaska Native corporation consultations, and briefing materials from the Office of Subsistence Management (see "Review of the Rural Determination Process" briefing following this update), the Board developed a recommendation that simplifies the process of rural/nonrural determinations, as shown below.

Federal Subsistence Board Recommendation

The Board will be recommending to the Secretaries to make the following change in Secretarial regulations:

§100.15 and §242.15. Rural determination process.
(a) The Board shall determine which areas or communities in Alaska are nonrural.
(b) All other communities and areas are therefore rural.

The Board also recommended eliminating from Secretarial regulation the specific criteria previously relied upon by the Board in making rural determinations: population thresholds, the population data sources, rural characteristics, community aggregation, and the ten-year review.

Next Steps

If the Secretaries adopt the Board's recommendation, a series of steps are required in order to meet the March 2017 deadline.

- The Secretaries may decide to propose a rule to change the current rural determination process, based on the Board's recommendation. The Secretaries would need to act on this recommendation because it affects 36 CFR 242 Subpart B, and 50 CFR 100 Subpart B, which are under Secretarial purview. The public, Regional Advisory Councils, Tribes and Alaska Native corporations would have the opportunity to comment or consult during that rule-making process.
- The Secretaries could then decide to publish a final rule specifying the rural/non rural determination process. The revised process appears in Subpart B of subsistence regulations, under Secretarial authority.
- The Board uses that rule to make rural/nonrural determinations, publishing those determinations in a proposed rule. The public, Regional Advisory Councils, Tribes and Alaska Native corporations would have the opportunity to comment or consult during that rule-making process.
- The Board then publishes a final rule with the revised rural/nonrural determinations. The revised rural/nonrural determinations appear in Subpart C of subsistence regulations, under Board authority.
- If no new rule making is completed by March 1, 2017, specifying rural/nonrural determinations, then the 2007 rule will become enforceable.

Review of the Rural Determination Process

A Briefing for the Federal Subsistence Board

April 15, 2014

Background

The Alaska National Interest Lands Conservation Act (ANILCA), Title VIII, Section 802 asserts that "the purpose of this title is to provide the opportunity for rural residents engaged in a subsistence way of life to do so."

In drafting ANILCA, however, the Congress did not define the term "rural."

Senate Report No. 96-413, which comments on Title VIII, provides examples of *cities* excluded from rural status—"Ketchikan, Juneau, Anchorage, and Fairbanks"—and examples of *communities* that are rural—"such as Dillingham, Bethel, Nome, Kotzebue, Barrow, and other Native and non-Native villages scattered throughout the State." The Senate Report further indicates the dynamic nature of rural communities and the inevitability of change: "[T]he Committee does not intend to imply that the rural nature of such communities is a static condition: the direction of the economic development and rural character of such communities may change over time." Such change is not necessarily from rural to nonrural; it may also be from nonrural to rural.

Secretarial Review

In October 2009, the Secretary of the Interior initiated a Subsistence Program Review; the Secretary of Agriculture later concurred with this course of action. The review concluded, among other things, that the Federal Subsistence Board (Board) should review the process for rural determinations, with input from the Subsistence Regional Advisory Councils (Council). If needed, the Board should then make recommendations to the Secretary of the Interior and the Secretary of Agriculture for changes to the process for rural determinations.

Federal Subsistence Board Review

At its January 17-21, 2012 public meeting, the Federal Subsistence Board elected to conduct a global review of the rural/nonrural determination process. The review started with recommendations from the Regional Advisory Councils, comments from the public, and consultations with Tribes and ANCSA Corporations. With the review underway, the Board stayed the 2007 final rule, in which rural determinations would have otherwise come into effect in May 2012. The Board determined that the 1991 rural/nonrural determinations would remain in place pending the outcome of its review of the rural determination process. Adak was the singular exception, whose status changed from nonrural to rural in 2007.

Federal Register Notice

In a Federal Register notice, published December 31, 2012 (77 FR 77005), the Board identified five elements in the rural determination process for public review: Population thresholds; rural characteristics;

aggregation of communities; timelines, and information sources. The Board posed eight general questions for members of the public to consider regarding these five elements and one question requesting any additional information on how to make the process more effective.

Population thresholds. A community or area with a population below 2,500 will be considered rural. A community or area with a population between 2,500 and 7,000 will be considered rural or nonrural, based on community characteristics and criteria used to group communities together. Communities with populations more than 7,000 will be considered nonrural, unless they possess significant rural characteristics. In 2008, the Board recommended to the Secretaries that the upper population threshold be changed to 11,000.

(1) Are these population threshold guidelines useful for determining whether a specific area of Alaska is rural?

(2) If they are not, please provide population size(s) to distinguish between rural and nonrural areas, and the reasons for the population size you believe more accurately reflects rural and nonrural areas in Alaska.

Rural characteristics. Population is not the only indicator of rural or nonrural status. Other characteristics the Board considers include, but are not limited to, the following: Use of fish and wildlife; development and diversity of the economy; community infrastructure; transportation; and educational institutions.

(3) Are these characteristics useful for determining whether a specific area of Alaska is rural?

(4) If they are not, please provide a list of characteristics that better define or enhance rural and nonrural status.

Aggregation of communities. Communities that are economically, socially, and communally integrated are considered in the aggregate in determining rural and nonrural status. The aggregation criteria are as follows: Do 30 percent or more of the working people commute from one community to another; do they share a common high school attendance area; and are the communities in proximity and road-accessible to one another?

(5) Are these aggregation criteria useful in determining rural and nonrural status?

(6) If they are not, please provide a list of criteria that better specify how communities may be integrated economically, socially, and communally for the purposes of determining rural and nonrural status.

Timelines. The Board reviews rural determinations on a 10-year cycle, and out of cycle in special circumstances.

(7) Should the Board review rural determinations on a 10-year cycle? If so, why; if not, why not?

Information sources. Current regulations state that population data from the most recent census conducted by the U.S. Census Bureau, as updated by the Alaska Department of Labor, shall be utilized in the rural determination process. The information collected and the reports generated during the decennial census vary between each census; data used during the Board's rural determination may vary.

(8) These information sources as stated in regulations will continue to be the foundation of data used for rural determinations. Do you have any additional sources you think would be beneficial to use?

(9) In addition to the preceding questions, do you have any additional comments on how to make the rural determination process more effective?

Opportunities to Participate

The public comment period for the review of the rural determination process opened December 31, 2012 and closed on December 2, 2013. The original public notice closed the comment period November 1, 2013; the extension was posted as a result of the partial government shutdown in October 2013.

The Councils were briefed on the public notice during their winter 2013 meetings. At their fall 2013 meetings, the Councils provided a public forum to hear from the residents of their regions, deliberate on rural determination processes, and provide recommendations for changes to the Board.

Testimonies from members of the public were recorded during hearings held to solicit comments on the rural determination process. Hearings occurred in Barrow, Ketchikan, Sitka, Kodiak, Bethel, Anchorage, Fairbanks, Kotzebue, Nome, and Dillingham. A PowerPoint presentation and time for discussion and dialogue on specific questions were provided prior to each hearing.

Government-to-government consultations on the rural determination process were held between members of the Board and Tribes. Formal consultations were held between members of the Board and Alaska Native Claims Settlement Act (ANCSA) corporations.

Summary of Recommendations from Regional Advisory Councils

The Councils provided several comments about **population thresholds**. Few Councils made specific recommendations regarding the current population threshold criteria, noting rather that they were generally arbitrary. One Council recommended the presumptive rural threshold be increased to 11,000. One Council suggested the presumptive non-rural threshold should be increased to 20,000. Several noted that rural characteristics should be weighed more heavily than population thresholds. Only one Council expressed support for the current population thresholds.

The Councils provided many comments about **aggregation**. Four Councils suggested eliminating aggregation. Most Councils noted that the current application of aggregation is arbitrary and produces inconsistent results. One Council suggested that communities need to be provided better opportunities to demonstrate whether or not any aggregation factors are applicable. Other Councils noted that any increase of population due to outside development (i.e., mines, military bases) should not be aggregated. Additionally, one Council noted that 30 percent of working people commuting from one community to another was too low of a threshold to aggregate those communities, and communities that show a high reliance on fish and wildlife should not be aggregated.

The Councils provided most of their comments on the **rural characteristics**. The Councils recommended numerous additional criteria to consider for rural characteristics. More than one Council noted the importance of cultural and spiritual factors that should be considered, and that geographic remoteness and isolation should be considered. One Council suggested removing educational institutions

and not including any infrastructure that is constructed for temporary use. One Council noted that gardening and whether a community is a "resident zone community" under National Park Service regulations were indicative of rural characteristics. Two Councils noted that not being connected to the road system should be an automatic qualifier for rural status. Some Councils recommended that the Board give substantially more weight to rural characteristics than to population thresholds, and the use of fish and wildlife should be accorded the most weight among rural characteristics.

The Councils provided several comments about the rural review **timeline**. Most Councils recommended the Board move to completely eliminate the 10-year review. Five Councils specifically suggested that a review should only be conducted if there has been a significant change, for example if a community's population has substantially increased or decreased since the last determination. One Council suggested that when a review is conducted, it should be made using a 5-year average to avoid temporary population spikes. Several Councils said the 10-year review is stressful on communities and a waste of time, finances, and resources. Only one Council supported maintaining the current 10-year review.

The Councils made few comments about what **sources of information** to use in the process. Most Councils supported the use of the U.S. Census data, but provided additional suggestions for data sources such as Tribal databases, harvest reports, property taxes, and the Alaska Permanent Fund Dividend registry.

Councils provided some recommendations for how the Board could otherwise improve the process, including allowing rural residents to remain Federally-qualified subsistence users if they move to a non-rural area purely for economic reasons (e.g., employment). One Council suggested that verification of the rural nature of such individuals could occur by confirming registration with a local Tribal Council (i.e., IRA). Other Councils noted there needs to be more transparency and clarity in how the Federal Subsistence Board arrives at its rural determinations. The Councils noted that their recommendations on rural status should be given deference by the Board.

Summary of Public Comments

The Board received 475 substantive comments from various sources, including individual citizens, members of regional advisory councils, and other entities or organizations (e.g., non-profit Native corporations, borough governments). This section of the briefing does not include results of Tribal consultations. The comments of members of the regional advisory councils include both recommendations made by motion and vote and recommendations made during the course of discussions among council members.

One analyst reviewed each comment for specific suggestions and recommendations made to the Board. Appendix A contains detailed results of the analysis of public comments.

The Board received 101 comments about population thresholds. Most recommended that the Board move to completely eliminate the use of population thresholds because these are arbitrarily and inconsistently applied by agencies. Many recommended replacing population thresholds with more appropriate community characteristics. Some recommended that the upper population threshold be increased from 7,000 to a number in the range 10,000 to 30,000. Few indicated general support for using population thresholds. Some recommended doing something else regarding population.

The Board received 114 comments about rural characteristics. Most recommended that the Board either add or eliminate characteristics; some recommended a combination of both. Some recommended that the Board give substantially more weight to rural characteristics than to population thresholds. Few indicated support for the current list of rural characteristics. Some recommended doing something else regarding rural characteristics.

The Board received 90 comments about aggregation. Most recommended the Board completely eliminate aggregation. Many recommended the Board change how it does aggregation. Some indicated that aggregation eliminates the subsistence priority for some communities. Some indicated that the concept of aggregation is too confusing to be useful. Few indicated support for the current aggregation criteria. A few recommended doing something else regarding aggregation.

The Board received 66 comments about the rural review timeline. Most recommended the Board move to completely eliminate the 10-year review. Some said the 10-year review is a stressful burden on communities and a waste of time and resources. Some indicated support for doing a 10-year review. Others recommended the timeline for review be increased.

The Board received 42 comments about what sources of information to use in the process. Some recommended the Board use Tribal consultation as a primary source of information. Others recommended giving deference to the regional advisory councils on the rural status of their communities. A few recommended the Board rely more on community feedback. Few indicated support for using the 2010 Census data. Many recommended using other sources of information such as the Wolfe and Fischer report and subsistence harvest surveys.

The Board received 60 comments recommending how it could otherwise improve the process, including eliminating the rural/non-rural label, extending the comment period, deferring to the regional advisory councils, and redefining the process as an issue of food security and health.

Formal Consultations with Tribes and ANCSA Corporations

Three consultations were held telephonically with Tribes and ANCSA corporations on the rural determination process[1].

A total of 20 Tribes, three Tribal or village associations, and 12 ANCSA corporations participated with Federal staff, Board members, and their designees in consultations on the rural determination process. Some of those on the telephone only listened and did not directly discuss the rural determination process. This section includes those who spoke on the record. A Board member or their designee provided a wrap up of each call to validate that the consultation was accurately recorded.

Summary of Tribal Consultation

The Tribes that participated generally recommended that the revised rural process should allow Tribal members living in nonrural areas to return to their villages to gather subsistence foods. Economic factors

[1] There will be an opportunity for face-to-face consultation with Tribes and ANCSA corporations at the April 15 Federal Subsistence Board meeting.

cause them to live in non-rural areas, but they still need to access their traditional foods. Several callers requested a Native preference for subsistence needs.

The Native Village of Kotzebue. The Native Village of Kotzebue pointed out that ANILCA only defines or mentions rural, not non-rural, and wondered why this was part of the dialogue.

The Native Village of Kotzebue said that population thresholds are arbitrary and therefore should not be used to trigger a review of a communities' rural status. Rural characteristics are more important in the process than population thresholds. Instead, the Board should develop a different trigger for initiating rural reviews. For example, the Board could begin rural reviews based on a change in community characteristics or other issues that have become common knowledge to federal or state subsistence managers.

The Kenaitze Tribe. The Kenaitze Tribe's area, with its non-rural status, makes it difficult for Tribal members to subsist. The Kenaitze Tribe is now in a position in which applying for Federal and State grants has become necessary to assist their community. The Tribe expressed concern about the 2,500 population threshold. The Tribe thought that unless a community is connected to a road system it should remain rural. The Kenaitze Tribe requested that population thresholds be eliminated and other characteristics should be used to define rural because the population numbers appear to be an arbitrary means of determination.

The Kenaitze Tribe conducted a needs assessment to help it define subsistence use, schooling, employment, and medical needs, which could be used to help the Board make a recommendation to the Secretaries. Board member Sue Masica was interested in this information, and felt the Board should consider how different the Kenaitze are from the rest of the Kenai population.

The Kenaitze Tribe proposed an exemption to the rural determination process for all Tribal members. It feels that Tribal people have been denied fishing opportunities, which threatens the very heart of who they are. The Tribe stated, "The rural determination process focuses on customary and traditional use as a geographic area. This is flawed logic. Customary and traditional people and their customary and traditional use should be considered, rather than the geographic boundaries."

The Sun'aq Tribe. The Sun'aq Tribe stated that other departments of the Federal government have looked into the definition of rural. A number of provisions have allowed for rural enclaves within an urban area. The caller felt that this concept should be further explored.

The Sun'aq Tribe also had a question about the entire timeline for the rural determination process: At what point will the Federal Subsistence Board decide what they are going to recommend to the Secretaries? What's next?

Native Villages of Napaskiak and Napakiak. The Native Village of Napaskiak requested to be exempt from all rural determinations. The Native Village of Napakiak supported this position.

The Knik Tribe. The Knik Tribe said the discussion should focus on 50 CFR 100.15. It also supported the comments of the Kenaitze Tribe. The Knik Tribe recommended the Board consider the U.S. Census-mapped Alaska Native village areas to be exempt from the rural determination process.

Native Village of St. Mary's. The Native Village of St. Mary's said that subsistence resources are affected by the size of the community relying on them plus those harvesters from outside areas. The Native Village of St. Mary's thought that population thresholds may be useful. It supported a Tribal rights stance. It also said that smaller communities along the river most likely will remain rural, but Bethel could get large enough that it could lose its status if the process is not changed.

Summary of Consultations with ANCSA Corporations

Bethel Native Corporation. The representative from the Bethel Native Corporation (BNC) stated that most local villages that are close to each other do not want to be grouped together in a rural determination scenario. BNC requested that representatives from the Federal Subsistence Program speak to the State on behalf of rural communities and their current rural determinations.

BNC requested that the upper population threshold be changed from 7,000 to 12,000. BNC was in favor of the 10-year review. It recommended using the State of Alaska subsistence food survey and 150 pounds per person per year as a minimum threshold for subsistence food usage necessary to be rural.

Sealaska. The Sealaska Corporation urged the Board to immediately act to reinstate Saxman's rural status and that of other similarly situated communities and review their status as rural or non-rural based on their independent characteristics in the ongoing Secretarial review. Since the Board has already extended a compliance date for the change in status required by the 2007 Final Rule, reinstating Saxman's rural status would have no administrative impact. It would however eliminate the need for Saxman to file a lawsuit challenging the 2007 Final Rule, which it will have to do by July 2014, long before the completion of the ongoing review. This would be a very simple solution and would save both the Federal government and the Native Village of Saxman the costs involved in litigation.

Sealaska recommended that the Board take into consideration the cultural integrity and cultural practices around subsistence that rural communities and native people have and look at the social integration among community members. In Southeast Alaska there is a communal system, a Clan system, a House system that integrates their communities, and this is particularly evident in the community of Saxman.

Sealaska advised the Board to look at the spiritual relationship that Native people have to their wildlife. The State of Alaska and the courts have already recognized that there are religious and spiritual dimension to subsistence hunting and fishing among Native peoples.

Sealaska recommended that the Board look at the distribution systems or the sharing of fish and wildlife that goes on in Native communities. It is anything but an individually-based activity.
Sealaska emphasized that the Federal government is in the position to protect a subsistence way of life and the trust responsibility between the federal government and Alaska Native peoples. It felt the rural characteristics are a crucial definition of a rural community and that the population numbers are an

arbitrary measure of what is or is not rural. Aggregation of communities, commuting, and the sharing of a high school are inappropriate measures of a community's rural status. It felt that the presence of a Federally-recognized Tribe in the community should carry weight in the rural determination process.

Alternatives to the Current Rural Determination Process

The Interagency Staff Committee and Office of Subsistence Management staff developed a list of six alternatives, based on recommendations from the Councils, consultation with Tribes and ANCSA corporations, and comments from the public. The alternatives are as follows (Appendix B).

1. No change to the current process.
2. No change, except eliminate the 10-year review.
3. No change, except eliminate the 10-year review, increase the upper population threshold to 11,000, and add geographic remoteness and isolation to the list of rural characteristics.
4. Define "rural" as communities or areas with a population less than 15,000, using current aggregations.
5. Define "rural" as communities or areas with a population less than 15,000, using current aggregations, with the exception of the Southcentral area, for which current rural determinations will remain in regulation.
6. Identify specific communities and areas as nonrural; all other communities and areas are therefore rural. These determinations will be made by the Secretaries of the Interior and Agriculture in Subpart B of Subsistence Management Regulations for Public Lands in Alaska.

Next Steps

- The Board may decide to forward to the Secretaries recommendations for improving the rural determination process.
- The Secretaries may decide to propose a rule to change the current rural determination process, based on the Board's recommendations; the public, Councils, Tribes, and ANCSA corporations would have the opportunity to comment or consult during that rule-making process.
- The Secretaries would publish a final rule specifying the rural determination process.
- If the Secretaries did publish a final rule specifying a different process to be used, the Board would use it to make rural determinations (except in the case of Alternative 6), publishing those determinations in a proposed rule; the public, Councils, Tribes, and ANCSA corporations would have the opportunity to comment or consult on that proposed rule.
- The Board could then publish a final rule with the revised determinations as to the rural status of communities or areas; if no new rule making is done by March 1, 2017, the 2007 rule would become enforceable.

Appendix A

Synthesis of Public Comments on the Rural Determination Process

Staff at the Office of Subsistence Management read appropriate public transcripts and letters containing comments about the rural determination process; populated a database with the comments; and placed the comments into the five elements (i.e., categories) described in the Federal Register notice (77 FR 77005) dated December 31, 2012. We added "other" as a category to capture comments that addressed question number nine in the notice and other comments that did not specifically address one of the five elements.

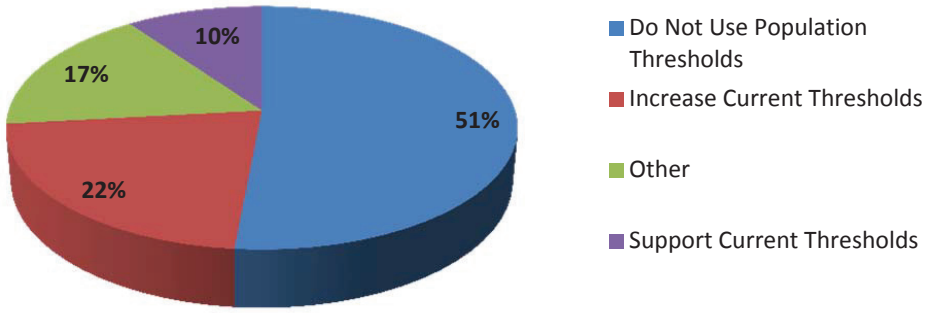
The staff input 496 total public comments into the database; 475 were determined to be substantive. By substantive, we mean comments that meaningfully addressed the rural determination process and made concrete recommendations to the Federal Subsistence Board (Board).

The Board received 278 comments from individual citizens representing the public, 137 comments from members of subsistence regional advisory councils, 37 comments from Alaska Native entities, and 25 comments from other entities (e.g., city and borough governments). Comments from members of the regional advisory councils include both recommendations formally made by motion and vote and recommendations made in the course of discussions and deliberations among council members prior to a formal motion.

This appendix is a synthesis of the public comments. It does not include results from formal consultations with Tribes and ANCSA corporations, which are separate from public comments. A single analyst reviewed all public comments in the database and wrote a brief analysis of each substantive comment. The analyses primarily focused on concise recommendations made to the Board concerning each of the five categories. The analyst grouped each recommendation into subcategories for each category, including the other category.

Population Thresholds

The Board received 101 substantive comments about population thresholds, subdivided into four types of recommendations:



In 52 comments, respondents recommended that the Board move to eliminate the use of population thresholds because these are inadequate in the context of most Alaskan communities, arbitrarily and inconsistently applied by federal agencies, and lack empirical evidence to support their use in making rural determinations. Many of these comments strongly recommended that the Board replace population thresholds with more appropriate rural and/or community characteristics, both qualitative and quantitative. Respondents thought that these would better reflect the nature of communities in Alaska. The characteristics listed include:

- geographical remoteness
- isolation
- annual income
- unemployment rate
- distance to urban markets
- a community's history of subsistence use
- other holistic cultural, political, social, and economic characteristics

In 22 comments, respondents recommended that the current, upper population threshold be raised from 7,000 to a number in the range of 10,000 to 30,000. Specific suggestions included 11,000, 15,000, 20,000, and 25,000.

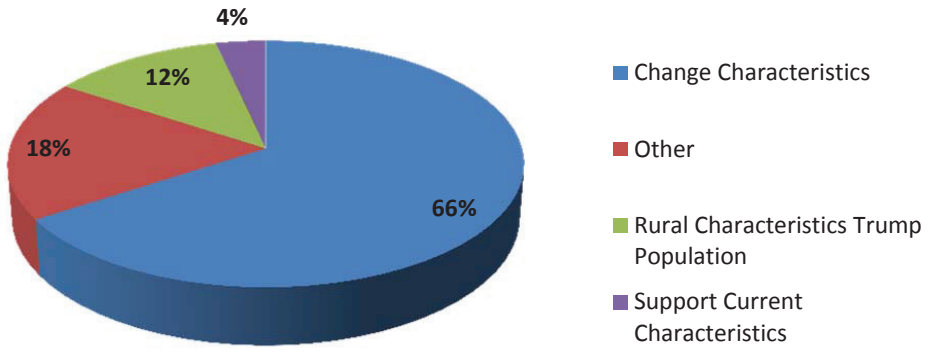
Seventeen comments recommended the Board do something else regarding population thresholds, including:

- Adopt and apply the rural development thresholds used by U.S. Department of Agriculture, which range from 2,500 to 50,000.
- Use the Permanent Fund Dividend population numbers.
- Exclude increases in populations due to industrial developments such as mining.
- Enhance monitoring of natural population growth for individual communities.
- Use population densities.

Ten comments indicated general support for using population thresholds in the rural determination process.

Rural Characteristics

The Board received 114 substantive comments about rural characteristics, subdivided into four types of recommendations:



In 75 comments, respondents recommended that the Board change the list of rural characteristics that it applies in the rural determination process. These comments contained requests to add or eliminate rural characteristics from the current list, some requested doing both. For example, some suggested that the Board add "geographical remoteness" and "subsistence use patterns" and eliminate diversity of economy; community infrastructure; transportation; and educational institutions.

No comments indicated a desire to remove use of fish and wildlife from the list, however some recommended that it be changed to "use of fish and wildlife *for subsistence*." A written comment from a tribal government told the Board "subsistence use of fish and wildlife is the one essential crux of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) and is

synonymous with the definition of rural in Alaska; use of fish and wildlife as a land use category is essential in any rural determination process used by the Board now and in the future."

Other additions to the list of rural characteristics included:

- diversity of subsistence resources available
- cost of living and inflation rates
- spiritual, cultural, and ceremonial practices of people who have a subsistence way of life
- community identity
- patterns of boom and bust cycles over time
- access to cell phone and Internet services
- production and use of wild foods
- traditional practices of sharing, bartering, and gift giving
- a community's customary and traditional uses of resources in its area
- presence of an organized tribal government
- proximity to urban areas and available services such as medical care
- patterns of reciprocity and dependence on one another for survival
- length of time in a place/duration of existence in a place
- gardening

In 14 comments, respondents recommended the Board give substantially greater weight to rural community characteristics than it gives to population thresholds when making rural determinations.

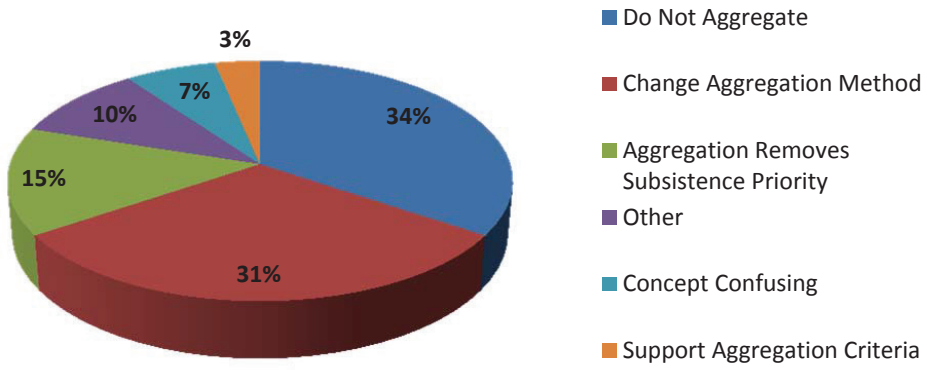
Twenty-one comments recommended that the Board do something else regarding rural characteristics, including:

- Weight rural and/or community characteristics as the most important criterion.
- Weight "use of fish and wildlife" as the most important rural characteristic.
- Designate all island communities rural.
- Adapt and use some of the rural characteristics used by the State of Alaska (e.g., extent of sharing of subsistence resources).
- Adopt and apply the rural characteristics outlined in Wolfe and Fischer (2003).
- Do not apply one-size-fits-all criteria across communities.
- Use the three criteria in Section 804 of ANILCA as rural characteristics.

Four comments indicated general support for applying the current list of rural characteristics.

Aggregation of Communities

The Board received 90 substantive comments about aggregation, subdivided into six types of recommendations:



In 36 comments, respondents recommended the Board move to completely eliminate aggregation from the rural determination process. Many indicated that the current method of aggregation is biased and inappropriate. In general, these respondents recommended that the Board evaluate communities based on their unique histories and individual sets of characteristics.

In 28 comments, respondents recommended the Board change how it applies the concept of aggregation. Suggestions included:

- Only apply aggregation where a large urban center is closely connected to smaller communities located beyond its municipal boundaries.
- Determine how population influxes due to mining, oil, and/or military developments affect the current aggregation criteria.
- Do not aggregate communities just because they are connected by road.
- Do not aggregate any community that has its own city council.
- Do not aggregate any community that has a federally-recognized tribe.
- Only aggregate communities that are physically linked to urban centers by highway.
- Eliminate all the criteria used for aggregating communities because these are not useful for demonstrating a community's rural characteristics.
- Increase the percentage of working people commuting from 30 to 50 percent.
- Only eliminate the commuting for work criterion.
- Only eliminate the sharing of a common high school criterion.
- Do not use the current criteria alone; use these in conjunction with communities' histories, demographics, and political divisions.

- Defer to the knowledge and insights of the regional advisory councils when deciding which aggregation criteria to apply.

Thirteen comments indicated that aggregation takes away the subsistence priority of some communities, which is legally protected under ANILCA Title VIII.

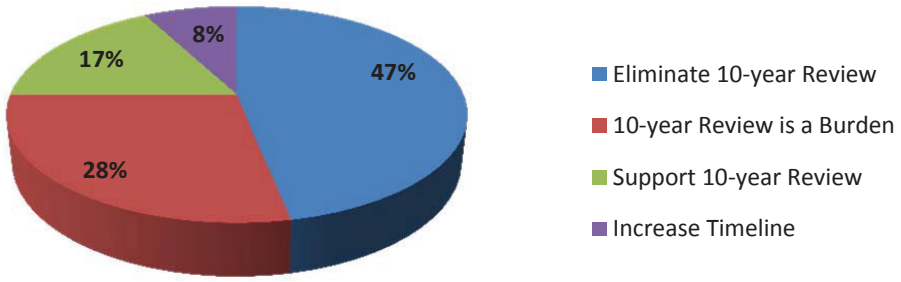
Six comments indicated that some people find the concept of aggregation to be confusing, both in how the concept is applied and the word is defined.

Three comments indicated support for applying the current list of aggregation criteria.

Four comments recommended that the Board do something else regarding aggregation such as carefully consider the impacts of aggregation on subsistence practices such as trading and sharing.

Timelines

The Board received 66 substantive comments about the rural review timeline, subdivided into four types of recommendations:



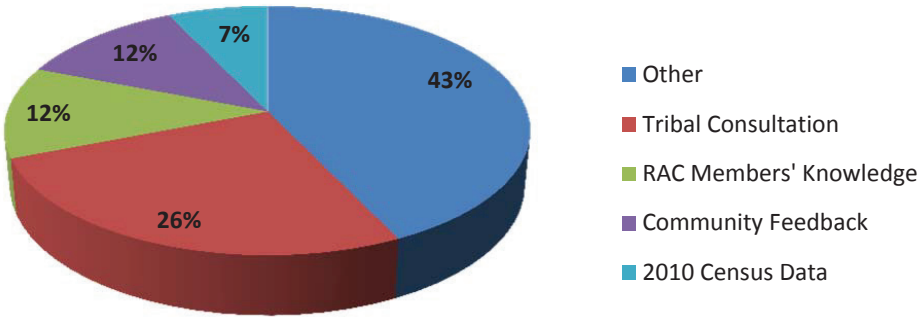
In 30 comments, respondents recommended the Board completely eliminate the 10-year review of rural status. As reflected by 18 comments, the main rationale for eliminating the 10-year review is because it is viewed as a stressful burden on communities and a waste of time and resources for both communities and federal agencies.

Eleven comments indicated support for doing a 10-year review. In five comments, respondents recommended that the timeline for review be increased (e.g., 15-year intervals, 100-year intervals, review rural determinations only when a community's population exceeds the upper threshold).

Two comments recommended that the Board do something else regarding timelines (i.e., decrease the interval between rural reviews, make rural status permanent unless a substantial change warrants otherwise).

Information Sources

The Board received 42 substantive comments about what sources of information to use in the process, subdivided into five types of recommendations:



In 11comments, respondents recommended the Board use tribal consultation as a primary source of information for making rural determinations.

Five comments recommended relying on the knowledge of the regional advisory councils by giving them deference concerning the rural status of the communities they represent.

Five respondents recommended using feedback from the affected communities as a primary source of information (e.g., ask community residents what they think makes their community rural and what would have to change before they would consider their community to be non-rural).

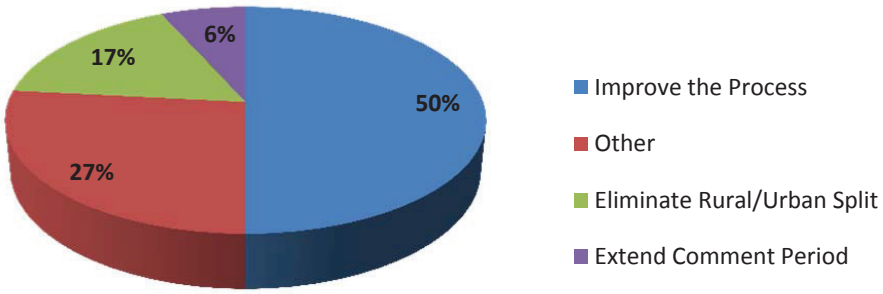
In 18 comments, respondents recommended that the Board use other sources of information such as:

- the intent of ANILCA Title VIII
- Wolfe and Fischer (2003)
- Permanent Fund Dividend database
- State of Alaska regulations
- subsistence harvest surveys conducted in a systematic and scientific manner

Three comments indicated support for using the 2010 Census data.

Other Recommendations

The Board received 60 substantive comments recommending something be done to otherwise improve the process, subdivided into four types of recommendations:



In 30 comments, respondents recommended how the Board should improve the rural determination process. Suggestions included:

- Eliminate the state-wide approach; replace it with a region-by-region approach because the regional advisory councils are only qualified to talk about their regions.
- Provide more time for formal tribal consultation and public participation.
- Improve communication, outreach, and education for the regional advisory councils and the public.
- Apply "rural plus Native" or tribal affiliation for deciding who has subsistence priority.
- Adapt and apply the process used by the National Oceanic and Atmospheric Administration and the National Marine Fisheries Service for subsistence halibut harvest.
- Consider health and nutrition in the process.
- Host meetings on rural determinations in rural communities outside of hub cities and urban centers.
- Use only one process for making rural determinations; the dual system is too burdensome for subsistence harvesters.
- Apply improved social science data and analyses in the process to account for dynamic cultural identities.
- Abandon the state's system of Game Management Units on federal public lands because it prevents a fair and accurate rural determination process.
- Remove legal constraints.
- Make the results of tribal consultation available to the regional advisory councils before they are asked to deliberate on the process.

- Apply the Criterion-Referenced Assessment Method outlined by Wolfe and Fischer (2003).
- Consider fish and wildlife populations in the rural determination process.
- Consider various definitions of rural as used by other agencies.

In10 comments, respondents recommended completely eliminating the rural/non-rural dualistic label because it threatens the subsistence priority of many Alaskan communities and the ways of life of many Alaska Native peoples.

In16 comments, respondents recommended doing something else, including:

- Give deference to the regional advisory councils.
- Redefine the rural determination process as an issue of food security and health.
- Adopt and use an Alaskan Native priority with international declarations on the rights of indigenous people.
- Use a point system or similar metric to determine rural status.

Four respondents recommended extending the comment period because more time is needed to provide meaningful input and recommendations about the rural determination process used by the Board.

Appendix B. Alternatives for the Rural Determination Process

Alternative*	Short Summary	Relationship to Comments	Pros	Cons
1	No change.	Most comments suggest various changes to the current process; a few comments suggest making no changes to the process.	Maintains continuity with current process. Few results of rural status determinations have been controversial.	Widely perceived as flawed. Has resulted in a few controversial determinations, such as Saxman and the Kenai Peninsula. Requires a periodic review even when there have been no change.
2	No change, except eliminate 10-year review.	Many comments suggest that a review should happen only in the event of substantial change to a community or area. 10-year review is a stressful burden on communities and a waste of government resources.	Eliminating review alleviates anxiety of a 10-year review among communities. Reduces periodically time-consuming and redundant staff work.	Would likely continue to be widely perceived as flawed.
3	No change, except eliminate 10-year review, increase upper population threshold to 11,000, and add geographic remoteness and isolation to the list of rural characteristics.	Comments ranged from not using population numbers to increasing the upper limit to 10,000 or as high as 30,000. 11,000 was most commonly mentioned. New recommended rural characteristics are geographic remoteness and isolation.	11,000 was the population of the smallest community/area mentioned as rural in the Senate report for ANILCA Title VIII. 11,000 had previously been recommended to the Secretaries by the Federal Subsistence Board. The public has supported this threshold change as better reflective of rural. Geographic remoteness and isolation captures rural characteristics that might otherwise not be accounted for using other characteristics.	A threshold of 11,000 does not alleviate the anxiety of communities or areas as they gain population over time. The use of geographic remoteness and isolation adds to the complexity of the evaluation of rural characteristics.
4	Define rural as communities or areas with populations less than 15,000 using current	In general, when population thresholds were discussed, the majority of commenters proposed a number of between 10,000 and 30,000.	Helps provide assurance that growing rural hub-communities will continue to be considered rural. A single threshold simplifies the determination process by using available and relatively accurate	The addition of communities/areas to the pool of Federally-qualified subsistence users may result in increased competition for resources among those hunting, fishing or trapping under Federal subsistence regulations. If affected

Alternative*	Short Summary	Relationship to Comments	Pros	Cons
	aggregations.		information. Similarly sized and situated communities, such as Kodiak and Ketchikan, would be categorized the same.	fish/wildlife populations cannot accommodate additional rural users, limitations on subsistence, based upon ANILCA 804 criteria, may become necessary.
5	Define rural as communities or areas with populations less than 15,000 using current aggregations. Current rural determinations for Southcentral remain in force.	Comments described a community or area's geographic remoteness and isolation as rural characteristics. Road accessible communities with relatively easy access to urban centers are viewed differently than those similarly sized communities in remote areas.	Same as #4. Recognizes the determinations made to date in Southcentral Alaska that have undergone considerable review and discussion. Competition for Federal fish and wildlife subsistence resources would be unchanged in Southcentral.	Same as #4. Uneven application of "rural" across the State.
6	Identify specific communities and areas as non-rural; all other communities and areas are therefore rural. Determinations made by the Secretaries of the Interior and Agriculture (Subpart B).	Many comments suggested that a review of a community's rural status should happen only if there is substantial change. (No specific comments were received to move the determinations to the Secretaries' responsibility.)	Fits well with the notion of no periodic review, since review of determinations would occur infrequently and only when deemed necessary by the Secretaries.	Reduces flexibility to modify boundaries as communities or areas change. Decisions are made in DC, rather than locally. Could be viewed as a less open and transparent process.

*All alternatives except 1 would have no periodic review; review would be by petition. (See Alternative 2 for pros and cons, which would also apply to Alternatives 3-6).

Fisheries Resource Monitoring Program

The mission of the Monitoring Program is to identify and provide information needed to sustain subsistence fisheries on Federal public lands, for rural Alaskans…

Overview

The Fisheries Resource Monitoring Program (Monitoring Program) is unique to Alaska. It was established in 1999 under Title VIII of ANILCA and is run by the Office of Subsistence Management. The Monitoring Program is a competitive funding source for studies on subsistence fisheries that are intended to expand the understanding of subsistence harvest (Harvest Monitoring), traditional knowledge of subsistence resources (Traditional Ecological Knowledge), and the populations of subsistence fish resources (Stock Status and Trends). Gathering this information improves the ability to manage subsistence fisheries in a way that will ensure the continued opportunity for sustainable subsistence use by rural Alaskans on Federal public lands.

Funding Regions

Funding for the Monitoring Program is separated into six regions: the *Northern Region*, which includes the North Slope, Northwest Arctic, and Seward Peninsula Regional Advisory Councils; the *Yukon Region* includes the Yukon-Kuskokwim Delta, Western Interior, and Eastern Interior Regional Councils; the *Kuskokwim Region* includes the Western Interior and Yukon-Kuskokwim Delta Regional Advisory Councils; the *Southwest Region* includes the Bristol Bay and Kodiak/Aleutians Regional Advisory Councils; the *Southcentral Region* includes the Southcentral Regional Advisory Council; and, the *Southeast Region* includes the Southeast Regional Advisory Council.

Table 1. Regional Advisory Councils represented within each of the six Funding Regions for the Fisheries Resource Monitoring Program.

Funding Region	Regional Advisory Councils
1. Northern	North Slope, Northwest Arctic, and Seward Peninsula
2. Yukon	Yukon-Kuskokwim Delta, Western Interior, and Eastern Interior
3. Kuskokwim	Western Interior and Yukon-Kuskokwim Delta
4. Southwest	Bristol Bay and Kodiak/Aleutians
5. Southcentral	Southcentral
6. Southeast	Southeast

Subsistence Resource Concerns
For each of the six funding regions Federal Subsistence Regional Advisory Councils and other stakeholders have identified subsistence fishery resource concerns (Priority Information Needs). These are used by the Monitoring Program to request project proposals that will provide managers with the information needed to address those resource concerns.

In the coming year there will be at least two opportunities for Regional Advisory Councils and other stakeholders to discuss subsistence fishery resource concerns for their Monitoring Program funding regions. These discussions will occur at each of the winter and fall 2014 Regional Advisory Councils meetings. Resource concerns identified during these discussions will be used to direct the request for proposals for studies on subsistence fisheries during the 2016 funding cycle.

Funding Cycles
Every two years the Monitoring Program requests proposals for studies on subsistence issues such as subsistence harvest (Harvest Monitoring), traditional knowledge of subsistence resources (Traditional Ecological Knowledge), and the populations of subsistence fish resources (Stock Status and Trends). The most recent funding cycle for the Monitoring Program occurred in 2014. The request for proposals was announced in spring of 2013 and funding decisions were made in winter of 2014. Projects selected to receive funding in 2014 will last from one to four years depending on the duration of the proposed study. The next funding cycle will begin with a request for proposals in fall of 2014 and funding decisions (Monitoring Plan) announced in early 2016.

Funding Recommendations
Project proposals received by the Office of Subsistence Management are summarized by staff biologists and social scientists in preparation for a Technical Review Committee. The Technical Review Committee made up of members of five Federal Agencies and three representatives from Alaska Department of Fish and Game. This committee reviews and then makes recommendations on whether the project is appropriate to receive funding (Fund), needs some modifications in order to be recommended for funding (Fund with Modification), or is not an appropriate proposal to receive funding from the Monitoring Program (Do Not Fund). Funding recommendations made by the Technical Review Committee are based on how well the project would meet Strategic Priorities for the region, whether the project has sound Technical-Scientific Merit, the Ability and Resources of the researchers, and, how well the project would support Partnership-Capacity building for future projects in the region. The Technical Review Committee's funding recommendation is called the Draft Monitoring Plan.

During the fall Federal Subsistence Regional Advisory Council Meetings the Draft Monitoring Plan is reviewed by Regional Advisory Council members and a ranking of projects within the funding region is made for projects proposed within each of the six funding regions.

Following the fall Regional Advisory Council meetings and prior to the Federal Board Meeting, a second ranking of projects for the Draft Monitoring Plan is made by an Interagency Staff Committee consisting of members of each of the five federal agencies involved in subsistence management in Alaska.

The final funding recommendation is made during the Federal Subsistence Board Meeting when the Board reviews the draft Monitoring Plan and subsequent ranking recommendations made by the Regional Advisory Councils, and Interagency Staff Committee. The funding recommendation made by the Federal Subsistence Board is considered to be the final Monitoring Plan for the funding cycle. This Monitoring Plan is then approved by the Assistant Regional Director of the Office of Subsistence Management and funds are awarded to each of the projects recommended for funding in the final Monitoring Plan.

ANNUAL REPORTS

Background

ANILCA established the Annual Reports as the way to bring regional subsistence uses and needs to the Secretaries' attention. The Secretaries delegated this responsibility to the Board. Section 805(c) deference includes matters brought forward in the Annual Report.

The Annual Report provides the Councils an opportunity to address the directors of each of the four Department of Interior agencies and the Department of Agriculture Forest Service in their capacity as members of the Federal Subsistence Board. The Board is required to discuss and reply to each issue in every Annual Report and to take action when within the Board's authority. In many cases, if the issue is outside of the Board's authority, the Board will provide information to the Council on how to contact personnel at the correct agency. As agency directors, the Board members have authority to implement most of the actions which would effect the changes recommended by the Councils, even those not covered in Section 805(c). The Councils are strongly encouraged to take advantage of this opportunity.

Report Content

Both Title VIII Section 805 and 50 CFR §100.11 (Subpart B of the regulations) describe what may be contained in an Annual Report from the councils to the Board. This description includes issues that are not generally addressed by the normal regulatory process:

- an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;
- an evaluation of current and anticipated subsistence needs for fish and wildlife populations from the public lands within the region;
- a recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs related to the public lands; and
- recommendations concerning policies, standards, guidelines, and regulations to implement the strategy.

Please avoid filler or fluff language that does not specifically raise an issue of concern or information to the Board.

Report Clarity

In order for the Board to adequately respond to each Council's annual report, it is important for the annual report itself to state issues clearly.

- If addressing an existing Board policy, Councils should please state whether there is something unclear about the policy, if there is uncertainty about the reason for the policy, or if the Council needs information on how the policy is applied.
- Council members should discuss in detail at Council meetings the issues for the annual report and assist the Council Coordinator in understanding and stating the issues clearly.

- Council Coordinators and OSM staff should assist the Council members during the meeting in ensuring that the issue is stated clearly.

Thus, if the Councils can be clear about their issues of concern and ensure that the Council Coordinator is relaying them sufficiently, then the Board and OSM staff will endeavor to provide as concise and responsive of a reply as is possible.

Report Format

While no particular format is necessary for the Annual Reports, the report must clearly state the following for each item the Council wants the Board to address:

1. Numbering of the issues,
2. A description of each issue,
3. Whether the Council seeks Board action on the matter and, if so, what action the Council recommends, and
4. As much evidence or explanation as necessary to support the Council's request or statements relating to the item of interest.

North Slope Subsistence Regional Advisory Council
c/o U.S. Fish and Wildlife Service
1011 East Tudor Road, MS 121
Anchorage, Alaska 99503
Phone: (907) 786- 3888, Fax: (907) 786-3898
Toll Free: 1-800-478-1456

RAC NS14030.CJ

JUL 07 2014

Mr. Tim Towarak, Chairman
Federal Subsistence Board
c/o U.S. Fish & Wildlife Service
Office of Subsistence Management
1011 East Tudor Road, MS 121
Anchorage, Alaska 99503

Dear Tim Towarak:

The North Slope Subsistence Regional Advisory Council (Council) appreciates the opportunity to submit this annual report to the Federal Subsistence Board (Board) under the provisions of Section 805(a)(3)(D) and section 805(c) of the Alaska National Interest Lands Conservation Act (ANILCA). At its public meeting on August 14, 2013 in Barrow, the Council identified concerns and recommendations for its FY 2013 report. Those concerns are identified below.

1. Budget

The Council has concerns about Federal budget cuts and their detrimental impacts to the Federal Subsistence Management Program and the work of the Regional Advisory Councils in particular. The Council is aware that the Office of Subsistence Management (OSM) budget is an issue of concern identified by the Secretaries of the Interior and Agriculture in the Secretarial Review. The Council would like to see the Board play a more proactive role in responding to the directives in that review related to the subsistence budget. Improving the OSM budget would reduce if not eliminate most of the concerns raised in this report. We address each aspect that has hindered the effectiveness of the Council's work and prevented adequate public participation in the Federal subsistence management process.

a. Adequate Time to Conduct Council Business

Prior to the fall 2012 meeting cycle, this Council was routinely forced to conduct one-day meetings, despite the fact that the Council had requested two- or three-day meetings in order to cover everything of importance on the agenda. One-day meetings are inadequate for the Council to convene; share information with each other, be apprised of subsistence knowledge and concerns from throughout the region; hear public and tribal feedback; and discuss and fully deliberate on critical subsistence issues before making recommendations. The Council greatly appreciates that the Office of Subsistence Management (OSM) has finally worked with the Council to provide two-day meetings in FY 2013.

However, two-day meetings are often insufficient to complete necessary Council business. On several occasions the Council has been presented with information on the day of the meeting and then asked to take action without the opportunity to fully understand the issue, ask questions, or talk with the people we serve in the region. At times, the sentiment is that the Council is being rushed to "rubber-stamp" action items for the Federal Subsistence Board.

The Council takes to heart the gravity of the potential impacts of the decisions made through the Federal Subsistence Management Program and seeks to carefully and thoroughly consider all aspects before making a recommendation to the Board. Therefore the Council requests to hold three-day meetings, when needed, in order to cover all agenda items thoroughly. The Southeast Alaska Subsistence Regional Advisory Council always conducts three-day meetings, so there is no reason why this Council cannot be authorized to do so, especially since travel costs for this Council are less expensive on a per-member basis than costs for the Southeast Council (one-third less expensive based on FY 2013 costs). At a minimum, the Council requests opportunity for a one day "work session" prior to a two day meeting to be able fully review and prepare with staff and each other. A routine preparatory "work session" prior to the official Council meeting would greatly support the cultural needs and communication norms in the region.

b. Staff and Timely Information

The Council is very concerned about the staff vacancies at OSM (one-third of the staffing) and how this adversely impacts the timely support needed for the Councils to have an informed and effective role in the Federal Subsistence Management Program. The Council schedules its meetings around key subsistence activities and is often the first Council to meet in the fall and winter meeting cycle. Frequently, key briefing materials and public notices are not finalized for distribution until right before or even the day of the Council's meeting. The Council has an important role in reviewing and commenting on regulatory and other aspects of the Federal Subsistence Management Program and does not have sufficient time to review, discuss, or formulate questions and recommendations prior to the meeting when materials are delivered late. The Council is also appointed to represent residents of the North Slope Region as a whole and needs time prior to the meeting to network and discuss information broadly with communities and Tribes in order to incorporate their feedback in decision making. Overall, the Council feels the high vacancy rate in staff positions at OSM has hindered thorough and timely distribution of information critical to the Council's work.

The Council is particularly concerned about the vacancies in the OSM Anthropology Division. In order for the Council to meet its objective of providing recommendations on anticipated subsistence needs, the Council stresses the need to fill those vacancies as soon as possible. The Council refers the Board to its detailed letter dated December 31, 2013, outlining the importance of anthropology and social science support to the Federal Subsistence Management Program and Regional Advisory Councils (**enclosure**).

c. Travel: Staff Support at Meetings

The Council would like to emphasize the importance of having staff who support the Council attend the meetings in person. It is critical to have the expertise of staff wildlife biologists, anthropologists, and fisheries biologists present in the room to work directly with the Council on complex regulatory proposals. Teleconference calls cannot replace working in person; it is often very difficult to hear clearly, teleconferences do not support the direct connections and dialog that is

needed to work through complex subsistence concerns. In many cases, meaningful dialogue occurs during breaks and before and after the formal meetings; this interaction is not possible with staff only participating through teleconference.

d. Travel: Meeting in rural villages (community participation, representation, building knowledge and understanding of the region appointed to serve).

Regional Advisory Council members are appointed to represent the whole region, not just the communities where they live or where meetings occur. Budget restrictions have required the Council to holding meetings in hub communities – and in this Council's case, only *one* community – which has greatly hindered the ability of the Council to hear from and network directly with the rural communities its members serve.

Teleconference is not an adequate means of participation for most rural communities. Beyond technical challenges of poor transmission along old phone lines, the inability to hear clearly and dealing with disembodied voices from unknown strangers discussing critical issues that affect the rural way of life are all culturally inappropriate ways to engage with the public in the North Slope Region.

The Federal Subsistence Management Program and the Regional Advisory Councils were established under ANILCA to serve rural communities, and the travel budget needs to be adjusted in order to fulfill that mandate. The only meaningful way to meet the legal mandate of conducting two subsistence meetings a year is to have them throughout the region; this should not be subject to a discretionary travel budget.

Several communities have requested a meeting to be held in their village to directly address subsistence concerns they face. The Council feels it should be able to meet in each of the communities in the region to hear and learn directly from the rural residents there and also facilitate the public participation that the Federal Subsistence Management Program. At a minimum the Council requests to be able to conduct every other meeting in a community other than Barrow in order to be able to adequately serve the region.

Without meeting with people directly in their villages, neither the Council nor the management staff has an opportunity to learn and understand subsistence throughout the North Slope Region.

2. Challenges of multi-layered (multiagency) management – effective means for addressing subsistence information and concerns.

The Council works diligently to address the subsistence issues and concerns of North Slope Region communities. Yet, the Council is challenged in the limited scope of the Federal Subsistence Management Program, addressing only fish and wildlife management on Federal public lands. Subsistence foods and the subsistence way of life are holistic and integral to the community and culture of the region. Many Council members are engaged in subsistence management and advisory bodies on many levels in order to encompass all critical subsistence issues. Council members must participate in or monitor countless meetings affecting subsistence use: separate meetings for

migratory birds, marine mammals, whaling, industrial development scoping meetings under the National Environmental Policy Act (NEPA), NPR-A drill permitting meetings, pipeline and roads

development meetings, state Advisory Committee meetings and Alaska Board of Game meetings for management on State lands, BOEM and NMFS meetings for marine fisheries and monitoring not under the jurisdiction of USFWS, climate change research and monitoring, and so on.

While the Council recognizes the limitations of the authority of the Federal Subsistence Board due to the current structure of the Federal and State laws that govern natural resource management, the Council asks for greater understanding and awareness of the integrated nature of subsistence in the lives of people in the North Slope region. There are several aspects that the Federal Subsistence Management Program can be more engaged in to better support the concerns of the Council and community:

1) Better understanding of local culture and communication norms and support to the Council and public in this regard.

2) Greater consideration and inclusion of local and traditional knowledge in subsistence management. Council members are appointed based on their expert knowledge of the region and long-term engagement with subsistence; please consider the information shared by the Council, Tribes, and local public carefully in management decision making.

3) Understanding and awareness of the interaction of all subsistence foods and activities. For example, when important subsistence foods such as walrus or whale are not harvested, there is a greater need for other foods such as caribou and fish to sustain communities for the year. They are interrelated – impacts to one affect the need and subsequent management of another. The Federal Subsistence Management Program must understand the interrelated nature of subsistence harvests.

4) Understanding and awareness of the interaction of industrial development with subsistence activities. While the Federal Subsistence Management Program does not have direct jurisdiction over development activities on the North Slope, impacts to subsistence foods on Federal public lands is a direct concern of the program in that barriers to migratory routes, disturbances that deflect or stress animals, or contaminants that may impact subsistence foods all have direct bearing on access, harvest, and safe consumption of important subsistence foods that the Federal program does manage. Additionally, the Federal Subsistence Management Program could be more engaged in ensuring that Federal agencies involved in those activities are properly conducting and executing the analyses and obligations mandated in ANILCA Section 810.

5) Awareness and monitoring of climate change impacts to subsistence. The Federal Subsistence Management Program does have a directive to monitor the impacts of climate change. The Council and communities have shared observations and experiences of changes to the North Slope Region lands, waters, and weather that are already impacting subsistence activities, safe access, timing, and changes to critical habitat for many important subsistence species managed by the program. The Council asks for awareness on how these changes

Tim Towarak 5

impact subsistence (e.g. flexible management approaches that can accommodate changing timing of subsistence activities due to storm severity or ice up/break-up or seasonality of harvest due to changing timing of migrations or rut) greater support and networking to monitor climate change and address research priorities identified by the Council.

3. Fisheries Resource Monitoring Program

The Council requests more engagement and follow-through from the Fisheries Resource Monitoring Program (FRMP). In the past, the Council has identified on the record at Council meetings, and also in follow up teleconferences, numerous subsistence fisheries research priorities of concern identified by North Slope communities. The Council feels these specific subsistence research and monitoring priorities were clearly articulated and warranted being identified in the call for fisheries proposals. The Council requests to be part of the priority information needs development for the North Slope Region and to review the final call before it is published to ensure accurate representation. The Council is also very interested in being engaged with potential researchers in order to help facilitate local capacity building partnerships.

Thank you for the opportunity for this Council to assist the Federal Subsistence Program to meet 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 North Slope Region. If you have any questions regarding this correspondence, please contact Eva Patton, Subsistence Council Coordinator, Office of Subsistence Management at 1-800-478-1456 or (907) 786-3358.

Sincerely,

Harry Brower

Harry K. Brower, Chair

Enclosure

cc: Federal Subsistence Board
North Slope Subsistence Regional Advisory Council
Eugene R. Peltola, Jr., Assistant Regional Director, OSM
Chuck Ardizzone, Deputy Assistant Regional Director, OSM
Carl Johnson, Council Coordination Division Chief, OSM
Interagency Staff Committee
Administrative Record

Enclosure

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31 DEC 2013

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Tim Towarak, Chairman
Federal Subsistence Board
U.S. Fish and Wildlife Service
1011 E. Tudor Road, MS 121
Anchorage, Alaska 99503

Dear Chairman Towarak:

The North Slope Subsistence Regional Advisory Council (Council) submits this letter to the Federal Subsistence Board and the U.S. Fish and Wildlife Service (USFWS) under the provisions of the Council's authority to make recommendations on policy and facilitate a meaningful role in Federal subsistence management. At its August 20-21, 2013 public meeting in Barrow, the Council identified an important concern it would like to bring to your attention. The Council is also directing this concern to the USFWS Regional Director, and would like it elevated to the attention of the Secretary of the Interior.

In August, the Council received a staffing update from the Office of Subsistence Management (OSM). The Council learned that a decision had been made not to fill the Chief of the Anthropology Division, a position made vacant with the recent retirement of Helen Armstrong, will remain vacant. The Council is concerned that this decision, which marginalizes the importance of social science and the Anthropology Division for Council business, was made without any consultation with the Regional Advisory Councils. The Council emphasizes that the Anthropology Division provides essential services to and support for the Council, communities, and Tribes of the North Slope Region. The Anthropology Division assists the Council in drafting and reviewing fish and wildlife regulatory proposals. It helps the Council make informed recommendations to the Federal Subsistence Board. It also works with the Council to represent the subsistence needs and concerns of the North Slope Region.

Having served on this Council for 20 years since the inception of the Federal Subsistence Management program, as Chair of the Council, I am in the position to attest to the importance and service of OSM staff anthropologists. Anthropologists, with a specific set of professional skills, are essential to supporting the work of the Regional Advisory Councils; in fact,

anthropologists are as essential as biologists in supporting the Council's work. I recognize Federal budget constraints and challenges exist to administer programs across the USFWS. However, the Council and I would like to point out that the Anthropology Division, as currently staffed, cannot provide an adequate level of service to the Federal Subsistence Management Program or the 10 Regional Advisory Councils. The Federal Subsistence Management Program and the work of the Regional Advisory Councils are guided by Federal law under the Alaska National Interest Lands Conservation Act (ANILCA).

ANILCA §805(b) directs the Secretary to provide adequate staff to support the work of Regional Advisory Councils:

> **(b) Assignment of staff and distribution of data**
> The Secretary shall assign adequate qualified staff to the regional advisory councils and make timely distribution of all available relevant technical and scientific support data to the regional advisory councils…

Section 801 of ANILCA, through the careful language chosen by Congress, emphasizes the important of social science in general and Anthropology in particular:

> (1) The continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on Native lands is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence

The Council notes it is quite clear that ANILCA encompasses traditional, cultural and social elements of a subsistence way of life. These elements of subsistence require professional anthropology or social science staff to assist in comprehensive administration of the law by working with communities to document and analyze social and cultural information in the subsistence management process. Federal Subsistence Management Program policies cover cultural and social components of fish and wildlife management for rural Alaskans, including customary and traditional use determinations, customary trade and barter, harvest methods and means, subsistence seasonal rounds, special use permits, community harvest quota, allocation in times of shortage (§804 analysis under ANILCA), and other information that helps inform sound management of fish and wildlife populations while best supporting subsistence opportunity under ANILCA.

Overall, the Council feels that without a replacement hired to fill the vacant Anthropology Division Chief position, the Council and the North Slope Region will not receive the support needed to be fully effective in its role of advising the Federal Subsistence Board. In these times of severe shortages of many subsistence fish and wildlife resources and increasing uncertainty due to climate change, anthropology support to the Councils is needed more than ever. We strongly encourage the USFWS to re-consider the decision regarding filling the OSM Chief of Anthropology position and take the necessary steps to ensure a high probability of this position being filled.

Chairman Towarak 3

If you have any questions regarding this correspondence, or to direct a response to the North Slope Regional Advisory Council, please contact Eva Patton, Subsistence Council Coordinator, Office of Subsistence Management at 1-800-478-1456 or (907) 786-3358.

Thank you for your consideration.

Sincerely,

Harry Brower

Harry K. Brower, Chairman

cc: North Slope Subsistence Regional Advisory Council
Federal Subsistence Board
Pat Pourchot, Special Assistant to the Secretary of the Interior for Alaska Affairs
Eugene R. Peltola, Jr., Assistant Regional Director, OSM
Kathleen M. O'Reilly-Doyle, Deputy Assistant Regional Director, OSM
Thomas Evans, Acting Policy Coordinator, OSM
Carl Johnson, Council Coordination Division Chief, OSM
Alaska Subsistence Regional Advisory Council Chairs
Interagency Staff Committee
Administrative Record

Federal Subsistence Board
1011 E. Tudor Rd., MS 121
Anchorage, Alaska 99503-6199

U.S. FISH and WILDLIFE SERVICE
BUREAU of LAND MANAGEMENT
NATIONAL PARK SERVICE
BUREAU of INDIAN AFFAIRS

U.S. FOREST SERVICE

JAN 15 2014

FWS/OSM 13087.TE

The Honorable Sally Jewell
Secretary of the Interior
United States Department of the Interior
Office of the Secretary
1849 C Street N.W. Mail Stop 7229
Washington, DC 20240

The Honorable Tom Vilsack
Secretary of Agriculture
United States Department of Agriculture
Office of the Secretary
1400 Independence Ave. S.W. Room 200–A
Washington, DC 20250

Dear Secretary Jewell and Secretary Vilsack:

You have asked to be kept informed of issues and concerns that fall outside of the regulatory process that may affect subsistence users in Alaska. Your appointees to the Alaska Subsistence Regional Advisory Councils are raising concerns through the Federal Subsistence Board to you. These issues are being brought to your attention as they are outside of the jurisdiction of the Federal Subsistence Board.

The Board wants to make the Secretaries aware of three important issues that could affect the availability of wildlife and fishery resources for subsistence use. They are as follows:

- Impacts of proposed road developments in western Alaska on the migration of the Western Arctic Caribou Herd on subsistence users who depend on this resource (submitted by Western Interior Alaska Subsistence Regional Advisory Council).
- Impacts of the bycatch harvest of Chinook (King) and Chum (Dog) salmon during the offshore Pollock fishery in the Bering Sea on the escapement of these fish in the Yukon and Kuskokwim Rivers. The declining numbers and low escapement of Chinook salmon have direct effects on the local subsistence users and their livelihood (submitted by Western Interior Alaska Subsistence Regional Advisory Council).
- Impacts to the migration of Western Arctic, Teshepuk, and Central Arctic caribou herds and important subsistence fisheries from the proposed road project known as the "Road to Umiat." In addition to the potential disruption of the migration routes of these important subsistence species, there is also concern the road will increase the sport hunting pressure on subsistence resources (submitted by North Slope Alaska Subsistence Regional Advisory Council).

Secretary Jewell and Secretary Vilsack 2

We have attached the Board's annual report replies to the Western Interior Alaska Subsistence Regional Advisory Council and North Slope Alaska Subsistence Regional Advisory Councils for a complete description of the Councils' concerns and the Board's reply to those concerns. We thank you for your consideration of these issues and look forward to hearing from you. These matters are unique to Alaska and integral to many Alaskans that depend on subsistence resources.

Sincerely,

Tim Towarak
Chairman

Enclosures

cc: Eugene R. Peltola, Jr., Assistant Regional Director, Office of Subsistence Management
Chuck Ardizzone, Wildlife Chief Division, Office of Subsistence Management
Jack L. Reakoff, Chair, Western Interior Alaska Subsistence Regional Advisory Council
Harry K. Brower, Jr., Chair, North Slope Alaska Subsistence Regional Advisory Council
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FWS/OSM 13055.CJ

SEP 11 2013

Jack Reakoff, Chair
Western Interior Alaska Subsistence
Regional Advisory Council
c/o U.S. Fish & Wildlife Service
1011 East Tudor Road MS 121
Anchorage, Alaska 99503

Dear Chairman Reakoff:

This letter responds to the Western Interior Alaska Subsistence Regional Advisory Council's (Council) 2012 Annual Report as approved at its winter 2013 meeting. The Secretaries of the Interior and Agriculture have delegated the responsibility to respond to these reports to the Federal Subsistence Board (Board). The Board appreciates your effort in developing the Annual Report and values the opportunity to review the issues brought forward concerning your region. Annual Reports allow the Board to become more aware of the issues that fall outside of the regulatory process and affect subsistence users in your region.

The Board has reviewed your Annual Report and offers the following responses:

Issue 1: Lack of a rural subsistence representative on the North Pacific Fisheries Management Council

The Council is concerned about the lack of rural or subsistence representation on the North Pacific Fisheries Management Council (NPFMC). It was an appalling oversight that the management of salmon in maritime waters outside of Alaska was excluded from Title VIII of ANILCA and the Federal Subsistence Management Program. Even though the NPFMC is not part of the subsistence program, it needs to be responsive to the needs of Federal subsistence users in order for the mandates of Title VIII of ANILCA to be fulfilled.

The Pollock industry wields too much influence on appointments to the NPFMC, as illustrated by a recent incident where one of the Governor's appointees was replaced by a Pollock industry executive. This undue influence almost guarantees that the Pollock industry's adverse impacts on salmon will never be curtailed. The next time the Magnuson-Stevens Act is updated, the law needs to be amended in order to mandate that a seat be reserved on the NPFMC for a rural subsistence user. The Council therefore requests that the Board and its members take whatever steps are necessary to influence that outcome.

Response:

The Board understands the Council's viewpoint on the issue of having rural or subsistence representation on the North Pacific Fisheries Management Council (NPFMC). However, membership on the NPFMC is determined by Congress. It is not within the Board's scope of authority or responsibility to advocate for, or request changes to, laws passed by Congress. The Council is also prohibited by law from sending any correspondence to any member of Congress advocating for any such changes. However, individuals may send letters to their Congressional delegation requesting a change in the law, so long as they are submitting such comments as private citizens and not as members of the Council. Senator Mark Begich held a public hearing on July 3 related to the Magnuson-Stevens Act. The law is currently set to expire on September 30, 2013, so any individual comments should be submitted well before that time in order to be considered.

Issue 2: Western Arctic Caribou Herd Working Group (WACHWG) April 2012 Letter
The WACHWG membership is comprised of individuals from a vast area, including Federal Subsistence Regional Advisory Council members, as well as Federal and State agencies whose purpose is to ensure the conservation of the Western Arctic Caribou Herd. The Council wants to make the Board aware of some very important issues identified by the WACHWG in a recent letter to Alaska Governor Sean Parnell (enclosed). The letter outlined concerns regarding various proposed roads through herd migration routes, which could potentially be disruptive to caribou migration and negatively impact rural users who depend on this resource.

The WACHWG is requesting that the State of Alaska fund a Community Health Impacts Assessment to identify potential impacts of these proposed roads on people and their communities within the range of the Western Arctic Caribou Herd. The Council maintains that no decision should be made regarding whether or not to build these roads until that Assessment is completed with public input from affected communities, and the final results of the Assessment are provided to potentially affected communities.

Response:

The Board supports the Council's involvement in the Western Arctic Caribou Working Group, and appreciates you sharing your concerns regarding the potential impacts of proposed roads is on the Western Arctic Caribou Herd and Federally qualified subsistence users. Your concerns will be brought to the attention of the Secretaries of the Interior and Agriculture under the direction provided in the Secretarial Review.

Issue 3: Chinook salmon
The Council is very concerned regarding the continued trend of Chinook salmon runs to meet escapement goals and subsistence needs on the Yukon and Kuskokwim Rivers. The Council encourages the Board to dialogue with NPFMC in order to develop specific strategies to protect Chinook and chum salmon passage in the Bering Sea. This Council firmly believes that

Chairman Reakoff 3

conservation methods of the in-river user groups have been exhausted and that further exploration of the bycatch harvest and activities on the Bering Sea must be discussed.

Response:

The Board and the U.S. Fish & Wildlife Service Alaska Regional Director were fully engaged in the NPFMC regulatory process when Bering Sea/Aleutian Islands Chinook salmon bycatch limits were under consideration in 2007–2009, including the Board Chair testifying for a lower limit (29,323) than what was ultimately implemented (60,000) under Amendment 91. The Board often raises issues of concern to subsistence uses on Federal public lands with other Federal agencies during their regulatory processes. The Council may send a letter to the NPMFC expressing its concerns, with assistance by OSM staff. For your information, the Board has sent letters to the NPFMC regarding bycatch (enclosure). According to guidance by the Secretary of the Interior as part of the Secretarial Review, which directs the Board to inform the Secretaries when "non-Department rule-making entities develop regulations that may adversely affect subsistence users," the Board will bring this issue to the attention of the Secretaries.

In closing, I want to thank you and your Council for their continued involvement and diligence in matters regarding the Federal Subsistence Management Program. I would also like to specifically thank Jack Reakoff and Raymond Collins for their 20 years of service to the Federal Subsistence Management Program as members of this Council. I speak for the entire Board in expressing our appreciation for your efforts and our confidence that the subsistence users of the Western Interior Region are well represented through your work.

Sincerely,

Tim Towarak
Chair

Enclosure

cc. Western Interior Alaska Subsistence Regional Advisory Council
Federal Subsistence Board
Interagency Staff Committee
Gene Peltola, Jr., Assistant Regional Director, OSM
Kathleen M. O'Reilly-Doyle, Deputy Assistant Regional Director, OSM
Carl Johnson, Council Coordination Division Chief, OSM
Melinda Burke, Subsistence Council Coordinator, OSM
Administrative Record

Western Arctic Caribou Herd Working Group

Goal: To work together to ensure the long-term conservation of the Western Arctic Caribou Herd and the ecosystem on which it depends, to maintain traditional and other uses for the benefit of all people now and in the future.

Chair: Roy Ashenfelter **Vice-Chair: Phil Driver**

April 20, 2012
Governor Sean Parnell
P.O. Box 110001
Juneau, AK 99811-0001

Dear Governor Parnell:

As the State of Alaska evaluates the feasibility of various "Roads to Resources" projects, I would like to submit the following request on behalf of the Western Arctic Caribou Herd Working Group (Working Group). The Working Group is a permanent organization of stakeholders that represent communities within the range of this herd, guides, transporters, environmentalists, nonlocal hunters and reindeer herders. The purpose of this group is to ensure the conservation of the Western Arctic Herd.

We request that:

1. The State of Alaska fund a Community Health Impacts Assessment to identify potential impacts of proposed roads on people and their communities within the range of the Western Arctic Herd. This project could be structured using the Technical Guidance for Health Impact Assessments in Alaska[1] report that identifies health effects categories relevant to Alaskan resource development projects. The Food, Nutrition and Subsistence Activity category (p. 29) appears to address the primary concerns of the Working Group, including:
    a. How changes in wildlife habitat, hunting patterns and food choices will influence the diet and cultural practices of local communities; and
    b. Project-specific impacts that may affect the availability of foods needed by local communities to survive in a mixed cash and subsistence economy in rural Alaska.

2. That no decision be made regarding whether or not to build these roads until the Community Health Impacts Assessment is completed with input from the communities, and the final results provided to potentially affected communities.

Working Group members feel that it is important that the State of Alaska consider projected impacts of new roads on this herd as well as the people who depend upon it. This includes the Ambler Mining District Access Project, the Foothills West Transportation Access project (Umiat) and the Western Alaska Access Planning Study (Nome). The following topics are of primary concern:

1. Road impacts on the Western Arctic Herd, including changes in movements, distribution, and population size in response to infrastructure, disturbance and hunting pressure.
2. Impacts of roads on hunting access for local residents as well as visiting hunters, including anticipated changes in harvest levels and the complexity of hunting regulations.
3. Social and economic costs/benefits of road access on previously roadless communities, addressing projected changes in reliance on and costs of commercial goods including foods and fuels compared to costs associated with subsistence based culture and economy.
4. We feel that the cumulative effects of all road and development projects within the range of the Western Arctic Herd should be considered in these analyses.

The herd peaked around 2003 at a population size of 490,000 caribou and has since begun to steadily decline. Low population levels, could significantly impact the communities that harvest caribou from this herd. Increased access bringing greater numbers of hunters into traditional subsistence hunting areas could greatly compound the effects of natural fluctuations in caribou abundance.

Working Group members from rural communities want to know how their subsistence activities will be changed if roads are established through their hunting areas. The concerns we have identified in #2 and #3 above are important in determining the social and economic costs of roads on communities. Studies by ADFG on the Nelchina Caribou Herd regulations and harvest history[2] illustrate the challenges of managing hunting in areas that have supported rural subsistence hunters/communities and become accessible to large populations by roads. Restrictions associated with hunting near industrial developments are also a concern. Increased off-road access, including ORVs, boats and snowmachines, may also impact the behavior of the Western Arctic Herd and other species, and make it more difficult for local hunters to obtain the meat they need.

The Working Group is not requesting that a social study be conducted to merely document the effects of roads on subsistence users. That was done long ago[3]. Our objectives are to: 1) attempt to predict specific impacts of the proposed roads on local residents; 2) provide this information to affected communities to allow them to make informed decisions regarding whether or not to build these roads; and 3) decide how to proceed. If it is decided to establish these roads, the information from this project could be used to minimize or mitigate likely impacts. In order to complete this process, the Working Group requests that no decision be made regarding whether to establish these roads until the requested project be completed and its results provided to potentially affected communities.

Thank you for your consideration of our request. We look forward to your response.

Sincerely,

Roy Ashenfelter, Chair

CC:
Cora Campbell, Commissioner, Alaska Department of Fish and Game
Marc Luiken, Commissioner, Alaska Department of Transportation and Public Facilities
William Streur, Commissioner, Alaska Department of Health and Social Services
Jeff Haskett, Alaska Regional Director, US Fish and Wildlife Service
Sue Masica, Alaska Regional Director, National Park Service
Bud Cribley, Alaska State Director, Bureau of Land Management
Western Arctic Caribou Herd Working Group Members & Alternates

[1] State of Alaska HIA Program, Department of Health and Social Services. July 2011. Technical Guidance for Health Impact Assessment (HIA) in Alaska, v 1.0.
[2] Fall, J.A and W.E. Simeone. 2010. Overview of Nelchina Caribou Herd Regulation and Harvest History. Alaska Department of Fish and Game, Special Publication No. BOG 2010-05.
[3] Wolf, R.J. and R.J. Walker. 1987. Subsistence economies in Alaska: Productivity, geography, and development Impacts. Arctic Anthropology 24(2):56-81.

Please Reply To: Caribou Working Group, P.O. Box 175, Nome, AK 99762
With copy of reply sent to 114 S. Franklin St., Ste. 203, Juneau, AK 99801

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AUG 19 2013

Harry Brower, Jr., Chair
North Slope Alaska Subsistence
Regional Advisory Council
c/o U.S. Fish & Wildlife Service
1011 East Tudor Road, MS 121
Anchorage, Alaska 99503

Dear Chairman Brower:

This letter responds to the North Slope Subsistence Regional Advisory Council's (Council) 2012 Annual Report as approved at its winter 2013 meeting. The Secretaries of the Interior and Agriculture have delegated the responsibility to respond to these reports to the Federal Subsistence Board (Board). The Board appreciates your effort in developing the Annual Report and values the opportunity to review the issues brought forward concerning your region. Annual Reports allow the Board to become more aware of the issues that fall outside of the regulatory process and affect subsistence users in your region.

The Board has reviewed your Annual Report and offers the following responses:

Issue 1: Potential impacts to caribou and fish from the proposed "Road to Umiat"
The Council would like to see a full subsistence impacts investigation and review of the Foothills West Transportation Access Project (locally referred to as the "Road to Umiat"). While the Council recognizes that this is a project proposed by the State of Alaska (Alaska Department of Transportation and Public Facilities) and is primarily on State lands, there will likely be Federal involvement with the project in the form of permitting or other authorizations. Caribou and fish that are essential for subsistence have migratory pathways that cross the area where the road is projected to be located. The proposed road will cross the foothills north of the Brooks Range for approximately 110 miles in a northwest direction, from approximately Milepost 278 of the Dalton Highway to Umiat, Alaska. The purpose of the proposed road is to promote oil and gas exploration and development within the Western Foothills Province including the National Petroleum Reserve-Alaska (NPR-A), and will cross State, Federal and Arctic Slope Regional Corporation (ASRC) land with extensive wetland areas and four major rivers; the Itkillik, Anaktuvuk, Chandler, and Colville.

The Council views the engagement of the Federal Subsistence Management Program and the Federal Subsistence Board as essential in this review since the Western Arctic, Teshepuk, and Central Arctic Caribou herds use some portion of the proposed road development region. The Council is concerned the road will bisect and disrupt caribou migratory routes and also cross major rivers important to subsistence fisheries. The Council would also like the Board to consider the impacts of the potential for increased sport hunting pressures on subsistence harvests, if the road opens up vehicle access to the region. There is historical evidence that increased hunting pressure will likely occur, from the Dalton Highway (which was asserted would forever remain closed to the public) and the Hickel Highway (which so increased sport hunting pressure, the community of Anaktuvuk Pass joined in a lawsuit to close it).

Response:

The Federal Subsistence Board (Board) recognizes the Council's concerns on the potential effects of the proposed road from the Dalton Highway to Umiat could have on the caribou populations, which migrate throughout the area. However, this issue is outside the authority of the Board.

Several State and Federal permitting agencies are responsible for determining the impact to wildlife by the "Road to Umiat." Each Federal agency is required to conduct an analysis under Section 810 of ANILCA as to the potential impacts to subsistence uses and resources prior to authorizing certain activities on land. As part of that analysis, the Federal agency must notify the Regional Advisory Council if the activity "would significantly restrict subsistence uses." The U.S. Army Corps of Engineers (Corps) and the State of Alaska Department of Transportation and Public Facilities (DOT) are the respective lead Federal and State agencies for this project. Additional partnering agencies for this project include the Bureau of Land Management and the Alaska Department of Natural Resources.

The Corps is the lead Federal agency for conducting an Environmental Impact Statement (EIS), which will address the potential impacts to natural resources, such as, river and stream flows and the effects on fish populations, caribou migrations, and subsistence hunting. In addition, the Draft EIS will analyze the effects on: fish and wildlife including endangered species; effects on subsistence activities; hydrology and wetlands; noise, air and water quality; socioeconomics; cultural resources; secondary and cumulative impacts; climate change; and other significant issues raised by the public and agencies during the comment periods. The initial scoping/comment period has closed and the permitting agencies are in the process of drafting the EIS. The Draft EIS is scheduled to be available during the summer of 2014, and this Council will have the opportunity to comment on it. Following this will be a public comment period and the Board encourages the Council to address specific concerns during the public comment period, including at the public hearings. The Office of Subsistence Management (OSM) will

facilitate updates to the Council on the status of this proposed development. The following links provide additional information on the process:

http://www.foothillswesteis.com/faq-eis-process
http://foothillsroad.alaska.gov/field_studies.shtml
http://foothillsroad.alaska.gov/public_involvement.shtml
http://foothillsroad.alaska.gov/contact.shtml

With that said, however, consistent with the Federal Subsistence Management Program Secretarial Review, your concerns will be forwarded to the Secretaries of the Interior and Agriculture.

Issue 2: Review of Dalton Highway hunting access impacts to Caribou

The Council would like to see an evaluation of the Dalton Highway road access and increased hunting pressures on the caribou herds. The Council is concerned that migratory caribou important to subsistence that originate on Federal lands are impacted by increasing disturbance and hunting pressures along the Dalton Highway. Hunter education should be conducted to limit harassment and harm from bow hunters, citing observations of caribou wounded but not killed by arrows. The Council would also like to see education of all hunters on the local etiquette of "letting the leaders pass" referring to their own indigenous knowledge that the lead caribou at the head of the migration play a critical role in guiding the herd to good feeding, calving, and wintering grounds.

Additionally, the Council is very concerned about increasing traffic and access to waterways of the Dalton Highway since its designation as a Scenic Byway. Council members and members of the public feel they did not have adequate opportunity to provide input on the public process in the Scenic Byways designation, and stress that the program of encouraging use of the highway as an access route to remote lands and rivers in the region do have a direct impact on subsistence by increasing hunting pressure and disturbance of wildlife.

The Council is also concerned that the pipeline is exposed to open public access all along the highway and not monitored for safety. The Council would like to see a monitoring program in place to detect any potential problems or leaks and prevent any direct acts of vandalism. Any spills resulting from accidental or intentional breaches of the pipeline would be detrimental to caribou, rivers, and other important subsistence resources and should be monitored on a regular basis to prevent any such harm from occurring.

Response:

The Board recognizes the Council's concerns about hunter conduct in the Dalton Highway corridor, but this issue is outside the authority of the Board. There are a couple of options available to the Council that could address the issue of hunter education in the Dalton Highway

corridor. Federal Scenic Highway grant funding could possibly be used to include educational signs along the highway. The Council could draft specific educational recommendations and provide suggested language for how to convey local knowledge and concerns for caribou disturbance and hunting etiquette along the Dalton Highway. A "let the leaders pass" educational initiative for hunting of Porcupine Caribou along the Dempster Highway in Canada has been in place for many years. A similar initiative utilizing strategic placement of signs at pullouts and spotting sites along the road known to be used by bow hunters would be one avenue for educational outreach. In addition, the Bureau of Land Management (BLM) Central Yukon Field Office is initiating a new Resource Management Plan for the Central Yukon Planning Area which includes the Dalton Highway. BLM will provide the Council with information and ways to participate in this planning process at the August 2013 meeting. The Council can submit recommendations on the Dalton Highway management through this planning process.

The public has been able to access the Dalton Highway to Deadhorse, Alaska since 1994. Other than reviewing registration and harvest data, it would be difficult to evaluate the specific adverse impacts the road has had on caribou herds after it has been open to the public for nearly 20 years. The Dalton Highway Corridor Management Area (DHCMA) currently has specific restrictions for individuals hunting under State regulations, specifically restrictions regarding firearms and the use of motorized vehicles off of the main road surface. These restrictions extend for 5 miles on each side of the Dalton Highway from the Yukon River to the Arctic Ocean and undoubtedly serve as a disincentive for many out-of-area hunters. Bow hunters in the corridor are required under State of Alaska regulations to obtain a certification through the International Bow hunters Educational Program (IBEP). The IBEP class teaches ethical techniques for hunting with archery equipment.

The Dalton Highway's 1998 scenic byway designation is a State designation. In 2008, a Dalton Highway Corridor Partnership Plan (CPP) planning process was initiated. The plan, completed in 2010, is a comprehensive evaluation of the byway's intrinsic qualities and serves as a guide for management, protection, and enhancement of those qualities over time. The CPP is viewed as an expression of local desires, written in cooperation with local communities, organizations, businesses and public agencies. The plan addresses many of the concerns raised by the Council: hunting, off-road-vehicles, security of the pipeline, public safety, impacts to the natural and cultural resources, and diminished subsistence hunting opportunities. Additionally, the plan also offered possible solutions to the recognized concerns. Completion of the CPP made the Dalton Highway eligible for Federal scenic highway grant funding, which could include educational signage that targets these local concerns. Due to low stakeholder participation at the time, a local Dalton Highway Scenic Byway organization was not formed to help reach the stated vision, goals, and objectives of the CPP following its publication.

The plan can be found at:

http://dnr.alaska.gov/parks/interp/pdf/daltonhwyscenisbywaycorridor.pdf

Chairman Brower 5

Issue 3: Establishment of safety cabins for subsistence activities in remote access areas

The Council would like to see consideration for the building of "safety cabins" for remote access areas in predominantly Bureau of Land Management lands typically utilized for subsistence hunting and fishing activities.

Changing weather conditions in recent years have brought about increasingly frequent and severe storms as well as changing land and water/ice conditions, making travel more hazardous during times when subsistence harvests are normally conducted. Strategic placement of such public use safety cabins could assist local hunters in conducting normal seasonal subsistence activities with some opportunity for safety during increasingly unpredictable and inclement weather. The Council also seeks suggestions for possible sources of funding to build such cabins.

Response:

This issue is beyond the authority of the Board. The Board recognizes that changing weather conditions in recent years have made travel on land, water, and ice for subsistence activities more hazardous. The establishment of a network of safety cabins could provide hunters with safe locations to wait out storms or unsafe travel conditions. The Council could contact the appropriate land owners and land management agencies (Federal, State, Native Communities, Native Corporations, and Private inholdings) where such cabins would be helpful and explore ways with that agency or owner to install such cabins. Federal public lands in the North Slope Region include the National Petroleum Preserve-Alaska (BLM), the Arctic National Wildlife Refuge (USFWS), and Gates of the Arctic National Park and Preserve (NPS).

For example, within the National Petroleum Reserve-Alaska (NPR-A), the BLM coordinates with the North Slope Borough (Borough), which maintains a list of subsistence related cabins and structures and their locations throughout the NPR-A. The Borough also coordinates with oil and gas developers and others to minimize, to the extent practicable, development activities that might interfere with local subsistence related activities and structures.

I hope this answer is responsive to the Council's questions and concerns about safety cabins. If needed, your Council Coordinator or other Office of Subsistence Management staff could assist in making the necessary contacts with these agencies in order to pursue this matter.

In closing, I want to thank you and your Council for their continued involvement and diligence in matters regarding the Federal Subsistence Management Program. I would particularly like to thank Harry Brower, Jr., for his 20 years of service to the Federal Subsistence Management Program as a member of this Council. I speak for the entire Board in expressing our appreciation

Chairman Brower 6

for your efforts and our confidence that the subsistence users of the North Slope Region are well represented through your work.

Sincerely,

Tim Towarak
Chair

cc. North Slope Alaska Subsistence Regional Advisory Council
Federal Subsistence Board
Interagency Staff Committee
Gene Peltola, Assistant Regional Director, OSM
Kathleen O'Reilly-Doyle, Deputy Assistant Regional Director, OSM
Carl Johnson, Council Coordination Division Chief, OSM
Eva Patton, Subsistence Council Coordinator, OSM
Administrative Record

Federal Subsistence Board
1011 E. Tudor Rd., MS 121
Anchorage, Alaska 99503-6199

U.S. FISH and WILDLIFE SERVICE
BUREAU of LAND MANAGEMENT
NATIONAL PARK SERVICE
BUREAU of INDIAN AFFAIRS

U.S. FOREST SERVICE

FWS/OSM11057/TT

Eric Olson, Chair
North Pacific Fishery Management Council
605 W. 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

MAY 20 2011

Dear Mr. Olson:

The Federal Subsistence Board (Board) appreciates the opportunity to provide its comments on the initial review draft of the *Environmental Assessment/ Regulatory Impact Review/ Initial Regulatory Flexibility Analysis for Amendment 90 to the Fishery Management Plan for Groundfish of the Gulf of Alaska, Chinook Salmon Bycatch in the Gulf of Alaska pollock Fishery (EA),* dated March 2011, and the North Pacific Fishery Management Council's (NPFMC) preliminary preferred alternative. The Board, comprised of the Regional Directors of the U.S. Fish and Wildlife Service, the Bureau of Indian Affairs, the National Park Service, the Bureau of Land Management and the USDA Forest Service, and a Chair appointed by the Secretaries of the Interior and Agriculture, provides subsistence fishing opportunities in Federal public waters in Alaska under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA).

Bycatch is of concern to the Board and the affected Regional Advisory Councils because the Chinook salmon stocks listed in Table 63, page 124 of the EA, are important subsistence resources for Federally-qualified subsistence users in several areas of the state, including Southeast Alaska, Prince William Sound, Cook Inlet and Kodiak Island.

The Board urges the National Marine Fisheries Service and North Pacific Fishery Management Council to significantly reduce the amount of Chinook salmon bycatch in the GOA pollock fishery. Several Chinook salmon runs, most likely impacted by the GOA pollock fishery, were rated as "poor" to "below average" in 2010, as pointed out in Table 63, page 124 of the EA. The Chinook salmon runs on Kodiak Island are of particular concern. In 2010, Chinook salmon escapement in the Karluk River was below the escapement goal range for the fourth consecutive year and the subsistence fishery was closed the entire season. This was the third consecutive year that restrictions to the Chinook salmon subsistence fishery were necessary. In January 2011, the Alaska Board of Fisheries designated Karluk River Chinook salmon a stock of concern. In the nearby Ayakulik River, the lower end of the Chinook salmon escapement goal was achieved in 2010, however escapement goals were not met in 2006-2009.

The Board believes that the proposed hard cap of 22,500 in the Preliminary Preferred Alternative does not represent a meaningful reduction in Chinook salmon bycatch, as it is higher than the 2003-2010 bycatch average of approximately 19,000 Chinook shown in Table 4, page 21. Therefore, **the Board recommends that a hard cap of 15,000 be adopted.** This alternative would provide a better opportunity for increased numbers of Chinook salmon to reach affected rivers to help achieve escapement goals and provide for subsistence uses. In addition, the option of allowing a 25% "overage provision" one out of every three years should be eliminated, as it appears to be incongruent with the Council's stated goal to reduce bycatch. The Board also recommends that the NPFMC recognize the importance of subsistence in the Problem Statement and more fully discuss the status of the Chinook salmon stocks most likely impacted by the GOA pollock fishery.

Thank you for this opportunity to provide our comments and recommendations on this important subsistence issue. If the Board can be of further assistance, please contact Peter J. Probasco, Assistant Regional Director, Office of Subsistence Management, at (907) 786-3888. The Board will continue to monitor developments on this issue and looks forward to the results of your efforts to significantly reduce Chinook salmon bycatch in the GOA pollock fishery.

Sincerely,

Tim Towarak
Chair, Federal Subsistence Board

cc: Federal Subsistence Board members
Gene Virden, Acting Regional Director - Bureau of Indian Affairs
Bud Cribley, State Director - Bureau of Land Management
Sue Masica, Regional Director - National Park Service
Geoff Haskett, Regional Director - U.S. Fish and Wildlife Service
Beth Pendleton, Regional Forester - USDA Forest Service
Pat Pourchot, Department of the Interior, Alaska
Peter J. Probasco, Office of Subsistence Management
Speridon Simeonoff, Chair, Kodiak/Aleutians Regional Advisory Council
Ralph Lohse, Chair, Southcentral Alaska Regional Advisory Council
Bert Adams, Chair, Southeast Alaska Regional Advisory Council
Cora J. Campbell, Commissioner, Alaska Department of Fish and Game
James W. Balsiger, Administrator, Alaska Region, National Marine Fisheries Service

Western Interior Alaska Subsistence Regional Advisory Council
c/o U.S. Fish and Wildlife Service
1011 East Tudor Road, MS 121
Anchorage, Alaska 99503
Phone: (907) 786-3888, Fax: (907) 786-3898
Toll Free: 1-800-478-1456

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Mr. Tim Towarak, Chair
Federal Subsistence Board
c/o U.S. Fish and Wildlife Service
Office of Subsistence Management
1011 East Tudor Road MS 121
Anchorage, Alaska 99503

Dear Mr. Towarak:

The Western Interior Alaska Subsistence Regional Advisory Council (Council) appreciates the opportunity to submit this annual report to the Federal Subsistence Board (Board) under the provisions of Section 805(a)(3)(D) and Section 805(c) of the Alaska National Interest Lands Conservation Act (ANILCA). At its public meeting in Holy Cross, Alaska, in October 2012, the Council identified concerns and recommendations for its FY2012 report, then finalized and approved the report at its March 2013 meeting in Galena.

1. **Lack of a rural subsistence representative on the North Pacific Fisheries Management Council**

The Council is concerned about the lack of rural or subsistence representation on the North Pacific Fisheries Management Council (NPFMC). It was an appalling oversight that the management of salmon in maritime waters outside of Alaska was excluded from Title VIII of ANILCA and the Federal Subsistence Management Program. Even though the NPFMC is not part of the subsistence program, it needs to be responsive to the needs of Federal subsistence users in order for the mandates of Title VIII of ANILCA to be fulfilled.

The Pollock industry wields too much influence on appointments to the NPFMC, as illustrated by a recent incident where one of the Governor's appointees was replaced by a Pollock industry executive. This undue influence almost guarantees that the Pollock industry's

adverse impacts on salmon will never be curtailed. The next time the Magnuson-Stevens Act is updated, the law needs to be amended in order to mandate that a seat be reserved on the NPFMC for a rural subsistence user. The Council therefore requests that the Board and its members take whatever steps are necessary to influence that outcome.

2. **Western Arctic Caribou Herd Working Group (WACHWG) April 2012 Letter**

The WACHWG membership is comprised of individuals from a vast area, including Federal Subsistence Regional Advisory Council members, as well as Federal and State agencies whose purpose is to ensure the conservation of the Western Arctic Caribou Herd. The Council wants to make the Board aware of some very important issues identified by the WACHWG in a recent letter to Alaska Governor Sean Parnell (enclosed). The letter outlined concerns regarding various proposed roads through herd migration routes, which could potentially be disruptive to caribou migration and negatively impact rural users who depend on this resource.

The WACHWG is requesting that the State of Alaska fund a Community Health Impacts Assessment to identify potential impacts of these proposed roads on people and their communities within the range of the Western Arctic Caribou Herd. The Council maintains that no decision should be made regarding whether or not to build these roads until that Assessment is completed with public input from affected communities, and the final results of the Assessment are provided to potentially affected communities.

3. **Chinook salmon**

The Council is very concerned regarding the continued trend of Chinook salmon runs to meet escapement goals and subsistence needs on the Yukon and Kuskokwim Rivers. The Council encourages the Board to dialogue with NPFMC in order to develop specific strategies to protect Chinook and chum salmon passage in the Bering Sea. This Council firmly believes that conservation methods of the in-river user groups have been exhausted and that further exploration of the bycatch harvest and activities on the Bearing Sea must be discussed.

Thank you for the opportunity for this Council to assist the Federal Subsistence Program to meet 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 Region. If you have questions about this report, please

Tim Towarak 3

contact me via Melinda Hernandez, Council Coordinator, with the Office of Subsistence Management at 1-800-478-1456 or (907) 786-3885.

Sincerely,

Jack Reakoff
Chair

Enclosure

cc: Federal Subsistence Board Members
Western Interior Alaska Subsistence Regional Advisory Council
Kathleen M. O'Reilly-Doyle, Acting Assistant Regional Director. OSM
David Jenkins, Acting Deputy Assistant Regional Director, OSM
Carl Johnson, Council Coordination Division Chief, OSM
Interagency Staff Committee
Administrative Record

North Slope Subsistence Regional Advisory Council
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JUL 29 2013

Mr. Tim Towarak, Chair
Federal Subsistence Board
c/o U.S. Fish and Wildlife Service
Office of Subsistence Management
1011 East Tudor Road, MS 121
Anchorage, Alaska 99503

Dear Tim Towarak:

The North Slope Subsistence Regional Advisory Council (Council) appreciates the opportunity to submit this annual report to the Federal Subsistence Board (Board) under the provisions of Section 805(a)(3)(D) and section 805(c) of the Alaska National Interest Lands Conservation Act (ANILCA). At its public meeting on August 14, 2012, in Barrow, the Council identified concerns and recommendations for its FY 2012 report. The Council approved this letter at its February 26-27, 2013 public meeting in Barrow. The Council understands and supports the importance of addressing fish and wildlife resource topics annually, expressing its concerns, and addressing long term planning needs that are not addressed through the regulatory cycles throughout the year. The Council looks forward to your continued guidance and support on the issues listed below.

1) Potential impacts to caribou and fish from the proposed "Road to Umiat"

The Council would like to see a full subsistence impacts investigation and review of the Foothills West Transportation Access Project (locally referred to as the "Road to Umiat"). While the Council recognizes that this is a project proposed by the State of Alaska (Alaska Department of Transportation and Public Facilities) and is primarily on State lands, there will likely be Federal involvement with the project in the form of permitting or other authorizations. Caribou and fish that are essential for subsistence have migratory pathways that cross the area where the road is projected to be located. The proposed road will cross the foothills north of the Brooks Range for approximately 110 miles in a northwest direction, from approximately Milepost 278 of the Dalton Highway to Umiat, Alaska. The purpose of the proposed road is to promote oil and gas exploration and development within the Western Foothills Province including the National Petroleum Reserve-Alaska (NPR-A), and will cross State, Federal and Arctic Slope Regional

Corporation (ASRC) land with extensive wetland areas and four major rivers; the Itkillik, Anaktuvuk, Chandler, and Colville.

The Council views the engagement of the Federal Subsistence Management Program and the Federal Subsistence Board as essential in this review since the Western Arctic, Teshepuk, and Central Arctic Caribou herds use some portion of the proposed road development region. The Council is concerned the road will bisect and disrupt caribou migratory routes and also cross major rivers important to subsistence fisheries. The Council would also like the Board to consider the impacts of the potential for increased sport hunting pressures on subsistence harvests, if the road opens up vehicle access to the region. There is historical evidence that increased hunting pressure will likely occur, from the Dalton Highway (which was asserted would forever remain closed to the public) and the Hickel Highway (which so increased sport hunting pressure, the community of Anaktuvuk Pass joined in a lawsuit to close it).

2) Review of haul road (Dalton Highway) hunting access impacts to Caribou.

The Council would like to see an evaluation of the Dalton Highway road access and increased hunting pressures on the caribou herds. The Council is concerned that migratory caribou important to subsistence that originate on Federal lands are impacted by increasing disturbance and hunting pressures along the Dalton Highway. Hunter education should be conducted to limit harassment and harm from bow hunters, citing observations of caribou wounded but not killed by arrows. The Council would also like to see education of all hunters on the local etiquette of "letting the leaders pass" referring to their own indigenous knowledge that the lead caribou at the head of the migration play a critical role in guiding the herd to good feeding, calving, and wintering grounds.

Additionally, the Council is very concerned about increasing traffic and access to waterways of the Dalton Highway since its designation as a Scenic Byway. Council members and members of the public feel they did not have adequate opportunity to provide input on the public process in the Scenic Byways designation, and stress that the program of encouraging use of the highway as an access route to remote lands and rivers in the region does has a direct impact on subsistence by increasing hunting pressure and disturbance of wildlife.

The Council is also concerned that the pipeline is exposed to open public access all along the highway and not monitored for safety. The Council would like to see a monitoring program in place to detect any potential problems or leaks and prevent any direct acts of vandalism. Any spills resulting from accidental or intentional breaches of the pipeline would be detrimental to caribou, rivers, and other important subsistence resources and should be monitored on a regular basis to prevent any such harm from occurring.

3) Establishment of safety cabins for subsistence activities in remote access areas

The Council would like to see consideration for the building of "safety cabins" for remote access

Tim Towarak 3

areas in predominantly Bureau of Land Management lands typically utilized for subsistence hunting and fishing activities.

Changing weather conditions in recent years have brought about increasingly frequent and severe storms as well as changing land and water/ice conditions, making travel more hazardous during times when subsistence harvests are normally conducted. Strategic placement of such public use safety cabins could assist local hunters in conducting normal seasonal subsistence activities with some opportunity for safety during increasingly unpredictable and inclement weather. The Council also seeks suggestions for possible sources of funding to build such cabins.

Thank you for the continued opportunity to assist the Federal Subsistence Management Program in meeting its obligations to protect subsistence uses of fish and wildlife resources on Federal lands in our region. The Council looks forward to continued discussions about the issues and concerns of subsistence stakeholders of the North Slope region. If you have any questions regarding this correspondence, please contact Eva Patton, Subsistence Council Coordinator, Office of Subsistence Management at 1-800-478-1456 or (907) 786-3358.

Sincerely,

Harry R. Brower
Chair

cc: Federal Subsistence Board
North Slope Alaska Subsistence Regional Advisory Council
Kathleen M. O'Reilly-Doyle, Acting Assistant Regional Director, OSM
David Jenkins, Acting Deputy Assistant Regional Director, OSM
Carl Johnson, Council Coordination Division Chief, OSM
Interagency Staff Committee
Administrative Record

United States Department of the Interior

OFFICE OF THE SECRETARY
1689 C Street, Suite 100
Anchorage, Alaska 99501-5151

RECEIVED
FEB 28 2014
BY:

FEB 21 2014

Tim Towarak, Chair,
Federal Subsistence Board
1011 E. Tudor Rd., MS 121
Anchorage, Alaska 99503-6199

Tim

Dear Chairman Towarak:

Thank you for your letter of January 15, 2014, to Secretary Jewell and Secretary of Agriculture Vilsack passing on some concerns of Alaska Subsistence Regional Advisory Councils (RAC). The Secretary has asked me to respond on her behalf.

As you know, during the review of the federal subsistence program initiated by former Secretary Salazar several issues and concerns were raised by the public that fell outside the authorities of the Secretaries or the Federal Subsistence Board (FSB). In his directives stemming from the review Secretary Salazar specifically asked the FSB to bring to the Secretaries' attention issues which the Board or the RAC felt were important to subsistence resources and uses in Alaska, but which may fall outside of the FSB's authorities. The issues that the RACs are raising meet this criterion, and the Secretary appreciates the FSB bringing these to her attention.

Proposed road developments in western and northern Alaska clearly could have impacts on caribou herds and other subsistence resources. Several of our DOI agencies are reviewing and providing input into the state's planning associated with these road proposals. In particular, the National Park Service (NPS) has specific legislatively-defined obligations under ANILCA for the proposed road to the Ambler mining district. Additionally, NPS shares a concern over possible impacts of the proposed road to Umiat on caribou herds utilizing the Gates of the Arctic Park. DOI agencies are keenly aware of the wildlife and other subsistence resources that may be affected by road construction and increased access, and the Secretary's office will be tracking agency comments and involvement closely.

The bycatch harvest of Chinook and chum salmon in the Bering Sea pollock fishery has been of concern to DOI for many years. As you know, the FSB and the Fish and Wildlife Service (FWS) have provided comments to the North Pacific Fishery Management Council (NPFMC) over the past several years supporting proposals for reducing salmon bycatch. My predecessor, Secretary Salazar, has written the Secretary of Commerce urging his support for NPFMC alternatives with the lowest allowable bycatch. An ex-officio non-voting FWS representative of the Department sits on the Council, and we will continue to participate in bycatch reduction issues closely.

Again, the Secretary greatly appreciates you bringing the concerns of the RACs forward. This office will continue to keep the FSB and the RACs informed of DOI actions on these concerns.

Sincerely,

Pat Pourchot
Special Assistant to the Secretary for Alaska Affairs

Cc: Beth Pendleton, Regional Forester, USDA Forest Service
Jack L. Reakoff, Chair, Western Interior Alaska Subsistence RAC
Harry K. Brower, Jr., Chair, North Slope Subsistence RAC

CHALLENGES WITH AND RECOMMENDED CHANGES TO NOMINATIONS/APPOINTMENTS PROCESS FOR REGIONAL ADVISORY COUNCIL MEMBERS

A briefing for the Federal Subsistence Regional Advisory Councils
June 27, 2014

As the Councils know, and have noted in some of their annual reports and correspondence to the Federal Subsistence Board, the process for appointing Council members has often been delayed in recent years. In the last two appointment cycles, the Secretary did not appoint or reappoint Council members by the expiration of their terms on December 2. In 2013 (for the 2012 appointments), most of the Council members were appointed by January 4, 2013, but were not completed until May 3. In 2014 (for the 2013 appointments), only two regions were appointed by mid-January, and the process was not completed until May 22. This has created problems in coordinating travel for new or reappointed Council members and left some Councils with less than a full complement of members.

Additionally, there are other aspects of the current nominations/appointment process that, while not as problematic as the appointment delays, create difficulties for the program, the Councils, and the public. These additional issues are:

- Under the current system, the application period opens in the fall, with appointments from the prior appointment cycle being announced in December. The overlap between appointment periods has led to individuals applying again before hearing the results from the prior cycle, not knowing whether or not they have been selected for appointment.

- Under the current appointment process, alternates are identified and vetted in D.C., but not appointed. They are also not notified that they have been identified as an alternate. This leads to delays in having alternates appointed to fill vacancies. With recent examples, the most rapid appointment of an alternate to replace an unexpected vacancy has been two months.

- The number of applicants for the open seats on the Councils has been decreasing. In the first ten years of the program, there was an average of 104 applications per year; in the last ten years, that annual average has dropped to 70 – a 33% reduction in applicants.

Recommendations

The Office of Subsistence Management, in consultation with the Interagency Staff Committee and Federal Subsistence Board, has considered these issues and identified some potential solutions. The Board is seeking input from the Councils on these recommended changes.

Change Terms and Possibly Appointment Cycle

The first recommended change involves changing from a 3-year term to a 4-year term for Council appointments, with consideration of modifying the appointment cycle from an annual process to a biennial (two-year) process. For 4-year terms on an annual cycle, 25% of seats

would be open for appointment each cycle; for 4-year terms on a biennial cycle, 50% of seats would be open for appointment each cycle. At least one Council has requested longer terms in a recent annual report.

The following summary outlines the advantages and disadvantages for each approach:

4-year annual cycle

Advantages

- Fewer open seats per annual cycle, to match increasingly fewer applicants
- Fewer names submitted to D.C. for approval could speed-up approval and appointments
- Keeps Council applications in the public's attention

Disadvantages

- No cost savings for annual cost of display ads for public outreach on applications
- Requires work of nominations panels, and ISC and FSB meetings every year for nominations (but keeps each engaged)

4-year biennial cycle

Advantages

- Reduce burden on OSM, agency staff and FSB by conducting nomination panel reviews every two years
- Reduce public outreach costs by 50% over two year period
- Eliminates overlap of appointment cycles and related confusion

Disadvantages

- May increase burden on panel, ISC, OSM, FSB and D.C. by submitting more names in a given year for approval and appointment
- May take the Council appointment process out of public eye and make outreach more difficult

Changing the terms of Council members from 3 to 4 years would require both a charter amendment and a change to Secretarial regulations (50 C.F.R. §100.11(b)(2) and 36 C.F.R. §242.11(b)(2)).

Formally Appoint Alternates to the Council

Another recommendation is to formally appoint alternates to the Council. In this case, the alternate would receive a letter stating that they are appointed as an alternate and would assume a seat as a member of the Council in the event of an unexpected vacancy. The alternate would then complete the remaining term of the vacated seat.

Advantages

- Immediate filling of unexpected vacancies on the Council
- Applicant is aware that they are an alternate, and retains interest

Disadvantages

- Could lead to potential ill feelings or questions about why one person was selected as an alternate compared to one who was appointed or the need to explain the placement order of alternates
- Could seem to be wasted time for an alternate if never seated

This change would involve an amendment to the Council charter. Currently, the charter states "A vacancy on the Council will be filled in the same manner in which the appointment is made." That would be revised to state, "A vacancy on the Council will be filled by an alternate duly appointed by the Secretary or, if no alternate is available, filled in the same manner in which the appointment is made."

At this time, the recommendation of formal alternate appointments does not contemplate that the alternates would play a greater role, such as attending a meeting in the event that a quorum might not be established. The Councils are invited to provide feedback or suggestions on an enhanced role for alternates.

Carry-Over Terms

The Western Interior Alaska Subsistence Regional Advisory Council has recommended that the charters be amended to provide for carryover terms; that is, that if terms expire, and no appointment letters are issued in a timely manner, that the Council members whose terms expired remain seated until a new appointment or reappointment letter is issued. The Western Interior Council points to the charters for the National Park Service's Subsistence Resource Commissions as an example. Those charters provide the following: "If no successor is appointed on or prior to the expiration of a member's term, then the incumbent members will continue to serve until the new appointment is made."

Advantages

- If appointments are delayed in the future, Councils can still conduct business with a more complete Council
- Sitting Council members who are awaiting reappointment can plan ahead with certainty

Disadvantages

The key disadvantage relates to timing of when the late appointment is made. If a sitting Council member is awaiting reappointment and plans to attend a meeting, and someone else is appointed to that seat instead, it creates a couple of problems. First, it disrupts the plans of the sitting Council member who had intended to attend the meeting. Second, if the new member is appointed with insufficient time to arrange for travel, it may now affect the ability of the Council to establish quorum.

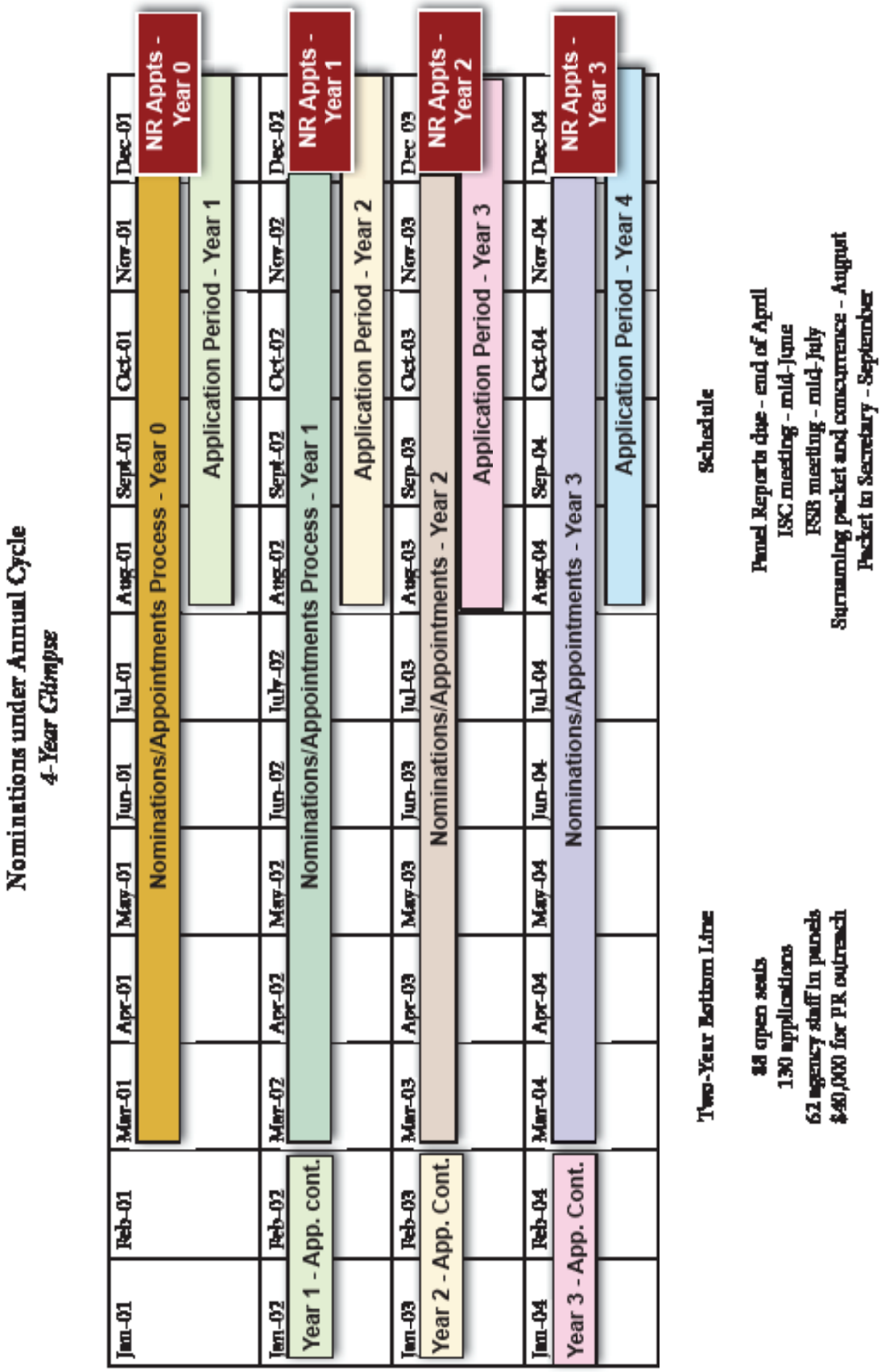
This would require a change to the Council charter. If the Councils request this change, and the Secretaries approve the change, it could be implemented by December 2, 2014. However, this change would only be an amendment to the charter. The charter would still require renewal in 2015 as currently scheduled.

Youth Involvement in Councils

Several Councils have expressed the desire to enhance youth involvement in the Council process, and several ideas have been suggested. One idea is to develop relationships between local schools and the Council process. This is highly encouraged and can be facilitated through the Subsistence Council Coordinator. No approval, charter amendments or regulatory changes would be required. Councils are encouraged to do this as desired and as opportunities exist on a regional basis.

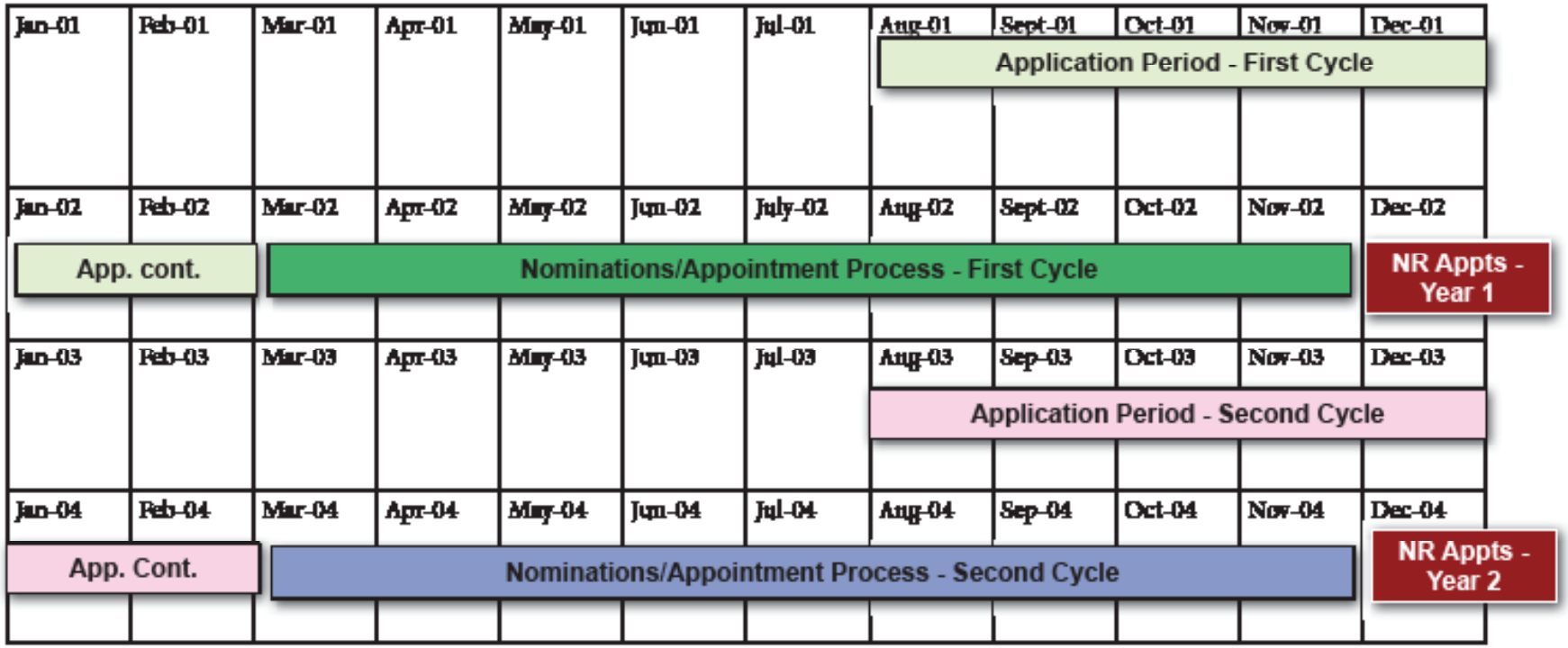
Another suggestion that some Councils have made is to have a youth mentorship program or even a "Youth Seat" on the Council. The U.S. Fish and Wildlife Service guidance on Federal Advisory Committees (based on its authority under the Federal Advisory Committee Act), only provides for four types of memberships: Representatives (standard Council members), Special Government Employees, Regular Government Employees, and Ex Officio Members (appointed by virtue of holding another office) (107 FW 4.6). The concept of a "Youth Seat" would not fit under any of these categories, so a youth could not be a member of the Council or designated in the charter.

However, that does not mean there is not another way to pursue this option. One possibility would be to have a local Tribal Council select a youth to serve as a "Youth Liaison" to the Council, and sponsor that youth to attend the Council meeting. If the meeting is in the community, it would not create any extra costs. The Councils are asked to indicate if they wish OSM to assist them in exploring the establishment of a "Youth Seat" or some sort of youth mentorship program. However implemented, it would have to be clear that the Federal Subsistence Management Program would not be responsible for any youth under 18 who would travel.


Nominations under Annual Cycle
4-Year Glimpse
Jan-01
Feb-01
Mar-01
Apr-01
May-01
Jun-01
Jul-01
Aug-01
Sept-01
Oct-01
Nov-01
Dec-01
NR Appts - Year 0
Nominations/Appointments Process - Year 0
Application Period - Year 1
Jan-02
Feb-02
Mar-02
Apr-02
May-02
Jun-02
Jul-02
Aug-02
Sept-02
Oct-02
Nov-02
Dec-02
NR Appts - Year 1
Year 1 - App. cont.
Nominations/Appointments Process - Year 1
Application Period - Year 2
Jan-03
Feb-03
Mar-03
Apr-03
May-03
Jun-03
Jul-03
Aug-03
Sep-03
Oct-03
Nov-03
Dec 03
NR Appts - Year 2
Year 2 - App. Cont.
Nominations/Appointments - Year 2
Application Period - Year 3
Jan-04
Feb-04
Mar-04
Apr-04
May-04
Jun-04
Jul-04
Aug-04
Sep-04
Oct-04
Nov-04
Dec-04
NR Appts - Year 3
Year 3 - App. Cont.
Nominations/Appointments - Year 3
Application Period - Year 4
Two-Year Bottom Line
48 open seats
130 applications
62 agency staff in panels
$40,000 for PR outreach
Schedule
Panel Reports due - end of April
ISC meeting - mid-June
ISB meeting - mid-July
Summaries packet and concurrence - August
Packet to Secretary - September

Nominations under Proposed Biennial Cycle

4-Year Glimpse



Two-Year Bottom Line

55 open seats
90 applications
31 agency staff in panels
$20,000 for PR outreach

Schedule

Panel Reports due - end of April
ISC meeting - late May, early June
FSB meeting - late June, early July
Summaring packet and concurrence - late July
Packet to Secretary - late July

Western Interior Alaska Subsistence Regional Advisory Council
c/o U.S. Fish & Wildlife Service
1011 East Tudor Road MS 121
Anchorage, Alaska 99503
Phone: (907) 787-3888, Fax: (907) 786-3898
Toll Free: 1-800-478-1456

RAC WI14032.MH

MAY 28 2014

Mr. Tim Towarak, Chair
Federal Subsistence Board
c/o U.S. Fish and Wildlife Service
Office of Subsistence Management
1011 East Tudor Road MS 121
Anchorage, Alaska 99503

Dear Mr. Towarak:

In recent meetings, the Western Interior Alaska Subsistence Regional Advisory Council has been very active in discussions regarding the late Secretarial appointments to the Councils, which have become a recurring theme in our annual reports and correspondence. This year's appointment cycle was completed nearly six months late.

I recently attended the Federal Subsistence Board meeting in Anchorage April 15-17, 2014 and was very encouraged by the discussion and dialogue and some of the great suggestions that were presented to improve the process. I understand that many of the modifications will take a substantial amount of time to implement.

We appreciate the hard work of Office of Subsistence Management (OSM) staff and Pat Pourchot, Special Assistant to the Secretary for Alaska Affairs, who have been continuing to pursue solutions to this problem. The Council looks forward to reviewing the suggested changes to timelines and processes at the fall meeting cycle. No official announcements can be made regarding who has been appointed until all vetting has been completed for all ten Councils. Frustrations and negative impacts to our Councils and processes were exacerbated tremendously in the most recent round of meetings. We feel this is unacceptable and encourage action to ensure this does not happen again.

As discussed at the Board meeting, all Council charters should be amended as soon as possible to allow for individuals to continue serving beyond the expiration date of their terms, until replaced or reappointed (similar to the National Park Service Subsistence Resource Commissions).

Mr. Towarak 2

Amending the Council charters will prevent some of the challenges and issues these late appointments have created. We encourage OSM and the Board to take whatever action necessary to begin this process immediately.

Thank you for the opportunity to assist the Federal Subsistence Management Program to meet 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 Region. If you have questions about this letter, please contact me via Melinda Burke, Regional Council Coordinator, with the Office of Subsistence Management at 1-800-478-1456 or (907) 786-3885.

Sincerely,

Jack Reakoff, Chair

cc: Federal Subsistence Board
Pat Pourchot, Special Assistant for Alaska Affairs, DOI
Eugene Peltola Jr., Assistant Regional Director, OSM
Chuck Ardizzone, Deputy Assistant Regional Director, OSM
David Jenkins, Policy Coordinator, OSM
Carl Johnson, Council Coordination Division Chief, OSM
Western Interior Alaska Subsistence Regional Advisory Council
Chairs, Subsistence Regional Advisory Councils
Interagency Staff Committee
Administrative Record

Western Interior Alaska Subsistence Regional Advisory Council
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Toll Free: 1-800-478-1456

RAC WI14003.MH

FEB 12 2014

Honorable Sally Jewell
Secretary of the Interior
U.S. Department of the Interior
Office of the Secretary
1849 C Street, N.W.
Washington, D.C. 20240

Dear Secretary Jewell:

The Western Interior Alaska Subsistence Regional Advisory Council (Council) is one of the ten Federal Subsistence Regional Advisory Councils formed under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) and chartered under the Federal Advisory Committee Act (FACA). Section 805 of ANILCA and the Council's charter establish its authority to initiate, review, and evaluate regulations, policies, management plans, and other matters related to subsistence on Federal public lands and waters within the Western Interior Alaska region. The Council provides a regional forum for discussion and recommendations for subsistence related issues on public lands.

All of the Councils are dealing with an extremely late completion of the annual Secretarial Appointment process to fill Council seats. The delay also happened last year, and this Council sent a letter to you expressing concerns about the problem (see enclosure). This year's delay is even worse than last year, making each year progressively later in completing official appointments. Terms expired on December 2, 2013 for three seats on our Council. It is now February 11, less than 3 weeks before our winter meeting—we only just received word on February 6, 2014 on appointments for two seats and the question remains as to who will be appointed to fill the third seat.

The delay in appointments has had a negative effect on the planning and execution of important and extensive work which must be completed in a timely manner prior to our meetings. Further, these delays have discouraged applicants and future applicants from serving on the Council. This is a disastrous consequence given the steady decrease in the number of applications in recent years. Our Council wishes to re-emphasize that steps must be taken to ensure delays in

Secretary Jewell 2

appointments do not continue. We suggest our Council charters be amended to allow for a member to continue serving until official Secretarial Appointments are made.

It is an important role for this Council, and others, to assist the Federal Subsistence Program in meeting its charge of protecting subsistence resources and uses of these resources on public lands and waters in Alaska. We cannot fulfill our role when timely appointments to fill vacant seats are not given a priority. If you have questions about this letter, please contact me via Melinda Burke, Subsistence Council Coordinator, with the Office of Subsistence Management at 1-800-478-1456 or (907) 786-3885.

Sincerely,

Jack Reakoff, Chair

Enclosure

cc: Tom Vilsack, Secretary of Agriculture, USDA
Laura Marquez, White House Liaison
Pat Pourchot, Special Assistant for Alaska Affairs, DOI
Geoff Haskett, Regional Director, USFWS Region 7
Eugene R. Peltola Jr., Assistant Regional Director, OSM
Karen Hyer, Acting Deputy Assistant Regional Director, OSM
David Jenkins, Policy Coordinator, OSM
Carl Johnson, Council Coordination Division Chief, OSM
Federal Subsistence Board
Interagency Staff Committee
Western Interior Alaska Subsistence Regional Advisory Council
Administrative Record

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Toll Free: 1-800-478-1456

RAC WI13014.MH

MAY 06 2013

Honorable Sally Jewel
Secretary of Interior
U.S. Department of the Interior
Office of the Secretary
1849 C Street, N.W.
Washington, D.C. 20240

Dear Secretary Jewel:

The Western Interior Alaska Subsistence Advisory Council (Council) is one of the ten regional councils formed under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) and chartered under the Federal Advisory Committee Act (FACA). Section 805 of ANILCA and the Council's charter establish its authority to initiate, review, and evaluate regulations, policies, management plans, and other matters related to subsistence on Federal public lands and waters within the Western Interior Alaska region. The Council provides a forum for discussion and recommendations for subsistence fish and wildlife management in the region.

The Council met in Galena, Alaska, on March 5-6, 2013, and conducted a public meeting regarding subsistence issues. Among the topics discussed at this meeting were the very late Secretarial appointments to the Regional Subsistence Advisory Councils as well as the currently vacant Assistant Regional Director position since the departure of Peter J. Probasco at the Office of Subsistence Management (OSM).

Our way of life and the extreme weather common to our region are just two of the factors that make it necessary for the Council to plan well in advance for travel (personal and Council) as well as seasonal food gathering activities. The extremely late appointments create tremendous difficulties for individuals to plan in advance for travel and Council commitments. Further, our support staff needs sufficient time to plan for the very complicated logistical arrangements necessary for travel to and from rural Alaska communities. This year's delay was significantly longer than we have experienced in the past. Two of our incumbent council members did not hear about their appointment status until less than two weeks before our most recent scheduled gathering. Shockingly, it is my understanding that there remains at least one Council that has not

received word of a member's reappointment, amounting to a nearly four-month delay. Such delays are unacceptable to our statutory "meaningful role" in Federal subsistence management of fish and wildlife. Steps need to be taken as soon as possible so that delays in these very important and critical appointments do not happen again.

In the future, this Council would appreciate correspondence from the Office of Subsistence Management if these delays persist. Incumbent applicants must be informed of the status of appointments if they are expected to prepare for coming meetings and allow time in their schedules for travel. Old appointments expire in early December, which is when the announcement for appointments to those vacant seats is anticipated. New applicants may assume they have not been appointed if no official notice is sent about the delay. This could affect their ability to travel to their meetings, as lead time is necessary for the proper authorizations as well as clearing their personal calendars for Council duties.

The recent high number of retirements, budget issues, sequestration, and hiring freeze has caused great concern among the Council regarding the leadership and workload of OSM. The permanent hiring of a new Assistant Regional Director is a critical action which this Council feels needs to happen as soon as possible. This Council would be willing to correspond and provide any supporting language to make this happen soon, despite the current hiring freeze.

Thank you for the opportunity for this Council to assist the Federal Subsistence Management Program to meet its charge of protecting subsistence resources and uses of our 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 Region. If you have questions about this correspondence, please contact me via Melinda Hernandez, Subsistence Council Coordinator with OSM, at (907) 786-3885.

Sincerely,

Jack Reakoff, Chair
Western Interior Alaska Subsistence
Regional Advisory Council

cc: Kathleen M. O'Reilly-Doyle, Acting Assistant Regional Director, OSM
David Jenkins, Acting Deputy Assistant Regional Director, OSM
Carl Johnson, Council Coordination Division Chief, OSM
Melinda Hernandez, Council Coordinator, OSM
Pat Pourchot, Special Assistant for Alaska Affairs, DOI
Federal Subsistence Board
Western Interior Regional Advisory Council
Administrative Record

Federal Subsistence Board

1011 East Tudor Road, MS121
Anchorage, Alaska 99503

FISH and WILDLIFE SERVICE
BUREAU of LAND MANAGEMENT
NATIONAL PARK SERVICE
BUREAU of INDIAN AFFAIRS

FOREST SERVICE

JUN 24 2014

FWS/OSM 14058.EP

Harry K. Brower, Jr., Chair
North Slope Subsistence
Regional Advisory Council
P.O. Box 69
Barrow, Alaska 99723

Dear Mr. Harry Brower, Jr.:

This letter is to inform the Council that the Alaska Department of Fish and Game (ADF&G) has filed a request for reconsideration with the Federal Subsistence Board regarding the Board's action on wildlife proposal WP14-51.

As you are aware, in January 2012, the Federal Subsistence Board closed the Red Sheep Creek and Cane Creek drainages to Dall sheep hunting except by Federally-qualified residents of Arctic Village, Venetie, Fort Yukon, Kaktovik and Chalkyitsik.

Proposal WP14-51 submitted by the State of Alaska, requested that the Red Sheep and Cane Creek drainages be opened to non-Federally qualified users August 10 – September 20 in the Arctic Village Sheep Management Area (AVSMA) of Unit 25A, and that a person hunting within the Red Sheep Creek/Cane Creek portion of the AVSMA of Unit 25A possess proof of completion of a Alaska Department of Fish and Game approved hunter ethics and orientation course (to include land status and trespass information) prior to hunting in this area.

At the April 2014 Federal Subsistence Board meeting, the Board concurred with the recommendations of the North Slope and Eastern Interior Alaska Regional Advisory Councils to maintain the closure and rejected WP14-51.

As provided under the subsistence management regulations for Federal public lands in Alaska, in both 36 CFR 242.20 and 50 CFR 100.20, any person may file a request for reconsideration by the Board. The regulations further provide that:

> (e) Upon receipt of a request for reconsideration, the Board shall transmit a copy of such request to any appropriate Regional Council and ADF&G for review and

Mr. Harry Brower, Jr 2

recommendation. The Board shall consider any Regional Council and ADF&G recommendations in making a final decision.

Enclosed are the cover letter and request for reconsideration submitted by ADF&G.

The Board will keep the Council apprised of the opportunity to review and make recommendations to the Board on this request for reconsideration before making a final decision. If you have any questions regarding this process please contact your Subsistence Council Coordinator, Eva Patton, at 907-786-3358 or eva_patton@fws.gov.

Sincerely,

Tim Towarak, Chair

Enclosures

cc: Federal Subsistence Board
North Slope Subsistence Regional Advisory Council
Eugene R. Peltola, Jr., Assistant Regional Director, Office of Subsistence Management
Chuck Ardizzone, Deputy Assistant Regional Director, Office of Subsistence Management
Carl Johnson, Council Coordination Division Chief, Office of Subsistence Management
Eva Patton, Subsistence Council Coordinator, Office of Subsistence Management
Interagency Staff Committee
Administrative Record

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

SEAN PARNELL, GOVERNOR

P. O. BOX 115526
JUNEAU, AK 99811-5526
PHONE: (907) 465-4100
FAX: (907) 465-2332

17 June, 2014

Mr. Tim Towarak, Chairman
Federal Subsistence Board
Office of Subsistence Management
U. S. Department of the Interior
3601 C Street, Suite 1030
Anchorage, AK 99503

RE: FRFR WP14-51

Dear Mr. Towarak:

As provided for in Subpart B, 36 CFR §242.20 and 50 CFR §100.20, of Subsistence Management Regulations for federal public lands in Alaska, the Alaska Department of Fish and Game hereby requests that the Federal Subsistence Board reconsider and rescind its decisions of April 18, 2014 on Wildlife Proposal 14-51. The Board improperly denied the reinstatement of a valid harvest opportunity to other users. These decisions will purportedly be effective upon publication in the Federal Register.

The enclosed Request for Reconsideration details the reasons for our request. I request an opportunity to further explain these procedural and factual errors during Board deliberations on this request. I also request that the Board act expeditiously.

Sincerely,

Doug Vincent-Lang
Director, Division of Wildlife Conservation

Enclosure

STATE OF ALASKA'S REQUEST FOR RECONSIDERATION OF FEDERAL SUBSISTENCE BOARD ACTION ON RED SHEEP CREEK/WP14-51

I. Summary of State's Request

The State of Alaska, through its Department of Fish and Game ("State"), seeks reconsideration of the action by the Federal Subsistence Board ("Board") taken on April 18, 2014 rejecting the State's proposal, WP 14-51, that would reopen the Red Sheep Creek and Cane Creek drainages in the Arctic Village Sheep Management Area of Unit 25A (AVSMA) to non-Federally-qualified subsistence hunters August 10 through September 20, while requiring hunters to complete a State-approved hunter ethics and orientation course. The State requests reconsideration under 50 CFR 100.20(d) for the following reasons.

The Board acknowledged that the sheep population is healthy and there is no conservation reason for keeping the area closed. It purported to act under authority of provisions of ANILCA § 815 and the Board's Closure Policy that authorize closure when substantial evidence shows closure is necessary to provide a meaningful preference for qualified subsistence users. However, there was no substantial evidence that non-subsistence hunting interferes with the preference accorded to Federally-qualified subsistence hunters or their access to sheep for subsistence. The Board acknowledged that evidence of subsistence use of sheep in the greater AVSMA including the drainages is "sparse." These drainages comprise a small portion of the AVSMA, and the actual subsistence use of these drainages by Federally-qualified hunters and the number of sheep taken is not known. Federally-qualified hunters have 271 days each year to hunt sheep in this area and can take any rams. The Board acted unreasonably and unlawfully in closing the drainages to the few non-Federally-qualified hunters who hunt in the drainages for full curl rams during the 41-day state hunt based on comments about aircraft noise and the idea that local hunters do not want other sheep hunters to be in the area. The Board considered improper legal standards and irrelevant information in reaching its decision, and also did not reasonably consider other less restrictive options, as required by the Board's Closure Policy, including the effects of a mandatory hunter ethics and orientation class offered by the State, as discussed below.

II. There is No Conservation Need to Keep the Area Closed to Sheep Hunting By Non-Federally-Qualified Subsistence Hunters

The history of sheep hunting regulation in this area since 1991 is summarized in the Draft Staff Analysis prepared by the Office of Subsistence Management ("OSM") for the Board in conjunction with its April 18, 2014 meeting. In 2007, the Board approved the State's proposal to lift the closure of the drainages because surveys of sheep populations found the "sheep populations in these drainages were determined to be healthy," but in 2012 it reinstated the closure, contrary to OSM's recommendation [2014 OSM Staff Analysis at p. 340]

From the period 2006 to 2011, before the 2012 closure was put into place, the sheep density in the drainages remained stable, and slightly increased. This occurred while non-Federally-qualified sheep hunters harvested two to seven sheep annually.

As stated in the OSM Staff Analysis [page346]: "If adopted, this proposal would not affect the Dall sheep population in the proposal area. The most recent population surveys indicate good productivity of the sheep population. Allowing sheep hunting by non-Federally qualified users in these drainages is not a conservation concern . . . ."

III. The Record Does Not Support a Finding That a Closure is Necessary to Provide a Meaningful Preference for Qualified Subsistence Users

In its Staff Analysis and at the meeting, OSM reported that information on use of the larger AVSMA by Federally-qualified subsistence users is "sparse" and there is little evidence and no documentation of subsistence hunting and harvests of sheep by the local communities in the Red Sheep Creek and Cane Creek drainages within the AVSMA. [FSB 4/18/14 Meeting Tr. at 490; 2014 OSM Staff Analysis at p. 342]. OSM said "just how many sheep are harvested by Federally qualified subsistence users in the AVSMA is not known," primarily because of Federally qualified users' non-compliance with permitting and reporting requirements. [*Id.*] The permit data that are available show *average annual harvest by federally qualified users in the entire AVSMA was less than one sheep per year in 2005-10*. [*Id.*] The Red Sheep Creek and Cane Creek drainages comprise a small part of the overall AVSMA, and there is no data on how many sheep were harvested by Federally qualified users in these particular drainages. The older ADF&G household survey data from the mid-1990s as reported by OSM indicate that Arctic Village residents harvested 3–5 sheep per year in the mid-1990s, but again do not show the location of the harvest. [*Id.* at p. 342-43].

The anthropological studies that OSM cites in its staff analysis are equally sparse and inconclusive, are presented without discussion, and as reported do not support closure. For example, OSM cites anthropological studies for the proposition that sheep are important to the residents of Arctic Village, but does not cite to any support for the proposition that Arctic Village residents regularly subsistence hunt for sheep in these drainages.[1] OSM also summarily asserts: "The public record supports the fact that Arctic Village residents have a long history of using the Red Sheep and Cane Creek drainages, and that it continues to be a culturally significant area to them," without support for this assertion. It goes on to state: "Extensive discussion included in previous proposal analysis (cf. Proposal 58 in 1993, Proposal 54 in 1994, and Proposal WP14-51 in 2012) pointed to regular use of these drainages by residents of Arctic

[1] OSM states: "Sheep hunting is a 'longstanding' tradition for Arctic Village residents, most of whom are Gwich'in Athabascan (Caulfield 1983:68; Denero 2003; Gustafson 2004: EIRAC 2006, 2007, 2011), and the Red Sheep and Cane Creek areas have been a longstanding focus of this activity." OSM cites no studies or other authority for the latter proposition. [2014 OSM Staff Analysis at p. 342].

Village (USFWS 1993, 1995)." [*Id*. at 344] However, the 2012 meeting transcript and materials contain no such extensive discussion or support for these conclusions. Rather, they show OSM staff making the same unsupported and sweeping conclusions in meeting after meeting, repeating themselves and citing their previous unfounded statements until these statements are assumed to be correct. [2]

Particularly egregious is OSM's failure even to report to the Board in 2014 the best and most recent available data, which was presented to the Eastern Interior RAC but not to the Board. ANWR Assistant Refuge Manager Hollis Twitchell told the EIRAC that in the several weeks he spent in the drainages in August and September of 2012 and again in 2013 monitoring use of the area, he *saw no local hunters in the area in 2012 and only one local hunter in 2013*. [EIRAC 11/20/13 Meeting Tr. 262]

Focusing on the issue and analysis required under ANILCA § 815 and the Board's Closure Policy – whether closure is necessary to provide a meaningful preference for qualified subsistence users – there is no evidence in the record at all that subsistence users have been prevented from or impaired in meeting their subsistence needs by non-subsistence hunting in the area. Rather, the Board was swayed by unsubstantiated comments from OSM and a few individuals about the possibility of aircraft noise disturbance, but it failed to take a hard look at the data, which is generalized, dated, and not indicative of actual disturbance of subsistence in these drainages. OSM said that residents reported that plane fly-overs "spook" sheep and that "older rams can climb to higher elevations, making them more difficult to hunt," citing its 1993 proposal analysis. It cites more recent personal communications for the proposition that flights through the Red Sheep and Cane Creek areas "disturb the sheep." [2014 OSM Staff Analysis at p. 345]. But there is no data suggesting or showing that any such disturbance actually occurs and if so whether it actually interferes with their ability to subsistence hunt for and harvest sheep in the drainages, which the evidence shows rarely occurs.

Moreover, the best available data, which is buried elsewhere in its report, indicates that most of the air and ground traffic in the area is from hikers, not hunters. OSM reports, under the heading "current events involving species," that in his several weeks in the area in August and September of 2012, Assistant Refuge Manager Twitchell saw only one group of non-Federally-qualified hunters (even though the State hunting regulations pamphlet did not inform the public that the area was closed), but encountered eight to ten other user groups that were dropped off in the area and hiked up the drainages to access other portions of the refuge. [2014 OSM Staff Analysis at p.

[2] *See* Transcript of 2012 FSB meeting at p. 191 (testimony of Dr. David Jenkins, saying exactly the same thing in 2012 as in 2014: "And the public record supports the fact that Arctic Village residents have a long history of using Red Sheep and Cane Creek drainages and that it continues to be a culturally significant area and there's public testimony and previous analyses which attest to the significance and the continued use of Red Sheep Creek area for sheep hunting." OSM fails to mention contrary evidence, such as the testimony of Arctic Village elder Gideon James, who testified to the FSB in 2012: " Cane Creek and Red Sheep Creek is one of our historical places that our people have traveled to, you know, they don't actually go there every year but, you know, they know that the sheep is there to -- for them when they need it." [*Id.* at p. 201].

341]. And OSM did not include in its report what Mr. Twitchell told the EIRAC, that alleged impacts such as trash and trespass that are blamed on sheep hunters "could very well be" from other users, not sheep hunters. [EIRAC 11/20/13 Meeting Tr. at p. 263-64].

An agency action is arbitrary and capricious if the agency "entirely failed to consider an important aspect of the problem [or] offered an explanation for its decision that runs counter to the evidence before the agency." *Alaska v. Federal Subsistence Bd.*, 544 F.3d 1089, 1094 (9th Cir. 2008). The Board heard testimony that aircraft noise can disturb sheep and leapt to the conclusion that aircraft noise from non-Federally qualified users in the drainages does significantly interfere with Federally-qualified users' subsistence harvests. This conclusion was arbitrary and capricious and not supported by substantial evidence.

With such a significant lack of information on use by Federally-qualified subsistence users and on impacts on these users' subsistence harvests, and such a selective and misleading presentation of the evidence, the Board's rejection of WP14-51 lacks substantial evidence in the record to support a finding the closure should be continued and should be reconsidered. Indeed, in 2012, considering essentially the same evidence (other than Mr. Twitchell's observations, which began later that year and which do not support the continued closure), OSM recommended that the drainages be kept open to non-subsistence hunting. OSM staff stated in their written analysis in 2012:

> While it is recognized that Red Sheep Creek and Cane Creek are culturally important to the people of Arctic Village and that this is a longstanding issue for the people of Arctic Village, reinstating the Federal closure is not supported by the available biological data or formal harvest data. … The most recent population surveys indicate good productivity of the sheep population. … Based on the harvest information and populations surveys, allowing sheep hunting by non-Federally qualified hunters does not have a measurable effect. …
>
> In addition, reinstating this closure is not necessary to meet the continued use clause of Section 815(3). Despite past closures to non-Federally qualified hunters and a more liberal subsistence harvest limit, there has been relatively little hunting reported in the Red Sheep and Cane Creek drainages by Arctic Village and other Federally qualified communities. Since subsistence users can take two rams of any age, the number of sheep available to them is much greater than the number of full-curl rams to which non-Federally qualified hunters are limited.

[2012 Draft Staff Analysis, from Interagency Staff Committee Meeting Materials at p. 634] Likewise, an OSM staff member told the Board at the 2012 meeting:

> The OSM conclusion is to oppose this proposal [to close the Red Sheep and Cane Creek drainages]. Reinstating the Federal closure in Red Sheep and Cane Creek is not supported by the available biological data, although sheep populations in

> the area are lower than in other areas of Alaska the most recent data we have available does indicate good production. In addition information on sheep harvest by Federally-qualified users is lacking for the two drainages and there's been very little reported hunting by local users since 1991. Finally Federally-qualified users have a much larger segment of the population available for harvest than do non-Federally-qualified users and the opportunity to harvest under Federal regulations extends until April 30th, providing these users with more than seven months of harvest opportunity beyond the State's fall hunting season. [Transcript of 2012 FSB meeting at p. 191-92]

The same analysis and same conclusions apply here as in 2012 and support lifting the closure. Further, as discussed above, the new evidence is even less supportive of closure than the evidence considered by OSM and the Board in 2012.

The Board has the authority to close public lands to non-subsistence users only when substantial evidence shows it is necessary to conserve healthy populations of fish and wildlife or to continue subsistence uses of such populations. 16 USC 3125(3), 50 CFR 100.10(4)(vi). There is no conservation need, and there is no substantial evidence showing need to keep the area closed to provide a meaningful preference for subsistence uses.

IV. The Board Did Not Apply the Correct Legal Standards for Closure When It Closed the Drainages in 2012 and When It Continued the Closures in 2014

In 2012, immediately after moving to adopt the proposal to close the drainages and receiving a second, the USFWS Board member stated on the record what he said were two rules that should guide deliberations: "[U]nless there's a biological, conservation issue we're pretty much supposed to not go against what's proposed by the RAC. … Another rule we have is that we're not going to go against what the RAC proposes unless it's detrimental to the satisfaction of subsistence need." [Transcript of 2012 FSB meeting at p. 225].

These were incorrect statements of the legal standards. The Board may not defer to RACs where their position is not supported by substantial evidence that the closure is necessary for the continuation of subsistence. *See* ANILCA § 805(c); *Alaska v. Federal Subsistence Bd.*, 544 F.3d at 1095 fn.9. That these were incorrect statements of the legal standards also is clear from the Board's 2007 "Policy on Closures to Hunting, Trapping and Fishing on Federal Public Lands and Waters in Alaska" ("Closure Policy), which states:

> The Board will not restrict the taking of fish and wildlife by users on Federal public lands (other than national parks and park monuments) *unless necessary* for the conservation of healthy populations of fish and wildlife resources, or *to continue subsistence uses of those populations*, or for public safety or administrative reasons, or "pursuant to other applicable law." … *Proposed closures will be analyzed to determine whether such restrictions are necessary* to

> assure conservation of healthy populations of fish and wildlife resources or *to provide a meaningful preference for qualified subsistence users*. The analysis will identify the availability and effectiveness of other management options that could avoid or minimize the degree of restriction to subsistence and non-subsistence users.

The closure policy also reiterates the substantial evidence standard, under the heading "Decision Making": "The Board will … [b]ase its actions on substantial evidence contained within the administrative record, and on the best available information; complete certainty is not required."

ANILCA and the Closure Policy presume that Federal public lands (other than national parks and park monuments) will remain open to the taking of fish and wildlife by non-Federally qualified users as well as by Federally-qualified users. This taking may not be restricted unless, and only for so long as, substantial evidence in the record shows that closure is necessary to assure a meaningful subsistence preference.

Shortly after the USFWS member incorrectly stated the standard, the transcript indicates further confusion about the correct legal standards. The BIA Board member asked Board's counsel a question: "I noticed in the Resolution 12-1, which was read earlier, ANILCA clearly anticipates closure of sports hunting where they would serve to continue subsistence uses, is that in the Federal closure policy?" Counsel responded: "I've just been handed a copy and I'll read the sentence into the record. 'When necessary for the conservation of healthy populations of fish and wildlife, to continue subsistence uses of such populations, the Federal Board is authorized to restrict or close the taking of fish and wildlife by non-subsistence users.'" Counsel did not elaborate, and did not clarify that the standard is not "serve to" continue subsistence uses, it is "*necessary* to" continue (interpreted in the Closure Policy as "necessary to provide a meaningful preference" for subsistence uses). [Transcript of 2012 FSB meeting at p. 229]

The application of the incorrect legal standards in 2012 flowed through to and tainted the 2014 action, since several Board members voted against the State's 2014 proposal because they believed nothing had changed since 2012. [FSB 4/18/14 Meeting Tr. at pp. 505-06, 510]. Board members' application of incorrect closure standards warrants the Board's reconsideration of its decision.

V. The Board Considered Irrelevant and Unlawful Evidence in Making Its Decision.

The transcript of the testimony and deliberations at the 2012 and 2014 Board meetings and RAC meetings indicates the closure is driven by a desire of local residents to keep outsiders from hunting in the area. This desire may be understandable but it is not a lawful consideration, because ANILCA and the Closure Policy protect non-subsistence hunting as long as a

meaningful subsistence priority is provided.[3] The desire to exclude outsiders is implicit in the vague and shifting concerns about trespass and outsiders' use of aircraft (even though local residents use aircraft to access the area), and occasionally it is explicit in the testimony.[4] That the Board improperly relied on this factor is apparent, for example in the comment by a Board member that he would "vote in opposition of it, just based on the cultural significance of the people of the area" and the notion that the "connection to the land and the resource to the people in the area is generally lost due to trying to provide an opportunity for other people to come in and share that resource in that area." [FSB 4/18/14 Tr. at 50]. A bad decision resulted from perpetuation of the Board's reliance on rumors and hearsay.

An agency action will be found to be arbitrary and capricious if "the agency has relied on factors which Congress has not intended it to consider." *Alaska v. Federal Subsistence Bd.*, 544 F.3d 1089, 1094 (9th Cir. 2008). Congress intended that public lands would be open to the public and that non-Federally-qualified hunters as well as Federally-qualified hunters would be able to use public lands in Alaska, including hunting on those lands, as long as a meaningful preference for

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[3] *See Ninilchik Traditional Council v. United States*, 227 F.3d 1186, 1192 (9th Cir. 2000) ("Congress, however, articulates other statutory aims as well. In ANILCA's statement of purpose, for instance, Congress declares as a goal to 'preserve wilderness resource values and related recreational opportunities including but not limited to hiking, canoeing, fishing, and sport hunting ....' § 3101(b)."

[4] At the 2012 Board meeting, Bob Childers, Executive Director of the Gwitch'in Steering Committee, testified that Arctic Village residents:

> didn't feel comfortable being there anymore. There was folks in -- there was an airplane camp right there at Red Sheep Creek, there's hunters in there, they just felt really uncomfortable, not that there'd been -- there'd been a couple incidents, but nothing that was very serious, but they just felt like it wasn't that big a place, that they couldn't go there. They talked about -- one of the things that was repeated again and again in those interviews was something like, you know, we don't know who those people are, we don't know who their parents were, we don't know where they came from and we don't know what they're going to do. And people – you know, there was a couple incidents where people may have felt threatened, those incidents get passed around. When we started doing that -- those interviews people hadn't -- several of the people I talked with hadn't hunted in Red Sheep Creek in several years. And when I asked them why it was always the same reason, they just didn't feel like there was enough room for them there anymore. There's also a number of cultural sites in the valley, …

[Transcript of 2012 FSB meeting at p. 197]. In response, RAC representative Ralph Lohse commented

> on your -- what you were saying about the uncomfortableness. I know from being around I'll say long term residents of Cordova who are used to hunting, if there's somebody else's boat there or somebody else is in the valley, they don't go hunting there, you know, you don't -- the average subsistence user is not into combat hunting or combat fishing, if there's somebody else there you go someplace else and if there's no place else to go you go home. And I could understand that very fully for -- from a village standpoint out there, this is a place that you've been used to going and there's somebody else going, you don't go hunt on top of them, you..... you know, you wait until there's nobody else there.

[*Id.*]

subsistence uses is provided. Congress did not intend the Board to consider, and the Board should have been instructed that it cannot consider, the desires of local residents and hunters simply to exclude others from the area. The Board should have been instructed to consider, and should have considered, only the actual impacts on subsistence from hunting by non-Federally-qualified users.

VI. The Board Did Not Adequately Consider and Adopt Less Restrictive Alternatives to Closure As Required By Its Closure Policy.

The Board's Closure Policy states that proposed closures will be analyzed to "identify the availability and effectiveness of other management options that could avoid or minimize the degree of restriction to subsistence and non-subsistence users." For this analysis to be meaningful, not only must there be such an analysis, the Board must consider less restrictive alternative options and adopt them if they will provide the necessary protection of the subsistence preference in a less restrictive manner. Even if there had been a supportable reason for placing restrictions on non-Federally-qualified users, the Board did not consider less restrictive options, including the potential effectiveness of the new State-approved hunter education class in minimizing the real and perceived conflicts with subsistence. A variety of educational possibilities could have been explored, such as with aircraft noise (for example, suggesting agreed-upon altitudes and minimizing "fly-bys"). Other possibilities beyond the State's proposed class also were not considered. For example, in 2012 Jack Reakoff suggested keeping these drainages closed to non-Federally qualified hunters on the opening day of the sheep season and then opening them a few days later to alleviate opening-day pressures, but it does not appear that the Board considered such an option in 2012 or 2014. [5]

Further, the Board did not consider alternatives that could alleviate non-subsistence concerns, such as trespass (for example, if the class were to include maps showing the location of allotments and other private lands) and cultural sensitivity (such as with education of hunters on the nature and importance of subsistence, cultural and local norms, and culturally and locally important areas and sites).

VII. Closing the Drainages to a Small Group of Occasional Users While Leaving It Open Without Restriction to a Large Group of Other Annual Users is Arbitrary and Capricious.

As discussed above, there is no evidence that aircraft noise or the presence of non-Federally-qualified hunters or others (users who are expressly authorized by ANILCA to use public lands)

[5] [Transcript of 2012 FSB meeting at p. 213]. Mr. Reakoff suggested that "there's this opening day syndrome, everybody's got to get there on the opening day. And so if you don't allow hunters, non-subsistence hunters to hunt on the opening day, that's the main stress period. They'll be hunting somewhere else. If you displace them for a 10 day period or a 20 day period until the end of August you would have -- basically alleviate a lot of the local people's stresses." [*Id.* at 212-13].

in any way affects the subsistence preference accorded to Federally-qualified users. The continued closure to a small handful of hunters is arbitrary, capricious, and unsupported by substantial evidence. Further, even aircraft noise or the presence of others were appropriate concerns, it is arbitrary and capricious to keep the drainages closed only to non-Federally-qualified hunters, whose use has been shown to be occasional, sporadic, and in small numbers, while keeping them open to all other recreationalists and other users, who use the area annually in much greater numbers and whose relative impacts are much greater, without addressing potential impacts from those users.

VIII. Conclusion

The State's proposal, WP14-51, would open the area to a few sheep hunters for about 41 days, August 10 through September 20. The Federally-qualified subsistence hunters would continue to be able to hunt sheep in these drainages for about 271 days, August 10 through April 30, and thus would continue to enjoy a meaningful subsistence preference, as OSM recognized in 2012 when it recommended against closing the area to non-Federally-qualified users.

The State urges the Board reconsider its action on Proposal WP14-51, and to take a hard look at all of the evidence in the record it relied upon when closing the area in 2012 and refusing to reopen the area in 2014. There is no evidence regarding actual impacts on subsistence sheep hunting in the area from non-subsistence hunting. In fact, there is no evidence of actual Federally-qualified subsistence sheep hunting in these drainages. The stated reasons for the closure indicate local people simply don't want sheep hunters coming in from outside the area, in spite of a serious lack of evidence of impacts on subsistence hunting. The testimony about alleged trespassing and sheep displaced by airplane noise was vague, was not tied to any particular people or location, and was not tied to impacts on subsistence. There is some discussion by the Board members recognizing use of the area by other users, but it is unclear from the record, assuming trespassing occurred and planes caused sheep to move, the extent of the alleged trespassing and sheep displacement, whether the culprits were sheep hunters (either local or visitors) or other visitors to the area, and whether trespassing or sheep displacement continues to occur. Most importantly, the record lacks evidence of any actual impacts on subsistence sheep hunting. Finally, the Board must consider other lesser restrictive alternatives, including the impact of the new State-approved hunter education class. The Board's decision to disregard the potential of educating sheep hunters on ethics and orientation was arbitrary and capricious.

The Board's actions are inherently inconsistent: The Board closed the area in 2012 without evidence about the subsistence uses in the area, concluding that hunting by a few non-Federally-qualified hunters may potentially adversely impact subsistence users. The Board's decision was not based on substantial evidence in the record, but merely on self-serving statements that having other hunters in the area affects ability to hunt. The Board did not request details or actual facts. Yet the Board also concluded that it needs more details and cannot determine whether the State's

hunter ethics and orientation course would have an effect on subsistence users, and therefore will keep the closure in place, thereby denying the State an opportunity to demonstrate the effectiveness of such a course. Reconsideration by the Board of its action on WP14-51 would allow the Board the opportunity to apply the correct standards for closure and to review and correct its conclusions regarding subsistence impacts in the Red Sheep Creek and Cane Creek drainages. Keeping the area closed simply to keep outsiders from hunting sheep in the area is not permissible under ANILCA. The State understands and supports the residents' desire to have the right to subsistence hunt for sheep in these drainages. WP14-51 would have no impact on the healthy population of sheep, and would not adversely affect the minimal use of sheep by Federally-qualified subsistence users.

STATE OF ALASKA
DEPARTMENT OF FISH AND GAME

DATED: 17 June 2014

DOUG VINCENT-LANG, DIRECTOR –
DIVISION OF WILDLIFE CONSERVATION
FOR CORA CAMPBELL, COMMISSIONER

Winter 2015 Regional Advisory Council Meeting Calendar

February–March 2015 current as of 4/2/2014

Meeting dates and locations are subject to change.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Feb. 8	*Feb. 9* *Window Opens*	***Feb. 10***	***Feb. 11***	***Feb. 12***	***Feb. 13***	*Feb. 14*
Feb. 15	*Feb. 16* *HOLIDAY*	***Feb. 17***	***Feb. 18*** SC — Anchorage SP — Nome	***Feb. 19***	***Feb. 20***	*Feb. 21*
Feb. 22	***Feb. 23***	***Feb. 24*** BB — Naknek	***Feb. 25*** YKD — Bethel	***Feb. 26***	***Feb. 27***	*Feb. 28*
Mar. 1	***Mar. 2***	***Mar. 3*** WI — Fairbanks	***Mar. 4*** EI — Fairbanks	***Mar. 5***	***Mar. 6***	*Mar. 7*
Mar. 8	***Mar. 9*** NWA—Kotzebue	***Mar. 10***	***Mar. 11*** K/A — Old Harbor	***Mar. 12***	***Mar. 13***	*Mar. 14*
Mar. 15	***Mar. 16***	***Mar. 17*** SE — Yakutat	***Mar. 18***	***Mar. 19***	*Mar. 20* *Window Closes*	*Mar. 21*

Fall 2015 Regional Advisory Council Meeting Calendar

August–November 2015

Meeting dates and locations are subject to change.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Aug. 16	Aug. 17 WINDOW OPENS	Aug. 18	Aug. 19	Aug. 20	Aug. 21	Aug. 22
Aug. 23	Aug. 24	Aug. 25	Aug. 26	Aug. 27	Aug. 28	Aug. 29
Aug. 30	Aug. 31	Sept. 1	Sept. 2	Sept. 3	Sept. 4	Sept. 5
Sept. 6	Sept. 7 HOLIDAY	Sept. 8	Sept. 9	Sept. 10	Sept. 11	Sept. 12
Sept. 13	Sept. 14	Sept. 15	Sept. 16	Sept. 17	Sept. 18	Sept. 19
Sept. 20	Sept. 21	Sept. 22	Sept. 23	Sept. 24	Sept. 25	Sept. 26
Sept. 27	Sept. 28	Sept. 29	Sept. 30 End of Fiscal Year	Oct. 1	Oct. 2	Oct. 3
Oct. 4	Oct. 5	Oct. 6	Oct. 7	Oct. 8	Oct. 9	Oct. 10
Oct. 11	Oct. 12	Oct. 13	Oct. 14	Oct. 15	Oct. 16	Oct. 17
Oct. 18	Oct. 19	Oct. 20	Oct. 21	Oct. 22	Oct. 23	Oct. 24
Oct. 25	Oct. 26	Oct. 27	Oct. 28	Oct. 29	Oct. 30	Oct. 31
Nov. 1	Nov. 2	Nov. 3	Nov. 4	Nov. 5	Nov. 6 WINDOW CLOSES	Nov. 7

Department of the Interior
U. S. Fish and Wildlife Service

North Slope Subsistence Regional Advisory Council

Charter

1. **Committee's Official Designation.** The Council's official designation is the North Slope Subsistence Regional Advisory (Council).

2. **Authority.** The Council is reestablished by virtue of the authority set out in the Alaska National Interest Lands Conservation Act (16 U.S.C. 3115 (1988)) Title VIII, and under the authority of the Secretary of the Interior, in furtherance of 16 U.S.C. 410hh-2. The Council is established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. Appendix 2.

3. **Objectives and Scope of Activities.** The objective of the Council is to provide a forum for the residents of the Region with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal lands and waters in the Region.

4. **Description of Duties.** The Council possesses the authority to perform the following duties:

   a. Recommend the initiation of, review, and evaluate proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife on public lands within the Region.

   b. Provide a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife on public lands within the Region.

   c. Encourage local and regional participation in the decisionmaking process affecting the taking of fish and wildlife on the public lands within the Region for subsistence uses.

   d. Prepare an annual report to the Secretary containing the following:

      (1) An identification of current and anticipated subsistence uses of fish and wildlife populations within the Region.

      (2) An evaluation of current and anticipated subsistence needs for fish and wildlife populations within the Region.

(3) A recommended strategy for the management of fish and wildlife populations within the Region to accommodate such subsistence uses and needs.

(4) Recommendations concerning policies, standards, guidelines, and regulations to implement the strategy.

e. Appoint one member to the Gates of the Arctic National Park Subsistence Resource Commission in accordance with Section 808 of the Alaska National Interest Lands Conservation Act (ANILCA).

f. Make recommendations on determinations of customary and traditional use of subsistence resources.

g. Make recommendations on determinations of rural status.

h. Provide recommendations on the establishment and membership of Federal local advisory committees.

5. **Agency or Official to Whom the Council Reports.** The Council reports to the Federal Subsistence Board Chair, who is appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture.

6. **Support.** The U.S. Fish and Wildlife Service will provide administrative support for the activities of the Council through the Office of Subsistence Management.

7. **Estimated Annual Operating Costs and Staff Years**. The annual operating costs associated with supporting the Council's functions are estimated to be $120,000, including all direct and indirect expenses and 0.9 staff years.

8. **Designated Federal Officer**. The DFO is the Subsistence Council Coordinator for the Region or such other Federal employee as may be designated by the Assistant Regional Director – Subsistence, Region 7, U.S. Fish and Wildlife Service. The DFO is a full-time Federal employee appointed in accordance with Agency procedures. The DFO will:

- Approve or call all of the advisory committee's and subcommittees' meetings,
- Prepare and approve all meeting agendas,
- Attend all committee and subcommittee meetings,
- Adjourn any meeting when the DFO determines adjournment to be in the public interest, and
- Chair meetings when directed to do so by the official to whom the advisory committee reports.

9. **Estimated Number and Frequency of Meetings.** The Council will meet 1-2 times per year, and at such times as designated by the Federal Subsistence Board Chair or the DFO.

10. **Duration.** Continuing.

11. **Termination.** The Council will terminate 2 years from the date the Charter is filed, unless, prior to that date, it is renewed in accordance with the provisions of Section 14 of the FACA. The Council will not meet or take any action without a valid current charter.

12. **Membership and Designation.** The Council's membership is composed of representative members as follows:

    Ten members who are knowledgeable and experienced in matters relating to subsistence uses of fish and wildlife and who are residents of the Region represented by the Council. To ensure that each Council represents a diversity of interests, the Federal Subsistence Board in their nomination recommendations to the Secretary will strive to ensure that seven of the members (70 percent) represent subsistence interests within the Region and three of the members (30 percent) represent commercial and sport interests within the Region. The portion of membership representing commercial and sport interests must include, where possible, at least one representative from the sport community and one representative from the commercial community.

    The Secretary of the Interior will appoint members based on the recommendations from the Federal Subsistence Board and with the concurrence of the Secretary of Agriculture.

    Members will be appointed for 3-year terms. A vacancy on the Council will be filled in the same manner in which the original appointment was made. Members serve at the discretion of the Secretary.

    Council members will elect a Chair, a Vice-Chair, and a Secretary for a 1-year term.

    Members of the Council will serve without compensation. However, while away from their homes or regular places of business, Council and subcommittee members engaged in Council, or subcommittee business, approved by the DFO, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under Section 5703 of Title 5 of the United States Code.

13. **Ethics Responsibilities of Members.** No Council or subcommittee member will participate in any specific party matter in which the member has a direct financial interest in a lease, license, permit, contract, claim, agreement, or related litigation with the Department.

14. **Subcommittees.** Subject to the DFO's approval, subcommittees may be formed for the purpose of compiling information and conducting research. However, such subcommittees must act only under the direction of the DFO and must report their recommendations to the full Council for consideration. Subcommittees must not provide advice or work products directly to the Agency. The Council Chair, with the approval of the DFO, will appoint subcommittee members. Subcommittees will meet as necessary to accomplish their assignments, subject to the approval of the DFO and the availability of resources.

15. **Recordkeeping.** Records of the Council, and formally and informally established subcommittees or other subgroups of the Council, shall be handled in accordance with General Records Schedule 26, Item 2, and other approved Agency records disposition schedule. These records shall be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. 552.

Sally Jewell
Secretary of the Interior

NOV 25 2013
Date Signed

DEC 03 2013
Date Filed