

# **NORTH SLOPE Subsistence Regional Advisory Council**



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## **Meeting Materials**

March 7–8, 2011

Barrow

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**NORTH SLOPE SUBSISTENCE REGIONAL ADVISORY COUNCIL**

Inupiat Heritage Center

Barrow, Alaska

March 7 starting at 1:00 p.m.; March 8 starting at 9 a.m.

**PUBLIC COMMENTS:** Public comments are welcomed for each agenda item. Please fill out a comment form or be recognized by the Chair. Testimony time limits may be given to provide opportunity for all to testify and to keep on schedule.

**PLEASE NOTE:** These are estimated times and topic order are subject to change. Contact staff at the meeting for the current schedule.

**AREA CONCERNS:** The Regional Council arranges its meetings to hear and understand the subsistence concerns of the area where they meet. Please share your subsistence concerns and knowledge. The agenda is an outline and is open to the area’s subsistence concerns, listed or not.

**DRAFT AGENDA**

1. **Call to Order** *(Chair)*
2. **Moment of Silence**
3. **Roll Call and Establish Quorum** *(Secretary)*..... 4
4. **Welcome and Introductions** *(Chair)*
5. **Review and Adopt Agenda** *(Chair) (Add new items under 14)*
6. **Review and Approve Minutes** of August 24, 2010 Meeting *(Chair)* ..... 5
7. **Elect Officers**
  - A. Chair *(Coordinator)*
  - B. Vice-chair *(new Chair presiding)*
  - C. Secretary *(new Chair presiding)*
8. **Western Arctic Caribou Herd Report** *(Coordinator)*
9. **Next Meeting** *(Coordinator)*
  - A. Confirm Date and Location of Fall 2011 Meeting ..... 15
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*(Proposal Deadline is March 24, 2011)*
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D. Bureau of Land Management ( <i>Dave Yokel</i> )	
E. Alaska Department of Fish and Game	
F. Arctic National Wildlife Refuge	
1. Arctic CCP ( <i>staff</i> )	
G. Other	
<b>14. New Business</b>	

**15. Closing Comments**

**16. Adjourn**

For further information about this meeting contact Barbara Atoruk at 907-786-3885, 1800-478-1456, email [barbara\\_atoruk@fws.gov](mailto:barbara_atoruk@fws.gov) or go to the OSM website <http://alaska.fws.gov/asm/index.cfm>

**Teleconferencing:** is available upon request. You must call the Office of Subsistence Management at 1-800-478-1456, 786-3888 or 786-36767 no later than Tuesday, March 1, 2011 to receive this service. Please notify Ms. Atoruk which agenda topic interests you and whether you wish to testify regarding it.

**Provision for Disabilities:** The U.S. Fish and Wildlife is committed to providing access to this meeting for all participants. Please direct all requests for sign language interpreting, Computer Aided Real-time Translation (CART) or other accommodation needs to Ms. Atoruk no later than Tuesday, March 1.

If you need alternative formats or services because of a disability, please contact the Diversity and Civil Rights Manager at (907)786-3328 (Voice), via e-mail at [douglas\\_mills@fws.gov](mailto:douglas_mills@fws.gov), or via Alaska Relay (dial 7-1-1 from anywhere in Alaska or 1-800-770-8255 from out-of-state) for hearing impaired individuals with your request by close of business Tuesday, March 1, 2011.

**REGION 10 - NORTH SLOPE**

<b><u>SEAT 1</u></b>	<b>VACANT</b>	
<b><u>SEAT 2</u></b>	<b>VACANT</b>	
<b><u>SEAT 3</u></b>	<b>Roy Maloney Nageak, Sr.</b>	
<b>2013</b>	<b>Barrow, Alaska 99723</b>	
<b>2010</b>		
<b><u>SEAT 4</u></b>	<b>Lloyd K. Leavitt</b>	
<b>2013</b>	<b>Barrow, Alaska 99723</b>	
<b>2007</b>		
<b><u>SEAT 5</u></b>	<b>Harry K. Brower, Jr.</b>	<b>Chair</b>
<b>2011</b>	<b>Barrow, Alaska 99723</b>	
<b>1993</b>		
<b><u>SEAT 6</u></b>	<b>Ray F. Koonuk, Sr.</b>	
<b>2011</b>	<b>Point Hope, Alaska 99766</b>	
<b>2008</b>		
<b><u>SEAT 7</u></b>	<b>James Nageak</b>	
<b>2011</b>	<b>Anaktuvuk Pass, Alaska</b>	
<b>2008</b>	<b>99721</b>	
<b><u>SEAT 8</u></b>	<b>VACANT</b>	
<b><u>SEAT 9</u></b>	<b>Lee Kayotuk</b>	<b>Secretary</b>
<b>2012</b>	<b>Kaktovik, Alaska 99747</b>	
<b>2006</b>		
<b><u>SEAT 10</u></b>	<b>Rosemary Ahtaungaruak</b>	
<b>2012</b>	<b>Barrow, Alaska 99723</b>	
<b>2009</b>		

**NORTH SLOPE SUBSISTENCE COUNCIL MEETING  
NORTH SLOPE BOROUGH ASSEMBLY ROOM, BARROW, ALASKA  
August 24, 2010 9:00 A.M. – 5:00 P.M.**

**MINUTES**

**Members Present:**

Mr. Harry Brower, Barrow, Chairman  
Ms. Rosemary Ahtuanguaruak, Nuiqsut  
Mr. Lloyd Leavitt, Barrow  
Mr. James Nageak, Anaktuvuk Pass

**Excused:**

Mr. Lee Kayotuk, Kaktovik  
Mr. Paul Bodfish, Atqasuk  
Mr. Ray Koonuk, Sr., Point Hope

**Federal/Agency Personnel**

**FWS/OSM**

Barb Atoruk, Anchorage  
Helen Armstrong, Anchorage  
Coleen Brown, Anchorage  
Alicia Davis, Anchorage

**State ADF&G**

Geoff Carroll, Barrow  
Richard Driscoll, Fairbanks  
Lisa Slayton, Fairbanks

**NPS:** Marcy Okada, Fairbanks

**Court Reporter:** Matrix Court Reporters

**BIA**

None

**BLM**

Dave Yokel, Fairbanks  
Ben Nageak, Barrow

**NVB**

Joe Sage, Barrow  
Tommy Olemaun, Barrow

**ICC:** Jimmy Stotts, Anchorage

**Call to Order**

Harry Brower, Jr., Chairman, called the meeting to order at 9:12 AM in Barrow at the North Slope Borough (NSB) Assembly Room.

As mentioned on the transcripts, Gordon Brower is not currently on the Council.

**Roll Call/Confirmation of Quorum**

Barb Atoruk, Regional Coordinator, called roll. A quorum was established. Members excused: Lee Kayotuk, Kaktovik; Paul Bodfish, Atqasuk; Ray Koonuk, Point Hope. The weather was not cooperating for them to travel.

**Moment of Silence**

The Chair asked for a moment of silence.

### **Welcome and Introductions**

The Chair welcomed everyone to the meeting and asked each person to introduce themselves, beginning with the Council members.

### **Review and Adoption of Agenda**

Under item 13, add discussion on the joint meeting of the Arctic Regional Councils. Under OSM, add brief discussions on subsistence permit system and update on salmon by catch on Pollock fisheries.

**Motion:** Mr. Lloyd Leavitt **moved** to accept the agenda. The motion was **seconded** by Mr. James Nageak. The **motion** carried unanimously to accept the agenda as amended.

### **Review and Adoption of Minutes**

**Discussion of the minutes:** Mr. Nageak did not like how the minutes read on page 6, under “North Slope Proposals.” Proposals 106 and 107 sought to shorten the Unit 26 wolf hunting season and lower the harvest limit.

At the February 16, 2010 meeting, Mr. Lloyd Leavitt moved to support the proposals and Mr. James Nageak seconded. Mr. Nageak felt that this made it sound like they supported the proposal. At the meeting (pages 48-50 of the transcripts, which are attached), Mr. Kron from OSM explained that normally you would make a *motion to support* and then if you wish to oppose it, then the Council votes against the motion. Under Roberts Rules, motions are always made in a positive framework. The motioner then withdrew his motion, the seconder concurring to make this motion to support.

**Motion:** Mr. James Nageak **moved** to approve the minutes of February 16, 2010 meeting. The motion was **seconded** by Mr. Lloyd Leavitt. The **motion** carried unanimously.

### **Election of Officers**

Mr. Lloyd Leavitt **moved** to hold their elections at their winter meeting when all council members would be present. Ms. Rose Ahtuanguak **seconded**. The **motion** carried unanimously.

### **Western Arctic Caribou Herd Representative**

Ms. Atoruk distributed the Caribou Trails Newsletter to the Council for their review. She explained and asked if they would be interested in being represented on the WACH Working Group. There was further discussion and clarification, Mr. Lloyd Leavitt **moved** that their Chair or his designee attend the next WACH meeting and then could make a recommendation to the Council. Ms. Ahtuanguak **seconded**. The motion carried unanimously.

### **Fisheries Resource Monitoring Program Priority Information Needs**

Ms. Armstrong, Office of Subsistence Management, presented the Fisheries Resource Monitoring Program Priority Information Needs for 2012. Ms. Armstrong asked the Council to review the priority information needs proposed to assess if changes are needed.

Ms. Rosemary Ahtuanguak **moved** to make the following additions to the FRMP 2012 Priority Information Needs document:

- Add lake trout, Arctic char, and Dolly Varden to the list of fisheries most important to the North Slope.

- Add three priority information needs:
  - Spawning, distribution, timing, and stock structure of Meade River Whitefish species.
  - Spawning, distribution, timing, and stock structure of Kuk River Smelt.
  - Health and abundance of grayling, burbot, Dolly Varden, and Arctic
  - Char in Eleanor Lake in Anaktuvuk Pass.

Mr. Lloyd Leavitt **seconded** the motion. The **motion** passed unanimously.

### **Established Times and Places of Next Meetings**

The winter meeting will be in Barrow on March 7 & 8, 2011

The fall meeting will be on August 23 & 24, 2011, place: TBA

### **Draft 2010 Annual Report issues**

1. Baseline Fish Studies in the North Slope Region
2. Wolf

### **AGENCY REPORTS**

Ms. Armstrong provided a briefing on the **Bear Claw Handicraft Working Group Update**. The Council provided useful comments and the briefing was refined based on the Council's comments. She thanked the Council for their informative discussion and appreciated their comments. She stated that this was an excellent example of the important role the councils play in the Federal Subsistence Management Program. She added that if anyone had any further questions, not to hesitate to call her. The points the Council made and asked that the briefing be revised were:

- Remove statement that CITES is a Federal law and replace it with a statement about its status as an International agreement.
- Add clarifying points on when a CITES permit is required and when a CITES tag is required.
- Add that the new proposal will need to request changing the regulations regarding where the brown bear hide is sealed (in the villages).
- Add information noting that brown bears are not endangered in Alaska.
- Change the paragraph in the Q and A that had the header, "What illegal activities occur with brown bears and their parts?" to read "What drives the illegal trade in brown bears and their parts?" and add a sentence in this paragraph: "Illegal harvests are considered poaching and are not reflective of the legal harvests of subsistence users."
- Add a paragraph at the end of the Q and A noting where brown bear sealing is already required.

Ms. Okada, **National Park Service**, reported the following updates:

- The Gates of the Arctic National Park and Preserve Subsistence Resource Commission (SRC) held a one day meeting at the Inupiat Cultural Heritage Center in Barrow, Alaska on April 28, 2010. The SRC took the following actions: the SRC endorsed in concept a draft petition to the Board of Game to "repeal all or parts" of a Proposal 104A, passed by the Board Of Game in the Spring of 2010 that liberalizes the resident caribou season and bag limit in Game Management

Unit 26B. The petition cites procedural errors in the Board of Game's handling of the proposal, as well as broad opposition to its passage. The SRC also voted in Support of Federal Wildlife Proposal WP10-67, establishing a 10 day winter hunt for antlered bull moose in GMU 24B.

- The next Gates SRC meeting is tentatively scheduled for two days in Fairbanks, Alaska during the week of November 8, 2010. A detailed itinerary will be sent out closer to the date of the meeting.
- The NPS—in cooperation with ADF&G, BLM and FWS—will be deploying additional GPS collars on Western Arctic Herd (WAH) caribou at Onion Portage starting September 7, 2010.
- The Unit 24A/B cooperative moose project involving NPS, ADF&G, BLM and FWS is continuing with an additional 20 collars scheduled for deployment at the end of October. The animals are tracked by air monthly, while about 10 GPS collars track movements every 8 hours.
- The NPS Arctic Network Inventory and Monitoring Program tested distance sampling methods as a means to estimate Dall's sheep abundance in Gates of the Arctic National Park and Preserve in 2009 and 2010. Results from the 2009 survey estimate 8,564 sheep (95% Confidence Interval: 6,586 to 11,130 sheep) in Gates of the Arctic. Data from the 2010 survey are currently being analyzed.
- The NPS has begun region-wide scoping efforts on traditional and customary uses of shed horns and antlers and the collection of plant materials for use in handicrafts. All Park SRCs will be consulted on traditional uses of these materials in handicrafts for personal use and sale.
- The Arctic Inventory and Monitoring Program will continue air quality sampling at Bettles, Alaska in 2010. Samples will be submitted to the National Atmospheric Deposition Program and the Mercury Deposition Network for analysis and summarization.
- A demonstration project relating to local green energy production has been installed at the Anaktuvuk Pass Ranger Station and has been producing electricity for about one week. NPS is currently exploring ways to share energy or energy credits with the local community while the station is closed for the winter months.
- Anaktuvuk Pass Ranger Al Smith has been working with the NPS lands office and Arctic Slope Regional Corporation to ensure that NPS maps accurately reflect both the details of the Anaktuvuk Pass Land Exchange, as well as any more recent changes in land status.
- Al Smith is also in communication with Nunamiut Corporation and the community assistance arm of the NPS call the Rivers and Trails Conservation Association (RTCA) about possibilities for NPS assistance in ATV trail remediation on Arctic Slope Regional Corporation land. The RTCA does not provide funding, but does assist with planning and installation efforts.
- The NPS is continuing work on an Environmental Assessment (EA) to analyze potential impacts of placing weather stations in ARCN parks. The public comment phase is now closed. Based on the decisions made from the EA process, there is the potential to place up to 17 weather stations in ARCN parks (possibly as many as four in Gates of the Arctic Anaktuvuk Ranger station.) Installations would not begin until the end of summer.

- Pilot work occurred this summer for land bird monitoring. Three crews floated the Noatak River in mid-June and will produce a report on findings.
- ARCEN completed an aerial survey in Gates of the Arctic National Park and Preserve to estimate brown bears abundance, density, and occupancy. The population estimates are now being compiled for fall release. The purpose of this project is to develop a population monitoring protocol that tracks trends in abundance, density, and occupancy and has statistical validity, is cost-effective, and can be implemented across large areas within the network. This work occurred in the Iktilik Preserve area (Kyle Joly and Brad Shults are contacts). A hand-out on this project is at the information table in the back.
- ARCEN's Newsletter has complete project updates and is also at the information table.
- The Ethnography program continued work on developing resident-zone web portals for electronic access and delivery of area-related bibliographic, film, photo, and museum collections housed principally at the University of Alaska Fairbanks. This summer field visits and presentations were made in Huslia and Hughes, Alaska. This intellectual repatriation effort is aimed at sharing the wealth of knowledge derived from local communities that is too often unavailable in the villages of origin.
- A new multiyear NPS funded local and traditional knowledge study (TEK) is scheduled to begin in mid-September with year 1 of the three year project focusing on Nunamiut knowledge and use of caribou. This first year will focus on collating and bringing to completion several strands of previous research in the Anaktuvuk Pass community. Sverre Pedersen and Grant Spearman, each with decades of experience working with the community of Anaktuvuk Pass, will work together to collate and produce a draft report on local knowledge of caribou as a basis for future work relating to caribou knowledge. The project will start with a public meeting in Anaktuvuk Pass to discuss the project in collaboration with the Simon Paneak Museum.
- Gates of the Arctic National Park and Preserve has begun the process of updating the 1986 General Management Plan (GMP). Changes affecting management of Gates of the Arctic require an update to the 23-year-old GMP, including emerging issues such as climate change, land status changes resulting from the 1996 Anaktuvuk Pass land exchange, and the opening of the Dalton Highway to public access. Other changes include technological changes such as satellite phones, personal locator beacons, use of global positioning systems, and others. Public scoping occurred with resident-zone village visits in the spring and now draft alternatives are being crafted for public review this fall.

For more Information regarding Gates of the Arctic National Park and Preserve, please contact: (907) 457-5752

For more information regarding Gates of the Arctic National Park and Preserve Subsistence Program, please contact: David Krupa, Program Manager for Ethnography and Subsistence: (907) 455-0631

**FWS Arctic National Wildlife Refuge** had no one to represent them at this meeting but they provided an update on the Arctic Refuge Revised Comprehensive Conservation Plan:

U.S. Fish and Wildlife Service staff continues to work on the Arctic Refuge Revised Comprehensive Conservation Plan (CCP) and Environment Impact Statement [EIS]. About 600 people attended public meetings in Washington D.C., Anchorage, Fairbanks, Fort Yukon, Venetie, Arctic Village, Kaktovik, and

Barrow. In addition, they received more than 90,000 letters and emails during the public comment period, April 7 to June 7, 2010. The Service hired an independent contractor to read every comment received and to inform us about the issues the public wants us to consider in the plan. They received the contractor's report on August 10.

In June and July, Refuge staff wrote two chapters for the draft CCP. They preliminarily drafted a series of objectives i.e. the specific tasks they would commit to completing in order to achieve the purposes and desired future condition of the Refuge, as well as to meet the mission of the National Wildlife Refuge System.

Additionally, the first phase of the Wilderness Review and the first phase of the Wild and Scenic River Review have been drafted. In September, the Service will revisit and revise all these drafts to reflect the public comments. Future work includes developing a reasonable range of alternative management approaches and an analysis of the effects of each alternative on Refuge resources and people. They anticipate the Draft CCP/EIS being released to the public around March 2011.

**Bureau of Land Management:** Mr. Dave Yokel gave a brief update on what BLM is doing as they manage the National Petroleum Reserve of Alaska (NPRA) on the North Slope. He stated that he did not have much to present as far as wildlife and fish studies, since nothing much had changed since he last presented. They are in a scoping phase of beginning another environmental impact statement for the entire NPRA on the North Slope, including Teshekpuk Lake. Under National Environmental Policy Act, every EIS has to have a reasonable range of alternatives. One such alternative is "no action alternative," meaning to leave for 10 years as is. The area around Teshekpuk Lake was deferred (10 years) from leasing for 10 years 2008-2018. The Plan probably won't be done until 2012. The area around Peard Bay was deferred for 10 years beginning in 2004 for oil and gas leasing. If anyone has questions about that, you can call Ben Nageak at their BLM office in Barrow. The road from Galbraith to Umiat is being planned by the State Department of Transportation. They are trying to figure out a way for the NPRA Subsistence Advisory Panel to meet sometime in the near future. There is still room for improvement and room for further communication. Contact Mr. Lon Kelly if you have comments. Legacy drilling sites (abandoned, unplugged well sites) established by President Harding in 1923, were inherited by BLM. The legacy well cleanup program may slow down due to lack of monies. The comments made by the Council were well received by BLM representatives.

Ms. Lisa Slayton, **Alaska Department of Fish and Game**, subsistence resource specialist, gave a brief report. They have three projects going right now: 1) the Teshekpuk Lake Caribou Herd monitoring project; 2) the UAF and MMS project with Jim Magdanz out of Kotzebue; and 3) the arctic salmon project. Sverre Pederson has retired. The projects that he was working on have been assigned to other staff. The Council asked Ms. Slayton questions for clarification and for more information. Reports will follow when the projects are completed. They are studying the subsistence salmon fishing in Point Hope, Point Lay and Wainwright. They are looking in to whether or not there is an increasing amount of salmon, the general abundance of an increasing amount of use or increase in take of subsistence fishermen as a consequence. Richard Driscoll from Commercial Fisheries Division added some data they collected from the project in addition to what Lisa presented.

## **OTHER BUSINESS**

If all the Councils of the Arctic agree with North Slope Council's request to have a joint meeting, it was suggested that it be held in Anchorage. The North Slope Council requested that all Councils of the Arctic have a joint meeting on August 23 and 24, 2011 and their request was supported by the FSB. This is on hold until Northwest Arctic and Seward Peninsula concurs. Thank you.

A proposal will be written and presented at the Council's winter meeting to address the season on wolf harvest.

**ADJOURNMENT:**

The Chair proposed a motion to adjourn the meeting, seconded by Mr. Nageak. The motion carried unanimously. The meeting adjourned at 5:15 p.m.

Respectfully Submitted:

Barbara M. Atoruk, DFO  
USFWS Office of Subsistence Management

I hereby certify these minutes of August 24, 2010, North Slope Subsistence Regional Advisory Council, are true and correct to the best of my knowledge.

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

These minutes will be formally considered by the Regional Advisory Council at its next meeting, and any corrections or notations will be incorporated in the minutes of that meeting.

For a more detailed report of this meeting, copies of the transcript are available upon request. Call Barbara Atoruk at 1-800-478-1456 or 907-786-3885 or [Barbara\\_Atoruk@fws.gov](mailto:Barbara_Atoruk@fws.gov)

*Meeting Minutes*

1 (No comments)  
2  
3 CHAIRMAN BROWER: None noted.  
4  
5 MS. ATORUK: There's none.  
6  
7 CHAIRMAN BROWER: Summary of written  
8 public comments.  
9  
10 MS. ATORUK: We have one, Mr. Chair.  
11  
12 CHAIRMAN BROWER: Yes, Barb.  
13  
14 MS. ATORUK: Alaska Professional  
15 Hunters Association opposes this proposal and the  
16 written -- their written comment is on Page 50 of the  
17 book.  
18  
19 (In Inupiat)  
20  
21 CHAIRMAN BROWER: Thank you.  
22  
23 Public testimony.  
24  
25 MS. ATORUK: None.  
26  
27 CHAIRMAN BROWER: I'm trying to write  
28 at the same time.  
29  
30 Regional Council deliberation,  
31 recommendation and justification.  
32  
33 What is the wish of the Council.  
34  
35 MR. LEAVITT: Mr. Chair.  
36  
37 CHAIRMAN BROWER: Lloyd.  
38  
39 MR. LEAVITT: Make a motion to leave  
40 status quo on WP10-106 and 107.  
41  
42 CHAIRMAN BROWER: Status quo would mean  
43 to.....  
44  
45 MR. J. NAGEAK: Second.  
46  
47 MR. LEAVITT: Which means leave it  
48 alone. Adopt it as is, the way it has always been  
49 instead of going from 15 wolves down to five wolves,  
50 will go within the State's guidelines.

1 CHAIRMAN BROWER: So the motion would  
2 be to oppose?

3  
4 MR. LEAVITT: Yes.

5  
6 CHAIRMAN BROWER: Motion on the floor  
7 indicating opposition of the changes, right.....

8  
9 MR. LEAVITT: Yes.

10  
11 CHAIRMAN BROWER: .....of the proposal.

12  
13 MR. LEAVITT: Absolutely.

14  
15 MR. KRON: Mr. Chair.

16  
17 CHAIRMAN BROWER: Tom.

18  
19 MR. KRON: Yeah, normally in a  
20 situation like this you would make a motion to support  
21 and if you wish to oppose it then vote against the  
22 motion. So always make motions in a positive  
23 framework.

24  
25 CHAIRMAN BROWER: That's what I was  
26 trying to -- so when we're in opposition, the motion is  
27 to oppose the proposal.

28  
29 MR. KRON: The motion would be to  
30 support and then you would vote against the motion.  
31 But normally under Roberts Rules you would make the  
32 motion in a positive framework. So the motion would be  
33 to support and with your intent being to vote against  
34 it.

35  
36 Thank you, Mr. Chair.

37  
38 CHAIRMAN BROWER: I guess we need to  
39 further clarify and make sure that each of the Council  
40 members.....

41  
42 MR. J. NAGEAK: We want to support it  
43 and then.....

44  
45 CHAIRMAN BROWER: Vote no.

46  
47 MR. J. NAGEAK: .....vote no on it.

48  
49 CHAIRMAN BROWER: Is that clear -- (In  
50 Inupiat)

*Meeting Minutes*

1 (Council nods affirmatively)  
2  
3 CHAIRMAN BROWER: So I need to look to  
4 both of the seconder and the motioner to maybe withdraw  
5 and restate the motion.  
6  
7 MR. LEAVITT: Withdraw my motion and  
8 motion to support the proposal, WP10-106 and 107.  
9  
10 CHAIRMAN BROWER: Motion on the floor.  
11  
12 MR. J. NAGEAK: Second.  
13  
14 CHAIRMAN BROWER: Seconded by James.  
15  
16 Further discussion.  
17  
18 (No comments)  
19  
20 CHAIRMAN BROWER: Any further  
21 clarification.  
22  
23 (No comments)  
24  
25 CHAIRMAN BROWER: And it's been  
26 seconded, yes, Tina.  
27  
28 REPORTER: (Nods affirmatively)  
29  
30 CHAIRMAN BROWER: Under discussion. If  
31 there's no further discussion, next.  
32  
33 MR. LEAVITT: Question called for.  
34  
35 CHAIRMAN BROWER: Question has been  
36 called on the motion to support the proposal 106/107.  
37 All in favor signify by saying aye, yea or nay.  
38  
39 IN UNISON: Nay.  
40  
41 CHAIRMAN BROWER: So the proposal  
42 fails.  
43  
44 Is that accurately represented?  
45  
46 MS. ATORUK: Yes.  
47  
48 MR. KRON: Yes.  
49  
50 CHAIRMAN BROWER: Stated, okay, thank

# Fall 2011 Regional Advisory Council Meeting Calendar

August 22–October 14, 2011 current as of 10/29/10

Meeting dates and locations are subject to change.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Aug. 21	Aug. 22 WINDOW OPENS	Aug. 23 NWA—TBA NS—TBA	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 HOLIDAY	Sept. 6	Sept. 7 KA—Cold Bay or King Cove	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 SP—Nome	Sept. 22	Sept. 23	Sept. 24
Sept. 25	Sept. 26	Sept. 27	Sept. 28	Sept. 29	Sept. 30 END OF FY2011	Oct. 1
					SE—Wrangell YKD—TBA	
Oct. 2	Oct. 3 SC—Cantwell	Oct. 4 WI—Aniak	Oct. 5	Oct. 6	Oct. 7	Oct. 8
Oct. 9	Oct. 10 HOLIDAY	Oct. 11 EI—Tanana	Oct. 12 BB—Dillingham	Oct. 13	Oct. 14 WINDOW CLOSES	Oct. 15

## Winter 2012 Regional Advisory Council Meeting Calendar

*February–March 2012 current as of 01/28/11*

Meeting dates and locations are subject to change.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<i>Feb. 12</i>	<i>Feb. 13</i> <i>Window Opens</i>	<i>Feb. 14</i>	<i>Feb. 15</i>	<i>Feb. 16</i>	<i>Feb. 17</i>	<i>Feb. 18</i>
<i>Feb. 19</i>	<i>Feb. 20</i> <b>HOLIDAY</b>	<i>Feb. 21</i>	<i>Feb. 22</i>	<i>Feb. 23</i>	<i>Feb. 24</i>	<i>Feb. 25</i>
<i>Feb. 26</i>	<i>Feb. 27</i>	<i>Feb. 28</i>	<i>Feb. 29</i>	<i>Mar. 1</i>	<i>Mar. 2</i>	<i>Mar. 3</i>
<i>Mar. 4</i>	<i>Mar. 5</i>	<i>Mar. 6</i>	<i>Mar. 7</i>	<i>Mar. 8</i>	<i>Mar. 9</i>	<i>Mar. 10</i>
<i>Mar. 11</i>	<i>Mar. 12</i>	<i>Mar. 13</i>	<i>Mar. 14</i>	<i>Mar. 15</i>	<i>Mar. 16</i>	<i>Mar. 17</i>
<i>Mar. 18</i>	<i>Mar. 19</i>	<i>Mar. 20</i>	<i>Mar. 21</i>	<i>Mar. 22</i>	<i>Mar. 23</i> <i>Window Closes</i>	<i>Mar. 24</i>

UNITED STATES DEPARTMENT OF THE INTERIOR  
NORTH SLOPE SUBSISTENCE REGIONAL ADVISORY COUNCIL

CHARTER

1. **Official Designation:** North Slope Subsistence Regional Advisory Council.
2. **Objectives and Scope of Activity:** The objective of the Council is to provide an administrative structure that enables residents of the region who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses of those resources on public lands in the region.
3. **Period of Time Necessary for the Council's Activities and Termination Date:** The Council is expected to exist into the foreseeable future. Its continuation is, however, subject to rechartering every biennial anniversary of the Alaska National Interest Lands Conservation Act of December 2, 1980. The Council will take no action unless the charter filing requirements of section 9 of the Federal Advisory Committee Act have been met.
4. **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.
5. **Support Services:** The U.S. Fish and Wildlife Service, Department of the Interior, provides administrative support for the activities of the Council.
6. **Duties of the Council:** The Council possesses the authority to perform the following duties:
  - a. Initiate, 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 decision making 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 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.

The Council will perform its duties in conformity with the Regional Advisory Council Operations Manual.

7. **Estimated Operating Costs:** Annual operating costs of the Council are estimated at \$125,000, which includes three-quarters person-year of staff support.

8. **Meetings:** The Council may meet twice each year at the call of the Council, Council Chair, Federal Subsistence Board Chair, or Designated Federal Officer with the advance approval of the Federal Subsistence Board Chair and the Designated Federal Officer, who will also approve the agenda.

9. **Membership:** The Council's membership is 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 a diversity of interests is represented, the Department of the Interior will comply with the requirements of the Federal Advisory Committee Act, Section 5(b)(2) as expressed by the U. S. District Court in Safari Club International versus Demientieff in the amended order dated August 7, 2006.

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

**Vacancy:** Whenever a vacancy occurs among Council members appointed under paragraph 9, the Secretary will appoint an individual in accordance with paragraph 9 to fill that vacancy for the remainder of the applicable term.

**Terms of Office:** Except as provided herein, each member of the Council will serve a 3-year term with the term ending on December 2 of the appropriate year unless a member of the Council resigns prior to the expiration of the 3-year term or he/she is removed for cause by the

Secretary upon recommendation of the Federal Subsistence Board. Members will be notified of their appointment in writing. If resigning prior to the expiration of a term, members will provide a written resignation.

**Election of Officers:** Council members will elect a Chair, a Vice-Chair, and a Secretary for a 1-year term.

**Removal of Members:** If a Council member appointed under paragraph 9 has two consecutive unexcused absences of regularly scheduled meetings, the Chair of the Federal Subsistence Board may recommend that the Secretary of the Interior with the concurrence of the Secretary of Agriculture remove that individual. A member may also be removed due to misconduct.

**Compensation:** Members of the Council will receive no compensation as members. Members will, however, be allowed travel expenses, including per diem, in the same manner as persons employed intermittently in government service are allowed such expenses under 5 U.S.C. 5703.

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

11. **Designated Federal Officer or Employee:** Pursuant to Section 10(e) of the Federal Advisory Committee Act, the Designated Federal Officer will be the Federal Regional Coordinator or such other Federal employee as may be designated by the Assistant Regional Director - Subsistence, Region 7, U.S. Fish and Wildlife Service.

12. **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)).

/s/ Ken Salazar

NOV 20 2009

\_\_\_\_\_  
Secretary of the Interior

\_\_\_\_\_  
Date Signed

DEC 3 2009

\_\_\_\_\_  
Date Filed

## **WILDLIFE CLOSURE REVIEW BRIEFING**

As called for in the Closure Policy, the Office of Subsistence Management is reviewing existing wildlife closures to determine whether the original justifications for closure continue to apply. These reviews are being conducted in accordance with guidance found in the Federal Subsistence Board's Policy on Closures to Hunting, Trapping and Fishing on Federal Public Lands and Waters in Alaska, which was adopted in 2007. According to the policy, existing closures will be reviewed on a three-year rotational schedule. All of the closures being reviewed this cycle were last reviewed by the Federal Subsistence Board (Board) in 2006. A summary of the current closure reviews which are applicable to your Regional Advisory Council are provided.

Section 815(3) of ANILCA allows closures when necessary for the conservation of healthy populations of fish and wildlife, and to continue subsistence uses of such populations. The existing closures represent both situations. For example, closures for the hunting of muskox in Unit 22 were adopted because of the relatively low and recovering muskox population; and the Unit 2 deer closure was adopted because rural residents provided substantial evidence that they were unable to meet their subsistence needs because of competition from other users of the resource.

Distribution and abundance of fish and wildlife populations are known to fluctuate based upon a variety of factors such as weather patterns, management actions, habitat changes, predation, harvest activities, and disease. Subsistence use patterns are also known to change over time in response to many factors including resource abundance, and human population changes, among others. It is for these reasons that the Board decisions to establish specific closures are revisited periodically.

The Wildlife Closure Reviews contain a brief history of why a closure was implemented, along with a summary of the current resource condition and a preliminary OSM recommendation as to whether the closure should be continued or deleted from the regulations.

Councils are asked to consider the OSM preliminary recommendation and share their views on the issue. Input from the Councils is critical to the development of regulatory proposals needed to address adjustments to regulations. Any regulatory proposals that may result from this review process will be considered through the normal regulatory cycle. The current window for wildlife proposals closes on March 24, 2011. Councils may choose to work with OSM staff to develop a proposal; however proposals addressing these issues can be submitted by anyone.

**POLICY ON CLOSURES TO HUNTING, TRAPPING AND FISHING  
ON FEDERAL PUBLIC LANDS AND WATERS IN ALASKA**

**FEDERAL SUBSISTENCE BOARD**

Adopted August 29, 2007

**PURPOSE**

This policy clarifies the internal management of the Federal Subsistence Board (Board) and provides transparency to the public regarding the process for addressing Federal closures (closures) to hunting, trapping, and fishing on Federal public lands and waters in Alaska. It also provides a process for periodic review of regulatory closures. This policy recognizes the unique status of the Regional Advisory Councils and does not diminish their role in any way. This policy is intended only to clarify existing practices under the current statute and regulations; it does not create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its agencies, officers, or employees, or any other person.

**INTRODUCTION**

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) establishes a priority for the taking of fish and wildlife on Federal public lands and waters for non-wasteful subsistence uses over the taking of fish and wildlife on such lands for other purposes (ANILCA Section 804). When necessary for the conservation of healthy populations of fish and wildlife or to continue subsistence uses of such populations, the Federal Subsistence Board is authorized to restrict or to close the taking of fish and wildlife by subsistence and non-subsistence users on Federal public lands and waters (ANILCA Sections 804 and 815(3)). The Board may also close Federal public lands and waters to any taking of fish and wildlife for reasons of public safety, administration or to assure the continued viability of such population (ANILCA Section 816(b)).

**BOARD AUTHORITIES**

- ANILCA Sections 804, 814, 815(3), and 816.
- 50 CFR Part 100 and 36 CFR Part 242, Section .10(d)(4).

**POLICY**

The decision to close Federal public lands or waters to Federally qualified or non-Federally qualified subsistence users is an important decision that will be made as set forth in Title VIII of ANILCA. 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." Any individual or organization may propose a closure. Proposed closures of Federal public lands and waters 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.

Like other Board decisions, closure actions are subject to change during the yearly regulatory cycle. In addition, closures will be periodically re-evaluated to determine whether the circumstances necessitating the original closure still exist and warrant continuation of the restriction. When a closure is no longer needed, actions to remove it will be initiated as soon as practicable. The Office of Subsistence Management will maintain a list of all closures.

### **Decision Making**

The Board will:

- Proceed on a case - by - case basis to address each particular situation regarding closures. In those cases for which conservation of healthy populations of fish and wildlife resources allows, the Board will authorize non-wasteful subsistence taking.
- Follow the statutory standard of "customary and traditional uses." Need is not the standard. Established use of one species may not be diminished solely because another species is available. These established uses have both physical and cultural components, and each is protected against all unnecessary regulatory interference.
- Base its actions on substantial evidence contained within the administrative record, and on the best available information; complete certainty is not required.
- Consider the recommendations of the Regional Advisory Councils, with due deference (ANILCA § 805 (c)).
- Consider comments and recommendations from the State of Alaska and the public (ANILCA § 816 (b)).

### **Conditions for Establishing or Retaining Closures**

The Board will adopt closures to hunting, trapping or fishing by non-Federally qualified users or Federally qualified subsistence users when one or more of the following conditions are met:

- Closures are necessary for the conservation of healthy populations of fish and wildlife:
  - a) When a fish or wildlife population is not sufficient to provide for both Federally qualified subsistence users and other users, use by non-Federally qualified users may be reduced or prohibited, or
  - b) When a fish or wildlife population is insufficient to sustain all subsistence uses, the available resources shall be apportioned among subsistence users according to their:

- 1) Customary and direct dependence upon the populations as the mainstay of livelihood,
  - 2) Local residency, and
  - 3) Availability of alternative resources, or
- c) When a fish or wildlife population is insufficient to sustain any use, all uses must be prohibited.
- Closures are necessary to ensure the continuation of subsistence uses by Federally qualified subsistence users.
  - Closures are necessary for public safety.
  - Closures are necessary for administrative reasons.
  - Closures are necessary “pursuant to other applicable law.”

### **Considerations in Deciding on Closures**

When acting upon proposals recommending closure of Federal public lands and waters to hunting, trapping, or fishing, the Board may take the following into consideration to the extent feasible:

- The biological history (data set) of the fish stock or wildlife population.
- The extent of affected lands and waters necessary to accomplish the objective of the closure.
- The current status and trend of the fish stock or wildlife population in question.
- The current and historical subsistence and non-subsistence harvest, including descriptions of harvest amounts, effort levels, user groups, and success levels.
- Pertinent traditional ecological knowledge.
- Information provided by the affected Regional Advisory Councils and Alaska Department of Fish and Game.
- Relevant State and Federal management plans and their level of success as well as any relationship to other Federal or State laws or programs.
- Other Federal and State regulatory options that would conserve healthy populations and provide a meaningful preference for subsistence, but would be less restrictive than closures.

## Closure Policy

- The potential adverse and beneficial impacts of any proposed closure on affected fish and wildlife populations and uses of lands and waters both inside and outside the closed area.
- Other issues that influence the effectiveness and impact of any closure.

### Reviews of Closures

A closure should be removed as soon as practicable when conditions that originally justified the closure have changed to such an extent that the closure is no longer necessary. A Regional Council, a State or Federal agency, or a member of the public may submit, during the normal proposal period, a proposal requesting the opening or closing of an area. A closure may also be implemented, adjusted, or lifted based on a Special Action request according to the criteria in 50 CFR 100.19 and 36 CFR 242.19.

To ensure that closures do not remain in place longer than necessary, all future closures will be reviewed by the Federal Subsistence Board no more than three years from the establishment of the closure and at least every three years thereafter. Existing closures in place at the time this policy is implemented will be reviewed on a three-year rotational schedule, with at least one - third of the closures reviewed each year.

Closure reviews will consist of a written summary of the history and original justification for the closure and a current evaluation of the relevant considerations listed above. Except in some situations which may require immediate action through the Special Action process, closure review analyses will be presented to the affected Regional Council(s) during the normal regulatory proposal process in the form of proposals to retain, modify or rescind individual closures.

*/S/ Mike R. Fleagle*

Chair, Federal Subsistence Board

*/S/ Thomas O. Melius*

Board Member, U.S. Fish and Wildlife Service

*/S/ Niles Cesar*

Board Member, Bureau of Indian Affairs

*/S/ Denny Bschor*

Board Member, U.S. Forest Service

*/S/ Marcia Blaszak*

Board Member, National Park Service

*/S/ T. P. Lonnie*

Board Member, Bureau of Land Management

**FEDERAL WILDLIFE CLOSURE REVIEW  
WCR10-31**

**Closure Location:** Moose — Units 26B remainder and 26C

Current Federal Regulation:

*Units 26B remainder and 26C—1 moose by Federal registration permit by residents of Kaktovik only. The harvest quota is 3 moose (2 antlered bulls and 1 of either sex) provided that no more than 2 antlered bulls may be harvested from Unit 26C and cows may not be harvested from Unit 26C. You may not take a cow accompanied by a calf. Only 3 Federal registration permits will be issued.* July 1–Mar. 31

*Federal public lands are closed to the taking of moose except by a Kaktovik resident holding a Federal registration permit.*

Note: Due to conservation concerns there was no Federal open season between 1996 and 2003.

**Closure Dates:** July 1 – Mar. 31.

**Current State Regulations:**

**Units 26B remainder and 26C — Moose**

*Residents and Nonresidents: no open season*

**Regulatory Year Initiated:** 2004

**Proposal number of initial closure and any subsequent proposals:** Proposal WP04-86b

**Justification for original closure (Section 815(3) criteria):** The combination of low moose numbers and low recruitment were direct indicators of a continuing conservation concern. The analysis for Proposal WP04-86b also considered ANILCA Section 804 issues (restricting subsistence use by implementing a priority of a limited resource such as moose) limiting this hunt, with a small quota, to only the residents of Kaktovik.

**Regional Advisory Council recommendation for original closure:** The North Slope Subsistence Regional Advisory Council supported Proposal WP04-86b as submitted by the City of Kaktovik to allow only residents of Kaktovik to harvest moose because of the limited availability of moose within Unit 26C.

**State recommendation for original closure:** The Alaska Department of Fish and Game did not support Proposal WP04-86b due to conservation concerns regarding the Unit 26C moose population and the requested harvest quota of 5 moose. However, the Alaska Department of Fish and Game did support a harvest of up to two moose in Unit 26C.

**Other significant comments presented when the Board adopted the original closure:** Proposal WP04-86b, requested a harvest quota of five moose for Unit 26C, however the Federal Subsistence

Board adopted the proposal with modification to establish a harvest quota of three moose with specific conditions related to locations of the harvests.

The North Slope Subsistence Regional Advisory Council chair felt that the Board's modified harvest limit of two antlered bulls and one of either sex for Unit 26C would be acceptable.

**Current resource abundance related to management objective:** The State management objective for Unit 26B East moose is to allow the population to increase to at least 200 moose, with at least 15% calves observed in spring surveys, before opening the hunting season (Lenart 2008). Once a hunting season has been reopened, the management objectives include maintaining a post hunting sex ratio in Units 26B and 26C of 35 bulls:100 cows.

A complete moose population survey has not been conducted in Units 26B and 26C. However, trend surveys likely account for a large percentage of the moose in areas as they are conducted where there are major concentrations. Within the Canning River drainage area (which is in both Units 26B and 26C), the number of moose observed in 2010 was 47 (**Table 1**). For the area east of the Canning River within Unit 26C, the number of moose observed in 2009 was 61 (**Table 1**).

For the Unit 26B East area, the spring 2002 bull:cow ratio was estimated at 72:100, and since 2002, bull:cow ratios have not been determined (Lenart 2008). Overall, it appears that the State management population objectives are being met for Unit 26B East. However, the Federal public lands closure for the Unit 26B remainder area only includes the Canning River, which is a portion of the Unit 26B East survey area. Composition data specific to the Canning River was not available.

For eastern Unit 26C, in 2000 and 2002, bull:cow ratios were estimated at 92:100, and since 2002, bull:cow ratios have not been determined.

**Resource population trend:** Based on surveys within the Canning River drainage area the population there fluctuated from a high of 139 in 1986 to a low of 15 in 1997 (**Table 1**). The 2010 number of observed moose was 47. Based on four years of surveys of Unit 26C east of Canning River, the moose population there appears to be relatively stable.

**Harvest trend and/or hunting effort:** Kaktovik has been the only community eligible to harvest moose in the affected area since the customary and traditional use determination was revised in 2004. The reported harvest has been 1–2 moose per year (**Table 2**).

#### OSM PRELIMINARY CONCLUSION

- maintain status quo**
- initiate proposal to modify or eliminate the closure**
- other recommendation**

**Justification:** Low moose numbers in Unit 26B remainder and Unit 26C continue to be a conservation concern and additional moose harvest beyond the harvest by Kaktovik residents may not be sustainable. Therefore, Federal public lands should remain closed to non-Federally qualified users for the conservation of a healthy population and to allow the continuation of subsistence uses of moose (Section 815(3)). The harvest quota is limited to only three moose and Kaktovik residents continue to utilize moose for subsistence purposes.

**LITERATURE CITED**

Lenart, E. A. 2008. Units 26B and 26C moose. Pages 668–687 in P. Harper, editor. Moose management report of survey and inventory activities, 1 July 2005–30 June 2007. Alaska Department of Fish and Game. Project 1.0. Juneau, AK.

Lenart, B. 2010. Northeast Alaska Area Wildlife Biologist. Personal communication. Alaska Department of Fish and Game. Fairbanks, AK.

Payer, D. 2010. Supervisory Ecologist. Personal communication. Arctic National Wildlife Refuge, U.S. Fish and Wildlife Service. Fairbanks, AK.

**Table 1.** Units 26B and 26C moose survey data (Lenart 2010, pers. comm. and Payer 2010, pers. comm.).

<b>Year</b>	<b>26B and 26C Canning River Drainage</b>	<b>26C E of Canning River Drainage</b>
1986	139	-
1987		-
1988	118	-
1989	113	-
1990	65	-
1991	88	-
1992	-	-
1993	-	-
1994	38	-
1995	16	-
1996	20	-
1997	15	-
1998	-	-
1999	20	-
2000	29	-
2001	19	-
2002	30	-
2003	41	52
2004	34	-
2005	46	47
2006	60	-
2007	63	59
2008	85	-
2009	76	61
2010	47	-

**Table 2.** Number of Federal registration permits issued (RM-949) and moose harvested for Units 26B remainder and 26C.

<b>Year</b>	<b>Permits Issued<sup>1</sup></b>	<b>Moose Harvested</b>
2004–2005	3	1
2005–2006	3	2
2006–2007	3	2
2007–2008	No available data	No available data
2008–2009	3	1
2009–2010	3	1

<sup>1</sup>A maximum of three permits are issued each year only to Kaktovik residents.

**FEDERAL WILDLIFE CLOSURE REVIEW  
WCR10-21**

**Closure Location:** Sheep — Unit 25A—Arctic Village Sheep Management Area

**Current Federal Regulation:**

*2 rams by Federal registration permit only. Aug. 10–Apr. 30*

*Federal public lands, except the drainages of Red Sheep Creek and Cane Creek during the period of Aug. 10–Sept. 20, are closed to the taking of sheep except by rural Alaska residents of Arctic Village, Venetie, Fort Yukon, Kaktovik and Chalkyitsik hunting under these regulations.*

**Closure Dates:** August 10 – April 30

**Current State Regulations:**

**Unit 25A east of Middle Fork of Chandalar River — Sheep**

*Residents: One ram with full-curl horn or larger Harvest Ticket Aug. 10–Sept. 20*

*Or*

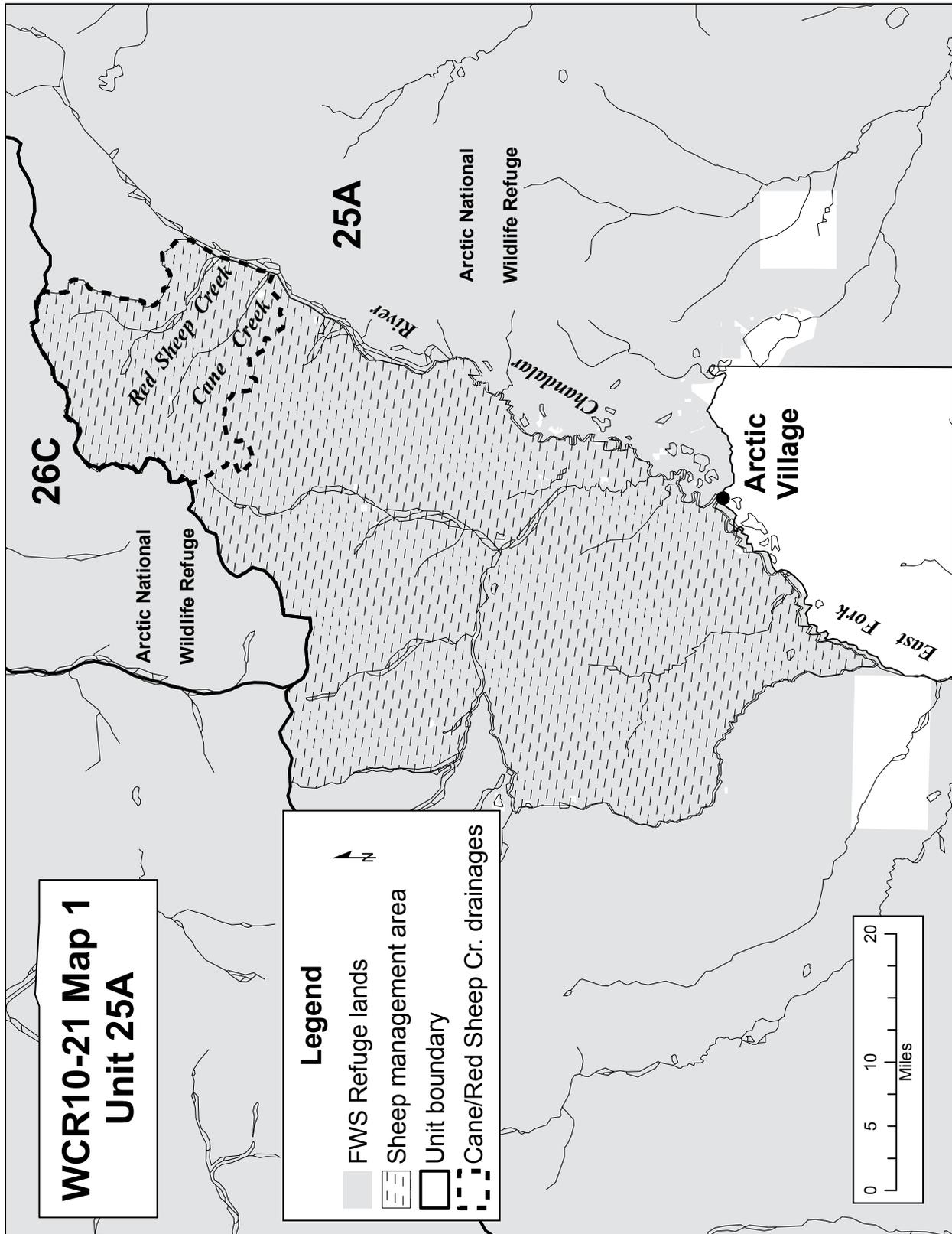
*Three sheep by permit available online at [hunt.alaska.gov](http://hunt.alaska.gov) or in person in Fairbanks and Kaktovik beginning Sept. 22. The use of aircraft for access to hunt sheep and to transport harvested sheep is prohibited in this hunt except into and out of the Arctic Village and Kaktovik airports. No motorized access from the Dalton Highway. RS595 Oct. 1–Apr. 30*

*Nonresidents: One ram with full-curl horn or larger Harvest Ticket Aug. 10–Sept. 20*

**Regulatory Year Initiated:** 1991

**Proposal number of initial closure and any subsequent proposals:** The establishment of the Arctic Village Sheep Management Area (AVSMA) closed Federal public lands to non-Federally qualified users in 1991 (**Map 1**). The establishment of the AVSMA did not include the Cane Creek and Red Sheep Creek drainages. OSM was not able to find the original proposal for the establishment of the AVSMA. The Federal Subsistence Board (Board) meeting transcript for June 4, 1991 mentions the establishment of the AVSMA at the “last meeting;” however, the previous Board meeting transcript (December 17, 1990) does not include proceedings regarding the AVSMA.

1991 — Proposal 91-21, requested that the Board remove the closure restriction to allow for the harvest of sheep by non-Federally qualified users in the closure area. The Board rejected the proposal.



1991 — Proposal 91-25, submitted by the Arctic Village Council, requested that the Board include the drainages of Cane Creek and Red Sheep Creek into the Federal closure area. The Board rejected this proposal.

1995 — Proposal 95-54, submitted by the Arctic Village Council, again requested the Board to include the drainages of Cane Creek and Red Sheep Creek into the Federal closure area. A representative of Arctic Village told the Board that Cane Creek and Red Sheep Creek drainages contain many allotments and traditional cultural sites and that this area is the key sheep hunting area for the village. The Board was told by the proponents that the issue was one of displacement of the subsistence users because of considerable air traffic causing the sheep to remain high in the mountains where Arctic Village hunters cannot get to them; and because Arctic Village hunters could not compete with nonlocal hunters using more sophisticated equipment such as more powerful scopes and the use of aircraft to track sheep. The Board recognized that the issue was not one of resource abundance, as staff reported the population could support both subsistence and nonsubsistence harvests. The Board adopted the proposal with a commitment to review the issue the following year.

Following that Board's decision, the Alaska Department of Fish and Game (ADF&G) submitted a Request for Reconsideration, which was rejected by the Board.

1996 — Proposal 96-55, submitted by the ADF&G, requested to exclude Cane Creek and Red Sheep Creek from the Federal closure area. The analysis of Proposal 96-55 included the results of a Arctic National Wildlife Refuge monitoring project: In a 30-day period during the previous sheep hunting season, forty-two aircraft events by guides based in Red Sheep Creek, who were guiding hunts in drainages east of Red Sheep Creek, were observed. The Board rejected the proposal, expressing disappointment with the absence of dialogue between the State and Arctic Village.

2006 — Proposal WP06-57 submitted by ADF&G, requested removal of the Federal closure within the AVSMA. The Board rejected the proposal. The Board requested that the Arctic National Wildlife Refuge conduct a sheep population survey within the affected area. It was the intent of the Board to revisit the issue at its May 2007 meeting pending the results of a population survey and a revised analysis.

In July 2006, Special Action WSA06-03 was submitted by the FWS and requested that the closure to non-Federally qualified users in the Cane Creek and Red Sheep drainages be lifted during the Aug. 10–Sept. 20, 2006 sheep season. This request followed the commitment by the Board to address the issue of the Federal closure to sheep hunting in the Red Sheep Creek and Cane Creek drainages, following completion of a sheep population survey by Arctic Refuge staff conducted from June 19–21, 2006. The Special Action was adopted and was effective for the 2006 season on the basis that the sheep population in these drainages were determined to be healthy.

2007 — Proposal WP07-56, submitted by the ADF&G requested lifting the Federal closure within the Cane Creek and Red Sheep Creek drainages. The Board adopted the proposal because sheep populations in these drainages were determined to be healthy.

**Justification for original closure (Section 815(3) criteria):** The Board established the AVSMA in 1991 in response to concerns raised by residents of Arctic Village, who felt that non-Federally qualified hunters interfered with sheep hunting by local residents. In 1995, the Board extended the original boundary of the AVSMA to include the Cane Creek and Red Sheep Creek drainages, but then eliminated these areas from Federal closure in 2007. The Board also established the management area to facilitate better harvest reporting. The AVSMA was established in response to social concerns of Federally qualified hunters to

continue subsistence uses (Section 815(3) criteria), and not in response to any biological concerns about the status and trends in the sheep population.

**Regional Advisory Council recommendation for original closure:** In regards to the original closure, there were no Federal Subsistence Regional Advisory Councils in place in 1990 and there was no recommendation stated by the State Fish and Game Interior Regional Council in the December 17, 1990 or June 4, 1991 Board meeting transcripts.

However, there were recommendations by the Eastern Interior and North Slope Regional Advisory Council and the State Fish and Game Interior Regional Council on subsequent proposals:

Eastern Interior and North Slope Regional Advisory Council recommendations on the 1995 and 1996 proposals were in support of the Arctic Village positions to maintain the closure and expand the closure to the drainages of Red Sheep Creek and Cane Creek within the Unit 25A Arctic Village Sheep Management Area.

Proposal 91-21: The State Fish and Game Interior Regional Council opposed the proposal to remove the closure restrictions.

Proposal 91-25: The State Fish and Game Interior Regional Council supported the proposal to expand the closure area.

**State recommendation for original closure:** No recommendation by the State is stated in the December 17, 1990 or June 4, 1991 Board meeting transcripts; however, the State's subsequent proposals and Request for Reconsideration indicated its opposition to the AVSMA closure.

**Other significant comments presented when the Board adopted the original closure:** None.

**Current resource abundance related to management objective:** The current ADF&G management objectives for the Unit 25 sheep population are to manage for a harvest of Dall sheep rams with full-curl or larger horns (Caikoski 2008).

Recent data for the AVSMA where Federal public lands are currently closed to non-Federally qualified users is lacking. However, recent (2006, 2007, and 2008) surveys were conducted within the Cane Creek and Red Sheep Creek areas, which are within the AVSMA, but are no longer closed to non-Federally qualified users. Densities of sheep varied: 1.7 sheep/mile<sup>2</sup> in 2006 (Payer 2006) and 0.8 sheep/mile<sup>2</sup> in 2007 (Brackney and Payer 2007). Densities may have differed due to slightly differing survey areas associated with mineral licks that could have attracted sheep from outside the survey unit (Wald 2010, pers. comm.). In 2008, during a sheep population-composition survey, 130 sheep in 20 groups were observed (Payer 2008) with a ratio of 59 lambs:100 ewes, suggesting good productivity.

In 1991, Dall sheep density in the Red Sheep Creek and Cane Creek drainages was estimated to be 2.25 sheep/mile<sup>2</sup> (Mauer 1996), which is higher than surveys done in 2006 and 2007. The sheep population may have declined during this interval despite harvest restrictions for non-Federally qualified users. This is consistent with trends observed in other Brooks Range sheep populations, and likely reflects incomplete recovery from weather-related declines during 1990–1994 (Mauer 1996). Thirty-two of 96 rams (33%) were classified as “mature” in the 2006 survey (Payer 2006) and six of 14 rams (43%) were classified as “mature” in the 2007 survey. Composition results for years 2006 and 2007 may have differed due to slightly differing survey areas associated with mineral licks that could have attracted sheep from outside the survey unit (Wald 2010, pers. comm.). The “mature” category included rams with full-curl horns as

well as larger-bodied rams having horns with massive bases and horn tips pointing upwards. These latter rams may have been less than full curl, but could not be differentiated from full-curl rams from a fixed-wing aircraft.

Mauer (1996) estimated sheep density in the southern part of the AVSMA between Cane and Crow Nest Creeks to be only 0.2 sheep/mile<sup>2</sup>. Most of the sheep that Mauer (1996) observed in this area were clustered around mineral licks between Crow Nest and Ottetail Creeks. Similarly, Payer (2006) surveyed the area between Ottetail and Crow Nest Creeks (but not the remainder north of Ottetail Creek to Cane Creek), and observed 87 sheep, 85 of which were associated with two mineral licks.

There are significant differences in sheep abundance and distribution within the area that was designated as the AVSMA (Mauer 1990). Specifically, the region north of Cane Creek has supported a sheep density approximately eight times greater than the region between Crow Nest and Cane Creeks. This is probably related to differences in geology and vegetation; shale formations that occur more commonly north of Cane Creek support more vegetation and therefore this area supports more sheep (Smith 1979).

**Resource population trend:** The Dall sheep population in the Cane Creek and Red Sheep Creek drainages may have declined between 1991 and 2007, while the trend for the southern part of the AVSMA is unknown. However 2008 composition data has indicated good production. Anecdotal reports from hunters suggest that sheep populations in the area continue to be relatively low, corroborating survey results presented above.

**Harvest trend and/or hunting effort:** Data on use of the AVSMA for sheep hunting is lacking. Therefore, it is not clear how much sheep are utilized in the area. OSM records indicate that six Federal permits for AVSMA sheep were issued between 1991 and 2004 and none were returned. Past proposals to lift the closure along with outreach efforts by Arctic NWR staff may have caused Federally qualified users to document use of the AVSMA for sheep hunting. During 2005–2007, 11 permits were issued; of those, one sheep was known to be harvested, four did not hunt, and six permits were not returned. No permits were issued in 2008 and 2009. Although there has been some compliance with the Federal permit system, the amount of use of the AVSMA for sheep hunting is not clearly understood because some Federally qualified subsistence users may not be using the Federal permit system. Nevertheless, the AVSMA is traditionally used for hunting by local residents and serves as an important subsistence area (Voss 2010, pers. comm.).

## OSM PRELIMINARY CONCLUSION

**maintain status quo**

**initiate proposal to modify or eliminate the closure**

**other recommendation**

**Justification:** A thorough discussion with the Eastern Interior and North Slope Regional Advisory Councils and area biologists should occur to determine if the Federal closure should be eliminated or kept in place. Given the current data, it is unclear if the Federal closure is necessary for the conservation of a healthy population or to continue subsistence uses of such populations (Sec. 815(3)). Concerns over competition with non-Federally qualified users have led to the establishment of the Federal closure and those concerns are likely still shared by local subsistence users.

It is not clear if there is sufficient biological data to support a Federal closure or if there is a population concern due to the lack of data. Past data from the AVSMA for 1990–1994 indicated that the population was consistent with trends observed in other Brooks Range sheep populations (Mauer 1996). It is not clear if recent surveys (2006–2008) adjacent to the AVSMA indicate a biological concern for sheep within the AVSMA.

It is difficult to determine the effects of increased competition if the closure were to be eliminated because reported Federal harvest of sheep within the AVSMA is low, which may be due to noncompliance with the reporting system or low harvest. However, increased competition is still likely perceived by Federally qualified subsistence users as negatively affecting subsistence opportunity.

Additionally, staff with Arctic NWR recently conducted scoping meetings in Arctic Village as part of their process to update the refuge Comprehensive Conservation Plan. During these meetings local residents continued to voice their support of the current closure citing the cultural importance of the AVSMA. Previous surveys (1990 and 2006) indicate that the current closed area does not support as many sheep as areas to the north, most likely because of geological differences that result in lower habitat quality. Given the importance of this area to subsistence uses of sheep and other resources and the lack of any new biological information to support lifting the closure, the Arctic NWR is in support of maintaining the closure.

## **LITERATURE CITED**

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Smith, T. 1979. Distribution and abundance of Dall sheep in the Arctic National Wildlife Range. Unpublished report, U.S. Fish and Wildlife Service, Fairbanks, Alaska.

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Wald, E. 2010. Arctic National Wildlife Refuge. Personnel communication: e-mail. Fairbanks, Alaska.

## **UPDATE ON TRAVEL PROCEDURES**

### **Travel Arrangements**

All Federal agencies are required to make all travel arrangements through the Travel Control Center. All council member travel arrangements must be made by OSM staff. If you amend your travel yourself, you will not receive any per diem for travel time after the amended ticket is issued and you may be liable for the cost of airfare.

Therefore, any changes to your travel absolutely must be made through your coordinator. If you are unable to contact your coordinator, call Durand Tyler at 907-786-3888 or 1-800-478-1456 or Ann Wilkinson at 907-786-3676.

### **Travel Vouchers**

The U.S. Fish and Wildlife Service nationwide is preparing to initiate new software for the Federal financial and business management system at the start of fiscal year 2012 (October 1, 2011), which will extend the time when OSM cannot make purchases or payments. There are two ways this might affect you directly: 1) Members who make a last minute decision to attend a council meeting may not receive a travel advance, and 2) travel vouchers for the fall 2011 council meetings will be delayed.



THE SECRETARY OF THE INTERIOR  
WASHINGTON

DEC 17 2010

Mr. Tim Towarak  
Chair, Federal Subsistence Board

Dear Mr. Towarak:

First, I want to thank you for your service on the Federal Subsistence Board (FSB). I recognize that your work represents a significant commitment of time and energy to a task that is complex and often controversial.

Under the terms of Title VIII of ANILCA, we have a duty to provide an effective program that serves rural residents of Alaska. In October 2009, at the Alaska Federation of Natives convention, I announced a review of the Federal subsistence program to ensure that the program is best serving rural Alaskans and that the letter and spirit of Title VIII are being met. That review, conducted through my Alaska Affairs office, included meetings with stakeholder groups and individuals throughout Alaska as well as Federal, State, and local officials. Following an analysis of the wide variety of comments, concerns, and suggestions expressed, a number of recommendations for programmatic changes were presented for consideration. On August 31, 2010, Secretary of Agriculture Tom Vilsack and I announced our decision to pursue a number of those recommendations to provide a more responsive, more effective subsistence program. A copy of the press release is enclosed for your information.

A number of these proposed actions are best accomplished by the FSB. With concurrence of the Secretary of Agriculture, I respectfully request that the FSB initiate the following actions at the earliest practical time:

1. Develop a proposed regulation to increase the membership on the FSB to include two additional public members representing subsistence users;
2. As a matter of policy, expand deference to appropriate Regional Advisory Council (RAC) recommendations in addition to the "takings" decisions of the Board provided for under Section 805(c) of ANILCA, subject to the three exceptions found in that Section;
3. Review, with RAC input, the December 2008 Memorandum of Understanding (MOU) with the State to determine either the need for the MOU or the need for potential changes to clarify federal authorities in regard to the subsistence program;

4. Review, with RAC input, and present recommendations for changes to Federal subsistence procedural and structural regulations (Parts A&B of the CFRs) adopted from the State in order to ensure Federal authorities are fully reflected and in accord with subsistence priorities provided for in Title VIII;
5. Review, with RAC input, the customary and traditional use determination process and present recommendations for regulatory changes;
6. Review, with RAC input, rural/nonrural determination process and present recommendations for regulatory changes;
7. Review the Board's written policy on executive sessions and minimize the use of executive sessions to those cases specifically prescribed;
8. At the request of the Director of the Fish and Wildlife Service and under Departmental procedures, review and submit recommendations for Departmental consideration of the annual budget for the Federal subsistence program;
9. Ensure the Secretaries are informed when non-Department rule-making entities develop regulations that may adversely affect subsistence users;
10. To the extent practicable, utilize contracting and use of ANILCA Section 809 cooperative agreements with local tribes and other entities in the Board's review and approval of proposals for fulfilling subsistence program elements; and
11. Prepare and submit a status report on these actions to me, with a copy to the Secretary of Agriculture, within a year of this letter.

Again, thank you for your service. I look forward to further recommendations the FSB may have to strengthen our subsistence management program.

An identical letter is being sent to Mr. Tim Towarek, Chair, Federal Subsistence Board.

Sincerely,

*/S/ Ken Salazar*

**Ken Salazar**

**Enclosure**



www.doi.gov

## News Release

### Tim Towarak Appointed Chairman of Alaska's Federal Subsistence Board; Will Lead Board Revitalization Initiative

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#### **Comprehensive Review of Subsistence Program Calls for Board Action to Strengthen Rural Representation, Regional Advisory Councils**

08/31/2010

Contact: Kate Kelly (DOI) 202-208-6416  
USDA Office of Communications 202-270-4623

**ANCHORAGE** – Secretary of the Interior Ken Salazar and Secretary of Agriculture Tom Vilsack today announced the appointment of Tim Towarak as the Chair of the Federal Subsistence Board in Alaska. Towarak, an Alaska Native and a life-long resident of the rural village of Unalakleet, Alaska, is president of the Bering Straits Native Corporation and co-chair of the Alaska Federation of Natives.

“Tim has participated in subsistence activities all his life and has demonstrated a keen understanding of the needs of rural residents of Alaska as well as the workings of government and the private sectors,” said Secretary Salazar, whose department recently completed a review of the subsistence program management. “With his experience and understanding, he is uniquely qualified to lead the Board in carrying out improvements that will strengthen its role in managing fish and wildlife on the public lands in Alaska.”

Secretary Vilsack commended Towarak, saying “We are confident Tim can lead the Board’s revitalization initiative. The federal subsistence management program embodies key USDA roles and priorities, including sustaining livelihoods of rural families, ensuring access to healthy and affordable food, providing jobs in rural communities, sustaining culture and traditional ways of life, and strengthening relationships with Alaska Native tribes.”

The Federal Subsistence Board manages the fish and wildlife harvest for rural residents who depend on these resources for their lives and livelihoods. The board includes the Alaska Directors for the Fish and Wildlife Service, the National Park Service, the Bureau of Indian Affairs, the Bureau of Land Management, and the Alaska Regional Forester for the Department of Agriculture’s Forest Service. The Board works through Regional Advisory Councils.

The program review proposed several administrative and regulatory changes to strengthen the program and make it more responsive to the concerns of those who rely on it for their subsistence needs. One proposal calls for adding two rural Alaskans to the Board, which allows additional regional representation and increases stakeholder input in the decision-making process. This change would be open to public comment through the rule-making process.

The Secretaries also are asking the new Chair and the Board to ensure that the Regional Advisory Councils are given the full authorities in the rule-making process that they are granted in the Alaska National Interest Lands Conservation Act (ANILCA), and that the board take on greater responsibilities for budget preparation as well as hiring and evaluating the director of the Office of Subsistence Management.

The Board also is being requested to evaluate the Memorandum of Understanding (MOU) it negotiated in 2008 with the State of Alaska to ensure it does not constrain federal subsistence management responsibilities. This evaluation will include all parties, including the Regional Advisory Councils.

Reviewers also received recommendations for statutory changes to better meet the goals of ANILCA and the Alaska Native Claims Settlement Act. While these proposals are acknowledged, they fall outside the authorities of the Secretaries but will be forwarded to concerned Members of Congress and the relevant committees with oversight of the statutes.

Additional changes to the subsistence program may follow. Secretary Salazar has asked his Policy, Management and Budget team at Interior to conduct a professional management review of the Office of Subsistence Management to ensure that the organizational structure created nearly 20 years ago, and the budgets they live with, meet the increasingly complex research and management demands that have accrued through nearly two decades of court decisions and resource allocation challenges.

Additionally, the USDA Forest Service's Washington Office recently reviewed its Alaska Region's portion of the program. Recommendations based on that review are being evaluated and will be integrated with Interior's findings for consideration by both Departments.

Under Title VIII of ANILCA, rural residents of Alaska are given priority for subsistence uses of fish and wildlife on federal lands. The State of Alaska managed for the rural resident subsistence priority until a 1989 Alaska Supreme Court decision ruled the priority conflicted with the state's constitution. The Interior and Agriculture departments began managing the subsistence priority for wildlife on federal lands in 1992. Six years later, following a federal court ruling, federal management for subsistence fisheries in certain waters within or adjacent to federal lands was added to the responsibilities of the Interior and Agriculture departments.

The federal subsistence management structure was crafted as a temporary DOI/USDA program to meet the requirements of ANILCA until the state could amend its constitution and comply with Title VIII of that law. This DOI/USDA review was predicated on the assumption that the state is no longer attempting to regain management authority for the ANILCA subsistence priority, and that federal management will continue for the foreseeable future.

###

## **BRIEFING ON CHANGING THE COMPOSITION OF THE BOARD**

On October 23, 2009, Secretary of the Interior Salazar announced the initiation of a Departmental review of the Federal Subsistence Management Program. The review focused on how the program is meeting the subsistence mandates found in Title VIII of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), and how the program is serving rural subsistence users as envisioned when the program was begun in the early 1990s.

On August 31, 2010, the Secretaries announced the findings of the review. The results of the review lead to several proposed administrative and regulatory changes to strengthen the program and make it more responsive to subsistence users. One proposed change is to expand the Board to include two public members who would represent rural Alaskan subsistence users. This change would afford representation of rural Alaska subsistence users' interests, and increased stakeholder input in the decision-making process.

Special Assistant to the Secretary of the Interior for Alaska Pat Pourchot worked with the Office of Subsistence Management to develop a proposed rule to make this change. The proposed rule was published on February 11, 2011, with a 60 day public comment period. Following the public comment period, the Office of Subsistence Management will summarize public comments which will be reviewed by the Federal Subsistence Board and the Secretaries. The Board will review the public comments at its public meeting on May 3, 2011 and provide its recommendation to the Secretaries. This change is to subpart B of the regulations, which means that it is within the purview of the Secretaries, and not the Federal Subsistence Board. The Secretaries will make the final determination as to whether or how this change is to be made.

In summary, this proposed change would expand the Board to include two new members. Additional changes to the regulation are also proposed to clarify the designation of alternates for Federal agency members and to increase the size of a quorum (to take into account the two new members). There is nothing in the regulation change that speaks to who the new representatives would be, nor the process utilized to appoint those two new members.

The Federal Subsistence Board, acting for the Secretaries, is seeking comment on this proposed regulatory change to expand the Board to include "two public members representing rural Alaska subsistence users..."

The specific regulatory changes are provided below, and the full text of the proposed rule can be found at: <http://alaska.fws.gov/asm/law.cfm?law=3>

### **Existing Federal Regulation**

§ \_\_\_\_ .10 *Federal Subsistence Board.*

\* \* \* \* \*

(b) \* \* \*

*(1) The voting members of the Board are: a Chair to be appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; Alaska Regional Director, National Park Service; Alaska Regional Forester, USDA Forest Service; the Alaska State Director, Bureau of Land Management; and the Alaska Regional Director, Bureau of Indian Affairs. Each member of the Board may appoint a designee.*

\* \* \* \* \*

(d) \* \* \*

(2) *A quorum consists of four members.*

### Proposed Federal Regulation

§ \_\_\_\_ .10 *Federal Subsistence Board.*

\* \* \* \* \*

(b) \* \* \*

*(1) The voting members of the Board are: a Chair to be appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture; **two public members representing rural Alaskan subsistence users to be appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture**; the Alaska Regional Director, U.S. Fish and Wildlife Service; Alaska Regional Director, National Park Service; Alaska Regional Forester, USDA Forest Service; the Alaska State Director, Bureau of Land Management; and the Alaska Regional Director, Bureau of Indian Affairs. Each **Federal agency** member of the Board may appoint a designee.*

\* \* \* \* \*

(d) \* \* \*

(2) *A quorum consists of **five** members.*

\* \* \* \* \*

Comments on the proposed rule may be submitted through April 12, 2011 by one of the following methods:

- **By mail or hand delivery**  
Federal Subsistence Board  
Office of Subsistence Management -- Attn: Theo Matuskowitz  
1011 East Tudor Road, MS-121  
Anchorage, AK 99503
- **At any Federal Subsistence Regional Advisory Council meeting**  
See the Meetings and Deadlines page of the Federal Subsistence Management Program's website, <http://alaska.fws.gov/asm/deadline.cfm>, for dates and locations of Council meetings.
- **On the Web at <http://www.regulations.gov>**

Search for FWS–R7–SM–2011-0004, which is the docket number for this proposed rule.

All comments received will be posted on <http://www.regulations.gov>.

**BRIEFING  
ON  
MEMORANDUM OF UNDERSTANDING**

In his letter to the Federal Subsistence Board following the program review, the Secretary specifically directed the Federal Subsistence Board to review the Memorandum of Understanding (MOU) with the Regional Advisory Councils, and determine either the need for the MOU or the need for potential changes to clarify Federal authorities in regard to the subsistence program. Consistent with that direction, the Federal Subsistence Board is seeking input from the Regional Councils on the MOU during the winter 2011 meeting cycle.

**BACKGROUND**

When the Federal subsistence program expanded into subsistence fisheries management in 1999, both Federal and State entities believed that a Memorandum of Agreement (MOA) would help with the coordination of subsistence management between Federal and State Programs. As a result, an MOA was negotiated between a state and federal team that included Regional Advisory Council representatives. It was initialed by all parties in April 2000. The 2008 MOU, which is based in large part on the MOA, was developed by a team of state and federal officials over a period of about one year and was signed in December 2008. FACA concerns precluded RAC members from being on the development team.

The purpose of the MOU "...is to provide a foundation and direction for coordinated interagency fish and wildlife management for subsistence uses on Federal public lands..." while allowing the Federal and State agencies to continue to act in accordance with their respective statutory authorities. Signatories include the Chair of the Federal Subsistence Board and its members, consisting of the Alaska Regional and State Directors of BLM, BIA, NPS, USFWS, and USDA Forest Service; the Commissioner of the Alaska Department of Fish and Game, and the Chairs of the Alaska Board of Fisheries and the Alaska Board of Game.

**KEY POINTS**

- The MOU helps to address the necessity of having some degree of communication and coordination between the State and Federal governments in order to aid in effective management of fish and wildlife resources in Alaska.
- Several sections of Title VIII expressly require the Secretaries to communicate and/or consult with State representatives on certain issues relating to subsistence uses by rural Alaskans (e.g., ANILCA §§ 802(3), 805(a), 810(a), 812, and 816(b)).
- The MOU was carefully reviewed by the Federal team and legal counsel to ensure that provisions of Federal law and the Board's obligations to rural residents as defined in Title VIII of ANILCA continue to be maintained.
- The body of the MOU contains several references to State law, prompting some observers to express concern that in signing the MOU, the Board undermined its obligation under Title VIII to provide for a subsistence priority for rural Alaskans on Federal public lands.

- However, the Board's authority, charge, and obligation to rural residents come only from Title VIII and any other applicable federal statutes: the MOU will not, and cannot, change that.
- Three protocols targeted at specific issues were developed under the guidance of the MOA/ MOU: *Subsistence Management Information sharing Protocol, April 2002, Yukon River Drainage Subsistence Salmon Fishery Management Protocol, April 2002, and the Memorandum of Understanding: Review and Development of Scientifically Based Salmon Escapement Goals, June 2005. These protocols facilitate management, as well as the exchange and sharing of data between the Federal and State agencies.*
- Other key guiding principles of the MOU include: avoiding duplication of research, monitoring, and management; involving subsistence and other users in fish and wildlife management planning efforts; and promoting clear and enforceable hunting, fishing and trapping regulations.

#### **ACTION NEEDED**

- Regional Councils and State Advisory Committees are being asked to review the MOU and offer specific comments about the wording of the document and how it might be improved. Regional Council and State Advisory Committee members are welcome to offer their general opinion of the MOU as well.

#### **NEXT STEPS**

- The Federal Subsistence Board's review period is now open and will go until May 1, 2011.
- The Federal Subsistence Board will review all comments in the summer of 2011 and determine what the next steps should be. Because the MOU involves other parties, there will need to be discussion with those parties also.

Submit comments to:  
Gary Goldberg  
Office of Subsistence Management  
1011 East Tudor Road  
Anchorage, AK 99503

or

via E-mail to  
Gary\_Goldberg@fws.gov

or

via fax at 907-786-3898

## MEMORANDUM OF UNDERSTANDING

for

Coordinated Interagency Fish and Wildlife Management for Subsistence Uses on Federal  
Public Lands in Alaska

between the

Federal Subsistence Board

(U.S. Fish and Wildlife Service, U.S. Forest Service, National Park Service, Bureau of  
Land Management, Bureau of Indian Affairs, and Secretarial appointed Chair)

and

State of Alaska

(Alaska Department of Fish and Game (ADF&G) and Alaska Board of Fisheries and  
Alaska Board of Game (State Boards))

### **I. PREAMBLE**

This Memorandum of Understanding (MOU) between the Federal Subsistence Board and the State of Alaska establishes guidelines to coordinate in managing subsistence uses of fish and wildlife resources on Federal public lands in Alaska.

WHEREAS, the State of Alaska, under its laws and regulations, is responsible for the management, protection, maintenance, enhancement, rehabilitation, and extension of the fish and wildlife resources of the State of Alaska on the sustained yield principle, subject to preferences among beneficial uses, such as providing a priority for subsistence harvest and use of fish and wildlife (where such uses are customary and traditional), and implements its program through the State Boards and the ADF&G, providing for public participation through Advisory Committees authorized in the State's laws and regulations (Alaska Statutes Title 16; Alaska Administrative Code Title 5) and through Alaska Administrative Procedure Act;

WHEREAS, the Secretaries of Agriculture and the Interior (Secretaries), by authority of the Alaska National Interest Lands Conservation Act (ANILCA) and other laws of Congress, regulations, and policies, are responsible for ensuring that the taking on Federal public lands of fish and wildlife for nonwasteful subsistence uses, as defined in ANILCA §803, shall be accorded priority over the taking on such lands of fish and wildlife for other purposes as provided for in ANILCA §804; and that the Secretaries are responsible for protecting and providing the opportunity for rural residents of Alaska to engage in a subsistence way of life on Federal public lands in Alaska, consistent with the conservation of healthy populations of fish and wildlife; and these lands are defined in ANILCA §102 and Federal regulation (36 CFR Part 242 and 50 CFR Part 100); and that the Secretaries implement this priority through the Federal Subsistence Board, providing for public participation through Regional Advisory Councils authorized by ANILCA §805 and Federal regulations (above); and,

WHEREAS, ANILCA, Title VIII, authorizes the Secretaries to enter into cooperative agreements in order to accomplish the purposes and policies of Title VIII, and the State of Alaska and the Federal Subsistence Board believe it is in the best interests of the fish and wildlife resources and the public to enter into this Memorandum of Understanding;

THEREFORE, the signatories endorse coordination of State and Federal regulatory processes and the collection and exchange of data and information relative to fish and wildlife populations and their use necessary for subsistence management on Federal public lands. This MOU forms the basis for such cooperation and coordination among the parties with regard to subsistence management of fish and wildlife resources on Federal public lands.

## **II. PURPOSES**

The purpose of this MOU is to provide a foundation and direction for coordinated interagency fish and wildlife management for subsistence uses on Federal public lands, consistent with specific State and Federal authorities as stated above, that will protect and promote the sustained health of fish and wildlife populations, ensure conservation and stability in fish and wildlife management, and include meaningful public involvement. The signatories hereby enter this MOU to establish guidelines for subsequent agreements and protocols to implement coordinated management of fish and wildlife resources used for subsistence purposes on Federal public lands in Alaska.

## **III. GUIDING PRINCIPLES**

- 1) Ensure conservation of fish and wildlife resources while providing for continued uses of fish and wildlife, including a priority for subsistence uses, through interagency subsistence management and regulatory programs that promote coordination, cooperation, and exchange of information between State and Federal agencies, regulatory bodies, Regional Advisory Councils and/or State Advisory Committees, state and local organizations, tribes and/or other Alaska Native organizations, and other entities;
- 2) Use the best available scientific and cultural information and local traditional knowledge for decisions regarding fish and wildlife management for subsistence uses on Federal public lands;
- 3) Avoid duplication in research, monitoring, and management;
- 4) Involve subsistence and other users in the fisheries and wildlife management planning processes;
- 5) Promote stability in fish and wildlife management and minimize unnecessary disruption to subsistence and other uses of fish and wildlife resources; and
- 6) Promote clear and enforceable hunting, fishing, and trapping regulations.

**IV. THE FEDERAL SUBSISTENCE BOARD AND STATE OF ALASKA  
MUTUALLY AGREE:**

- 1) To cooperate and coordinate their respective research, monitoring, regulatory, and management actions to help ensure the conservation of fish and wildlife populations for subsistence use on federal public lands.
- 2) To recognize that State and Federal historical and current harvest and population data and information and cultural information are important components of successful implementation of Federal responsibilities under ANILCA Title VIII.
- 3) To provide a priority for subsistence uses of fish and wildlife resources and to allow for other uses of fish and wildlife resources when harvestable surpluses are sufficient, consistent with ANILCA and Alaska Statute 16.05.258.
- 4) To recognize that cooperative funding agreements implementing the provisions of this MOU may be negotiated when necessary and as authorized by ANILCA §809 and other appropriate statutory authorities. Federal funding agreements for cooperative research and monitoring studies of subsistence resources with organizations representing local subsistence users and others will be an important component of information gathering and management programs.
- 5) To recognize that State and Federal scientific standards for conservation of fish and wildlife populations are generally compatible. When differences interpreting data are identified, the involved agencies should appoint representatives to seek resolution of the differences.
- 6) To cooperatively pursue the development of information to clarify state and federal regulations for the public.
- 7) To recognize that the signatories may establish protocols or other procedures that address data collection and information management, data analysis and review, in-season fisheries and wildlife management, and other key activities and issues jointly agreed upon that affect subsistence uses on Federal public lands. (See Appendix)
- 8) To provide an opportunity, through interagency Federal-State technical committees, for appropriate scientific staff, along with Regional Advisory Council and/or State Advisory Committee representatives, subsistence users, and other members of the public to discuss and review data analyses associated with proposal analyses and resource and harvest assessment and monitoring.
- 9) To designate liaisons for policy communications and, as appropriate, to identify local agency representatives for efficient day-to-day communication, field operations, and data retrieval between State and Federal programs.
- 10) To provide adequate opportunity for the appropriate Federal and State agencies to review analyses and justifications associated with special actions and emergency orders affecting subsistence uses on Federal public lands, prior to implementing such actions. Where possible and as required, State and Federal agencies will provide advance notice to

Regional Advisory Council and/or State Advisory Committee representatives and other interested members of the public before issuing special actions or emergency orders. Where conservation of the resource or continuation of subsistence uses is of immediate concern, the review shall not delay timely management action.

11) To cooperatively review existing and proposed State fish and wildlife management plans and Federal subsistence management plans that affect subsistence uses on Federal public lands, providing an opportunity for Regional Advisory Council and/or State Advisory Committee representatives and other public to participate. Consider State fish and wildlife management plans as the initial basis for any management actions so long as they provide for subsistence priorities under State and Federal law. Procedures for management plan reviews and revisions will be developed by the respective Federal and State Boards in a protocol.

12) To use the State's harvest reporting and assessment systems supplemented by information from other sources to monitor subsistence uses of fish and wildlife resources on Federal public lands. In some cases, Federal subsistence seasons, harvest limits, or data needs may necessitate separate Federal subsistence permits and harvest reports.

13) To ensure that local residents and other users will have meaningful involvement in subsistence wildlife and fisheries regulatory processes that affect subsistence uses on Federal public lands.

## **V. GENERAL PROVISIONS**

1) No member of, or Delegate to, Congress shall be admitted to any share or part of this document, or to any benefit that may arise therefrom.

2) This MOU is complementary to and is not intended to replace, except as specifically regards Federal responsibility for subsistence uses of fish and wildlife on Federal public lands, the Master Memoranda of Understanding between the individual Federal agencies and ADF&G. Supplemental protocols to this document may be developed to promote further interaction and coordination among the parties.

3) Nothing herein is intended to conflict with Federal, State, or local laws or regulations.

4) Policy and position statements relating specifically to this MOU may be made only by mutual consent of the parties.

5) Nothing in this MOU is intended to enlarge or diminish each party's existing responsibilities and authorities, if any, for management of fish and wildlife.

6) Upon signing, the parties shall each designate an individual and an alternate to serve as the principal contact or liaison for implementation of this MOU.

7) This MOU becomes effective upon signing by all signatories and will remain in force until such time as the Secretary of the Interior determines that the State of Alaska has implemented a subsistence management program in compliance with Title VIII of

ANILCA, or, signatories terminate their participation in this MOU by providing 60 days written notice. Termination of participation by one signatory has no impact on this MOU's effectiveness between the remaining signatories.

8) The signatories will meet annually, or more frequently if necessary, to review coordinated programs established under this MOU and to consider modifications to this MOU that would further improve interagency working relationships. Documentation of the review and consideration of any modifications within the scope of this understanding shall be made by mutual consent of the signatories, in writing, signed and dated by all parties. If no review is conducted, this MOU will expire 5 years after the most recent review was conducted.

9) Nothing in this document shall be construed as obligating the signatories to expend funds or involving the United States or the State of Alaska in any contract or other obligations for the future payment of money, except as may be negotiated in future cooperative funding agreements.

10) This MOU establishes guidelines and mutual management goals by which the signatories shall coordinate, but does not create legally enforceable obligations or rights.

11) This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement, contribution of funds, or transfer of anything of value between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures.

12) This MOU does not restrict the signatories from participating in similar agreements with other public or private agencies, organizations, and individuals.

**SIGNATORIES**

In WITNESS WHEREOF, the parties hereto have executed this MOU as of the last date written below.

/S/ Denby Lloyd

\_\_\_\_\_  
Commissioner  
Alaska Department of Fish and Game  
Date: 3 Nov. 08

/S/ John Jenson

\_\_\_\_\_  
Chair  
Alaska Board of Fisheries  
Date: Nov 3 2008

/S/ Cliff Judkins

\_\_\_\_\_  
Chair  
Alaska Board of Game  
Date: 11/09/08

/S/ Geoff Haskett

\_\_\_\_\_  
Regional Director  
U.S. Fish and Wildlife Service  
Date:

/S/ Denny Bschor

\_\_\_\_\_  
Regional Forester  
U.S. Forest Service  
Date: 12/17/08

/S/ Sue Masica

\_\_\_\_\_  
Regional Director  
National Park Service  
Date: 12.12.08

/S/ T. P. Lonnie

\_\_\_\_\_  
State Director  
Bureau of Land Management  
Date: 12-18-08

/S/ Niles Cesar

\_\_\_\_\_  
~~Regional~~ Area Director  
Bureau of Indian Affairs  
Date: 12-15-08

/S/ Mike R. Fleagle

\_\_\_\_\_  
Chair  
Federal Subsistence Board  
Date: 12/5/08

## **APPENDIX**

### **SCOPE FOR PROTOCOLS AND/OR PROCEDURES**

- 1) Joint technical committees or workgroups may be appointed to develop protocols and/or procedures.
- 2) Individual protocols and/or procedures should:
  - a. Be developed by an interagency committee. The committee shall involve, as appropriate, Regional Advisory Council and/or State Advisory Committee representatives and other State/Federal regional or technical experts.
  - b. Identify the subject or topic of the protocol and provide justification.
  - c. Identify the parties to the protocol.
  - d. Identify the process to be used for implementing the protocol.
  - e. Provide for appropriate involvement of Regional Advisory Council and/or State Advisory Committees, tribes and/or other Alaska Native organizations, governmental organizations, and other affected members of the public when implementing protocols.
  - f. Specify technical committee or workgroup memberships.
  - g. Develop a timeline to complete tasks.
  - h. Identify funding obligations of the parties.
  - i. Define the mechanism to be used for review and evaluation.
- 3) Protocols or procedures require concurrence by the signatories of this MOU prior to implementation.



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

**Federal Subsistence Board**

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



U.S. FOREST SERVICE

FWS/OSM 10089

December 21, 2010

[REDACTED]  
[REDACTED]  
[REDACTED], Anchorage, Alaska 99503

Dear [REDACTED]:

Consistent with the Secretaries of the Interior and Agriculture's renewed emphasis on respectful relationships with tribes, the Federal Subsistence Board would like to enhance our government-to-government consultation with tribes. This letter explains the process that the Federal Board intends to pursue. Because of the central role of the Regional Advisory Councils, we want to ensure that you, as a Council member, are kept informed throughout this process, and that you have the opportunity to participate meaningfully as we move forward.

As a Council member you know that Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) provides a foundational role for the ten Regional Advisory Councils in the development of regulations guiding the taking of fish and wildlife on Federal public lands in Alaska. In making its regulatory decisions, the Federal Board must follow the recommendations of the Regional Advisory Councils unless they are not supported by substantial evidence, violate recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs (805(c) of ANILCA). Deference to the Councils ensures that rural residents have a meaningful role in the management of fish and wildlife and subsistence uses, as envisioned by Congress. To date, because of the foundational role of Councils in the Federal program, as well as the requirement by statute that the Board defer to the Councils' recommendations, the Federal Board has not explicitly consulted with tribes during the development of regulations.

With regard to the soon-to-be-expiring fisheries regulations, the Federal Board is requesting immediate input so that the rural subsistence-fishing priority can continue after March 31, 2011. The process for developing fisheries regulations has been underway for ten months, beginning with publication in the Federal Register on January 15, 2010, of a proposed rule to continue the regulations for another two years. In response to the proposed rule, the Program received 19 proposals to change regulations. The proposals were then analyzed by Federal staff, and the relevant analyses were reviewed by Regional Advisory Councils during public meetings in their respective regions this past fall. At each Regional Council meeting the Councils heard testimony on the proposals and through a deliberative process provided recommendations to the Federal Board on relevant proposals.

██████████

The Federal Board is scheduled to act on these recommendations at its January 18-21, 2011, meeting in Anchorage. As the existing regulations expire on March 31, 2011, the new regulations must be in place by April 1, 2011. If Federal regulations expire before new regulations are in place, the ANILCA rural priority would lapse and state regulations would guide subsistence take on Federal lands. In light of the need for expediency, the Federal Subsistence Board has invited tribes to an in-person consultation session with the Board and the ten Regional Advisory Council chairs on January 18<sup>th</sup>, the first day of our meeting. Recognizing that it could be difficult for people to travel to that session in Anchorage, we have made provisions for telephonic consultation as well as the incorporation of written input (see enclosure). The Federal Board will consider this input during its deliberations at the January 18-21 meeting. We recognize that this approach may fall short of how tribes would like to consult with Federal officials on subsistence; however, it is our hope that by inviting input in this manner concerns will be addressed for this immediate Board action on fishery proposals.

To ensure more comprehensive and effective future tribal involvement, we also intend to develop a tribal consultation protocol. Towards that end, we have invited tribes to an initial meeting with the Board and Regional Council Chairs to begin discussions on how best to structure future tribal consultation working with the Board and the Regional Councils. This winter we will also discuss with Regional Councils how they envision tribal government-to-government consultation should occur. The meeting with tribes will be held on January 21, 2011, at the Egan Center, beginning at 9:00 AM. Again, we will provide an opportunity for telephonic participation (see enclosed) or comments or suggestions may be sent to the Board (see enclosure for mailing address).

Based on input and the discussions at the meeting on January 21<sup>st</sup>, and later with the Regional Advisory Councils, the Federal Board will develop a draft approach to tribal consultation. We will share that approach with tribes and Regional Councils prior to finalizing our process. For further information, please contact Gary Goldberg, Subsistence Policy Coordinator at the Office of Subsistence Management, at 1-800-478-1456.

In closing, I appreciate your interest in and service to the Federal Subsistence Program.

Sincerely,

/S/ Tim Towarak

Tim Towarak, Chair  
Federal Subsistence Board

**SUMMARY OF THE JANUARY 5, 2011  
FEDERAL SUBSISTENCE BOARD EXECUTIVE SESSION**

- The Federal Subsistence Board held an executive session on Wednesday, January 5, 2011 at which it discussed possible follow-up work on six items that came out of the Secretarial Review of the Federal Subsistence Management Program.
- FSB Members (or their alternates) in attendance at the January 5, 2011 meeting included:
  - Tim Towarak, Chair
  - Sue Masica, NPS
  - Julia Dougan, BLM
  - Kristin K'eit and Gene Virden, BIA
  - Larry Bell, FWS
  - Beth Pendleton, USDA, FS.
- Staff in attendance included:
  - Keith Goltz and Ken Lord, SOL; Jim Ustaciewski, OGC;
  - Pete Probasco, Polly Wheeler, Gary Golberg and Larry Buklis, OSM
  - Nancy Swanton, Sandy Rabinowitch, and Dave Mills, NPS
  - Jerry Berg and Crystal Leonetti, FWS;
  - Glenn Chen and Pat Petrivelli, BIA
  - Dan Sharp, BLM
  - Steve Kessler, USDA FS.
- Pat Pourchot, Special Assistant for Alaska, Secretary of the Interior was also in attendance.

No formal action was taken at the meeting. The Board discussed six items from the Secretarial review, including:

- Developing a proposed regulation to increase the membership on the Federal Subsistence Board to include two additional public members representing subsistence users.
  - OSM and Pat Pourchot developed a proposed rule, it will be published in the Federal Register in mid-February, with a 60 day public comments period.
- As a matter of policy, expand deference to appropriate Regional Advisory Council (RAC) recommendations in addition to the “takings” decisions of the Board provided for under Section 805(c) of ANILCA, subject to the three exceptions found in that Section.
  - The FSB will generally defer to Regional Councils on C&T, but likely not on rural, as the Courts have ruled that rural is an absolute term. The FSB has not yet decided on whether or not it will defer to RACs on the rural process.
- Review, with Regional Council input, the December 2008 Memorandum of Understanding (MOU) with the State to determine either the need for the MOU or the need for potential changes to clarify Federal authorities in regard to the subsistence program.
  - The MOU is being presented to all Councils at the winter 2011 meetings for their review and comment.
- Review, with Regional Advisory Council input, the customary and traditional (C&T) use determination process and present recommendations for regulatory changes.

- RACs are being asked for their general perspectives on the C&T process. That is, are they okay with it, and if not, what in their view should be changed.
- Review, with Regional Advisory Council input, the rural/nonrural determination process and present recommendations for regulatory changes.
  - The FSB will be holding a work session on this process on April 6. No further action will be taken until after that meeting.
- Review the Board's written policy on executive sessions and minimize the use of executive sessions to those specifically prescribed.
  - The Board will minimize the use of executive sessions. It also intends to add a sentence to its guidelines, stating that formal report-outs will be provided following executive sessions. This document represents the first such "report out."

Action Item from Secretarial Review	Status	Next Steps	RAC Involvement
<b>Expand FSB membership</b>			
	Requires change to subpart B regulations Draft has been prepared	Anticipate publication of draft regulation during spring 2011 FSB will make recommendation to Secretaries in May 2011 Nominees will not be solicited until regulations finalized, likely in 2011	Will be asked for comment at Winter 2011 meetings
<b>Expand deference to RACS:</b>			
<b>C&amp;T</b>	FSB generally supportive of expanding deference to RACs on C&T; policy and/or possible rulemaking need to be pursued	Develop interim policy (following 805(c)) for deference on C&T Determine appropriate mechanism (policy, rulemaking/advance notice of intent) for formalizing intent on C&T	Circulate draft for comment - Fall 2011
<b>Rural Determinations</b>	The Courts have found that rural is an absolute term meaning "sparsely populated," and not subject to interpretation, therefore deference regarding rural determinations would be inappropriate.	Focus on process and criteria for rural/nonrural determinations	RAC chairs invited to April 6, 2011 meeting to understand 2000 census process

Action Item from Secretarial Review	Status	Next Steps	RAC Involvement
<b>Expand deference to RACS (Continued)</b>			
<i>In-Season management</i>	No change for in-season management, will defer as time and conservation allow	Revise inseason delegation of authority letters as needed and provide copies to RACs	Discuss communications improvements/enhancements that flow from delegation of authority letters  Close loop if concerns are raised and notify FSB with concerns
<b>Review MOU</b>			
	Overview/briefing at winter 2011 RAC meetings	Receive feedback by May 1, 2011  FSB to review comments during summer 2011  FSB to discuss changes with State  Any proposed changes will be brought before the RACs in Fall 2011	Review and discuss MOU at Winter 2011 meetings  Provide comments to FSB by May 1, 2011
<b>Review C&amp;T determination process</b>			
	Seek input from RACs as to what changes, if any, are needed  Explore and develop possible options for changes	Receive RAC input  Refine options (if any) during Summer 2011  Options presented to RACs in Fall 2011	Broad discussion on C&T process at Winter 2011 meetings  If needed, review and develop options at Fall 2011 meetings

Action Item from Secretarial Review	Status	Next Steps	RAC Involvement
<b>Review rural/nonrural process</b>			
	Educational work session on April 6, 2011	Need to examine process for considering changes to rural determinations process	Invite RAC chairs to April 6, 2011 work session

## **OVERVIEW OF THE ALASKA MIGRATORY BIRD CO-MANAGEMENT COUNCIL**

**By:** Fred Armstrong, Executive Director, Alaska Migratory Bird Co-Management Council (AMBCC)

### **Introduction**

The Migratory Bird Treaty Act was amended to allow the Federal government to regulate an otherwise closed season between March 10 and September 1. The AMBCC was created to provide regulatory recommendations to the Service Regulations Committee.

### **Background**

The AMBCC consists of Alaska Natives, State of Alaska and U.S. Fish & Wildlife Service representatives that meet and act on regional regulations. Current partners include:

State of Alaska	Bristol Bay Native Association
Aleutian/Pribilof Islands Association	Copper River Native Association
Association of Village Council Presidents	Kawerak Inc.
Chugach Regional Resource Commission	Tanana Chiefs Conference
Sun'aq Tribe of Kodiak	North Slope Borough
Maniilaq Association	

The council recommends regulations based on the customary and traditional lifestyle of indigenous inhabitants located in eligible areas of the state defined in the amendments protocol. The season runs from April 2–August 31 of each year with a 30 day closure prescribed for each region during the principle nesting season. An open and closed list of birds is also published annually as well as methods and means prohibitions.

The public can submit proposals during the open period of November 1 through December 15 annually. The AMBCC acts on regional and statewide proposals at their April regulatory meeting of each year.

All hunters ages 16 and over must have in possession a federal duck stamp when hunting waterfowl.

Law Enforcement will actively enforce all migratory bird regulations promulgated for the spring and summer season in Alaska.

Visit <http://alaska.fws.gov/ambcc/index.htm> to view the current regulations for the subsistence harvest of migratory birds and find more information on the AMBCC.

## Alaska Migratory Bird Co-Management Council

(Updated September 2010)

### Association of Village Council Presidents

Myron Naneng  
Tel: Wk 907/543-7300; Fax: 907/543-3596  
Email: mnaneng@avcp.org

### Bristol Bay Native Association

Molly Chythlook  
Tel: 907/842-5257; Fax: 907,842-5932  
Email: mchythlook@bbna.com

### Chugach Regional Resources Commission

Patrick Norman  
Tel: 907/284-2227  
Email: pnormanvc@hotmail.com

### Copper River Native Association

Joeneal Hicks  
Tel: 907/822-3503; Fax: 907/822-5179  
Email: jhicksHTSS@cvinternet.net

### Kawerak, Inc.

Sandra Tahbone  
Tel: 907/443-4265; Fax: 907/443-4452  
Email: stahbone@kawerak.org

### Southeast Inter-tribal Fish & Wildlife Commission

Matt Kookesh  
Tel: 907/463-7124; Fax: 907/463-7124  
Email: mkookesh@gci.net

### Aleutian/Pribilof Islands Assoc.

Peter Devine  
Tel: 907/383-5616; Fax: 907/383-5814

### Sun'aq Tribe of Kodiak

Olga Rowland  
Tel: 907/286-2215; Fax: 907/286-2275  
Email: kodiakducks@hotmail.com

### Maniilaq Assoc.

Enoch Shiedt  
Tel: 907/442-7673; Fax: 907/786-7678  
Email: enoch.shiedt@maniilaq.org

### North Slope Borough

Taqulik Hepa  
Tel: 907/852-0350; Fax: 907/852-0351  
Email: taqulik.hepa@north-slope.org

### Tanana Chiefs Conference

Randy Mayo  
Tel: 907/978-1670; Fax: 907/895-1877  
Email: stevensvillage@hotmail.com

### U.S. Fish & Wildlife Service

Doug Alcorn  
Tel: 907/786-3491; Fax: 907/465-6142  
Email: doug\_alcorn@fws.gov

### Alaska Department of Fish & Game

Dale Rabe  
Tel: 907/465-4190; Fax: 907/465-6145  
Email: dale.rabe@alaska.gov

## Proposal Form

The Alaska Migratory Bird Co-Management Council  
***Proposed Change for 2012 Alaska Subsistence Spring/Summer  
Migratory Bird Harvest Regulations***

All proposals received by the AMBCC office will be sent to the affected regional management body for their consideration and recommendation. Recommendations will be forwarded to the statewide body for consideration and action. To ensure success of your proposal, please plan on attending your local regional management body meeting to present data or information on your proposal. Proposals received without adequate information may be deferred or rejected.

Proposed by: \_\_\_\_\_

Name: \_\_\_\_\_

Organization/Affiliation: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Daytime Phone: \_\_\_\_\_ Fax Number: \_\_\_\_\_ E-mail: \_\_\_\_\_

**What problem or issue are you trying to address?** (Clearly state the problem to be solved or a situation that should be corrected.)

**How should the new regulation read?** (Indicate if it is a change to season dates, species of bird/eggs open to hunting, area open to hunting, methods and means, or harvest limits)

**To what geographic area does this regulation apply?** (Is it a statewide, regional, or local regulation? If it pertains to a local area, please describe where it applies.)

**What impact will this regulation have on migratory bird populations?**

**How will this regulation affect subsistence users?**

**Why should this regulation be adopted?**

**Please attach any additional information that supports your proposal.**

**BOARD ACTION REPORT**  
Federal Subsistence Board Meeting  
January 18–20, 2011

**YUKON-NORTHERN AREA**

**FP11-01**

**Description:** FP11-01 requested that all gillnets with greater than 6-inch stretch mesh be restricted to not more than 35 meshes in depth in Federal public waters of the Yukon River drainage. Submitted by the Eastern Interior Alaska Subsistence Regional Advisory Council.

**Council Recommendation/Justification:**

**Yukon-Kuskokwim Delta** — Oppose FP11-01. It does not make sense to restrict mesh depth when water can be 70–100 feet deep. The Council also opposes the proposals due to the burden to subsistence users because of the cost to alter nets.

**Western Interior Alaska** — Oppose FP11-01. The Council stated that current data shows salmon will swim in various depths in the water column. Weather will also affect the migration pattern of the salmon swimming upriver and fishermen will adapt and fish in different depth of water.

**Seward Peninsula** — Oppose FP11-01. The proposal does not address the issue of concern and would not have much impact other than cost to subsistence users to alter their nets. Also, there is opposition to the proposal from people that would be affected.

**Eastern Interior Alaska** — Took No Action on FP11-01. Action was deferred until the results of a relevant study is completed in 2011 and presented to the Council.

**Board Action/Justification:** Rejected. Reduced depth reduces efficiency, thereby making it more difficult for people to meet their needs. There is a lack of substantial evidence to support such a change; however, if new information becomes available, a new proposal can be submitted. This action follows the recommendation of the Yukon-Kuskokwim Delta, Western Interior Alaska, and Seward Peninsula subsistence regional advisory councils.

**FP11-02**

**Description:** Proposal FP11-02 requested that Federal public waters of the Yukon River be closed to subsistence and commercial fishing from the river mouth to the Canadian border during the first pulse, and second pulse if necessary, of the Chinook salmon run. These rolling closures would correspond to the periods of the Chinook salmon migration when stocks returning to Canadian waters constitute the majority of the run. No harvest on these stocks would be allowed for at least 12 years or until such time as this stock's abundance and escapement quality (age/sex/length) is restored to a level that provides sustained yields to support historic commercial and subsistence fisheries. Submitted by Jack Reakoff.

**Council Recommendation/Justification:**

**Yukon-Kuskokwim Delta** — Oppose. Closing subsistence fishing when the first pulse arrives will not address the problem. Restrictions are not necessary given current regulation and ability of in-season managers.

**Western Interior Alaska** — Support with modification as follows: *(B) Federal public waters of the Yukon River will be closed, or predominantly closed, to the taking of Chinook salmon by all users sequentially from the river mouth to the Canadian border during the first pulse of Chinook salmon, through very short or no openings, using statistical area closures to provide greater protection, to expressly protect the U.S./Canadian Yukon River Panel agreed-upon escapement goal, without negatively impacting conservation of other stocks. This regulation will be in place for four years.* Implementing a closure for 12 years will create an undue hardship and will be too restrictive for rural residents. The Council supports a four year closure to protect the run and to restore it to a level that supports historic commercial and subsistence fisheries.

**Seward Peninsula** — Oppose. This would bring a fragmented management approach to the river and would restrict needed management flexibility. Also, this proposal would prevent subsistence fishers from fishing even if there is a harvestable surplus.

**Eastern Interior Alaska** — Oppose. The proposal is too restrictive. The Council has concerns about managers' ability to effectively execute this proposal, given that early run projections have been overly optimistic of the past four years, and that there are not enough data to confidently ensure the predominant presence of specific stocks in a given pulse in a timely manner. The Council heard some anecdotal observations that the first pulse consists primarily of males, so the Council does not feel confident that implementation of the proposal could enhance passage of females. There are also concerns that implementation of this proposal could put undue pressure on other Yukon River stocks. There are additional concerns that, because it would only apply to Federally managed sections of the river, its overall effectiveness would be diluted while negatively impacting only Federal subsistence fishing opportunities. There is also a concern that prescribed closures could restrict options for in-season managers who already have the tool of emergency closure when warranted.

**Board Action/Justification:** Rejected. Fisheries managers currently have the authority to implement this request so a regulation is not necessary at this time. This action follows the recommendation of the Seward Peninsula, Yukon-Kuskokwim Delta, and Eastern Interior Alaska subsistence regional advisory councils.

**FP11-03**

**Description:** Proposal FP11-03 requested that Federal public waters of Yukon River Subdistrict 5D be further subdivided into three subdistricts to provide managers additional flexibility to more precisely regulate harvest while conserving the Chinook salmon run that spawns in the upper Yukon River. Submitted by Andrew Firmin.

**Council Recommendation/Justification:**

**Yukon-Kuskokwim Delta** — Oppose. The proposal is unnecessary.

**Western Interior Alaska** — Defer. Deferral would allow more local input and submission to the State process while the proposal is considered in the Federal regulatory process.

**Seward Peninsula** — Took No Action. This is an issue that is far removed from the Bering Straits Region and the proposal is better addressed by the people that are affected.

**Eastern Interior Alaska** — Support. The Council believes that this proposal would benefit conservation by targeting closures as needed more effectively than currently, and benefit subsistence users by allowing fishing when fish are available. It aligns with traditionally recognized regional boundaries, which will facilitate enforcement. It is a positive stewardship measure that appears to enjoy the support of the affected subsistence users.

**Board Action/Justification:** Deferred Action. The Board agreed that the area is large and that the intent of the proposal has merit. Deferring action on the proposal will provide time to refine the proposal and garner more public input.

#### **FP11-04**

**Description:** Proposal FP11-04 requested the use of fish wheels be prohibited for the harvest of salmon in Districts 4 and 5 of the Yukon Area, to allow more fish to escape to the spawning grounds. Submitted by the Mountain Village Working Group.

#### **Council Recommendation/Justification:**

**Yukon-Kuskokwim Delta** — Oppose. The proposal is unnecessary, unproductive, and would potentially create controversy.

**Western Interior Alaska** — Oppose. This proposal is counterproductive and does not address Yukon River drainage conservation efforts.

**Seward Peninsula** — Took No Action. This proposal addresses an issue for an area that is far outside the Bering Straits Region. Also, taking away fish wheels from some users is taking away a customary and traditional practice.

**Eastern Interior Alaska** — Oppose. The Council feels strongly that this proposal would negatively impact the subsistence users that rely on this method, and would not be an effective tool to achieve the proponent's objective. The Council recognized the use of fish wheels as a traditional harvest method that generally seems to target the smaller fish, usually males, which tend to travel further from the center of the river. The Council noted that the proposal appeared to be retaliatory and lacked sound rationale, and that there was a robust opposition record from all but the proponent.

**Board Action/Justification:** Withdrawn. The Board withdrew this proposal as requested by the proponent and consistent with the recommendations of the Eastern Interior Alaska, Western Interior Alaska, Yukon-Kuskokwim Delta, and Seward Peninsula subsistence regional advisory councils.

#### **FP11-05**

**Description:** Proposal FP11-05 requested that the Board preclude customary trade of salmon in Yukon River Districts 4 and 5 and that the Board preclude the use of salmon for dog food in Yukon River Districts 4 and 5, with the exception of whole Chinook salmon caught incidentally during a subsistence chum salmon fishery in the Koyukuk River drainage after July 10. Submitted by the Mountain Village Working Group.

**Council Recommendation/Justification:**

**Yukon-Kuskokwim Delta** — Oppose. Written comments from the affected area oppose the proposal.

**Western Interior Alaska** — Oppose. This proposal is restrictive and targets Districts Y4 and Y5 users.

**Seward Peninsula** — Oppose. If something were to be done, it should be done drainage-wide; this proposal only addresses District 4 and 5. The Council supports limits on significant commercial enterprise, but is opposed to limits on customary trade. Managers should manage and not worry about what people do with the fish after it is legally harvested.

**Eastern Interior Alaska** — Oppose. The Council acknowledges that the use of salmon for dog food is an established traditional subsistence use of salmon, particularly salmon that are not as highly valued by humans for food. The Council considered personal knowledge of the declining numbers of both mushers and dogs in the affected area, and that current trends indicate that salmon is rarely, if ever, the sole source of food for dog teams, resulting in a very limited salmon take for this purpose. The proposal would not accomplish a significant conservation objective.

**Board Action/Justification:** Withdrawn. The Board withdrew this proposal as requested by the proponent and consistent with the recommendations of the Eastern Interior Alaska, Western Interior Alaska, Yukon-Kuskokwim Delta, and Seward Peninsula subsistence regional advisory councils.

**FP11-06**

**Description:** Proposal FP11-06 requested that the depth of 7.5 inch stretch mesh gillnets be restricted to 20 meshes in depth in Yukon River Districts 4 and 5. Submitted by the Mountain Village Working Group.

**Council Recommendation/Justification:**

**Yukon-Kuskokwim Delta** — Oppose. It does not make sense to restrict mesh depth when water can be 70–100 feet deep. The Council is also opposed to the proposal due to the burden to subsistence users because of the cost to alter nets.

**Western Interior Alaska** — Oppose. Current data shows salmon will swim in various depths in the water column. Weather will also affect the migration pattern of the salmon swimming upriver and fishermen will adapt and fish in different depth of water.

**Seward Peninsula** — Oppose. The proposal does not address the issue of concern and would not have much impact other than cost to subsistence users to alter their nets. There is opposition to the proposal from people that would be affected.

**Eastern Interior Alaska** — Oppose. The Council expressed concerns regarding the accuracy of the data available for analysis of the proposal, and the inherent inequity in targeting certain sections of the river to bear the burden of conservation measures. The Council also considered the unanimous opposition of each community, entity, and individual motivated to write to the Board. Although the Council is interested in exploring the potential benefits of gillnet depth restrictions, having submitted a proposal of its own, it believes more information is necessary to make an informed decision.

**Board Action/Justification:** Withdrawn. The Board withdrew this proposal as requested by the proponent and consistent with the recommendations of the Eastern Interior Alaska, Western Interior Alaska, Yukon-Kuskokwim Delta, and Seward Peninsula subsistence regional advisory councils.

#### **FP11-07**

**Description:** Proposal FP11-07 requested that the use of drift gillnets be prohibited for the harvest of salmon in Districts 4 and 5 of the Yukon Area, to allow more fish to escape to the spawning grounds. Both Federal and State regulations do not allow the use of drift gillnets for the harvest of salmon in District 5. Therefore, the proposal only applies to the use of drift gillnets for the harvest of salmon by Federally qualified users in the Federal public waters of District 4 (Subdistricts 4A, 4B, and 4C). Submitted by the Mountain Village Working Group.

#### **Council Recommendation/Justification:**

**Yukon-Kuskokwim Delta** — Oppose. Written public comments indicated that there would be a problem if the proposed regulation were adopted. There would not be enough space for subsistence set nets in limited, small areas.

**Western Interior Alaska** — Oppose. Written public comments from the area indicated that there would be some problems if this proposed regulation were adopted. If this proposed regulatory change were adopted, there would not be enough space for subsistence set nets in limited small areas.

**Seward Peninsula** — Took No Action. This proposal addresses an issue far outside the region.

**Eastern Interior Alaska** — Oppose. The Council felt that this was a cross-over proposal from someone outside the region, which would negatively impact primarily the subsistence users of the villages of Galena and Ruby, where an insignificant number of fish have been harvested for subsistence use since this fishery opportunity became available in 2005. There appears to be no real conservation benefit from the proposal. The Council noted that the proponent appears to want to be able to fish with nets, but would deny that opportunity to others and that there was vigorous objection from affected subsistence users.

**Board Action/Justification:** Withdrawn. The Board withdrew this proposal as requested by the proponent and consistent with the recommendations of the Eastern Interior Alaska, Western Interior Alaska, Yukon-Kuskokwim Delta, and Seward Peninsula subsistence regional advisory councils.

#### **FP11-08**

**Description:** Proposal FP11-08 requested that customary trade in the Yukon River Fisheries Management Area be prohibited in any year when Chinook salmon runs are insufficient to fully satisfy subsistence harvest needs and subsistence fisheries are restricted. As submitted, the prohibition would only affect customary trade between rural residents. Submitted by the Yukon-Kuskokwim Delta Subsistence Regional Advisory Council.

#### **Council Recommendation/Justification:**

**Yukon-Kuskokwim Delta** — Support with modification to delete all proposed language under (iii) and replace with the following: *(iii) Yukon River Fishery Management Area—The total cash value per household of salmon taken within Federal jurisdiction in the Yukon River Fishery Management Area and exchanged in customary trade to rural residents may not exceed \$750.00 annually.* The Council supports

proposals to prohibit customary trade until salmon runs rebound. This issue needs to be addressed for both Chinook and chum salmon. This is a river-wide issue and it is up to the people to conserve salmon. There are also reports of abuse of customary trade.

**Western Interior Alaska** — Oppose. The Council voted to request the Board to establish a subcommittee to further address the customary trade issue. The subcommittee would be charged to address Yukon River Chinook salmon customary trade regulation development and would consist of participants from each of the three Yukon River regional advisory councils and relevant State fish and game advisory committees. The Council named Robert Walker and Mickey Stickman to serve on this subcommittee, with Ray Collins and Jenny Pelkola named as alternates. The Council also recommended that a second subcommittee be charged to address Yukon River Chinook salmon management for improved escapement abundance and quality, and that this second subcommittee should meet immediately following meetings of the customary trade subcommittee for purposes of efficiency.

**Seward Peninsula** — Took No Action. The Council took no action on FP11-08 but supported the idea of a working group that includes representatives from all three affected regional advisory councils to address this long standing and ongoing issue.

**Eastern Interior Alaska** — Oppose. The Council recognizes the need for conservation measures, but has serious concerns with the potential for this proposal, as written, to negatively impact the ability of subsistence users to obtain enough fish if unable to personally do so, especially elders. There are additional concerns about the proposal's effect of inequity, as lower river users have access to disproportionately larger harvests even when total numbers are low. The Council also noted that trade of processed fish products is already regulated. The Council recommends that the Board establish a subcommittee consisting of representatives of the Eastern Interior Alaska, Western Interior Alaska, and Yukon-Kuskokwim Delta regional advisory councils to consider the customary trade issue on a compressed time frame.

**Board Action/Justification:** Deferred Action. The Board approved a subcommittee of the Eastern Interior Alaska, Western Interior Alaska, and Yukon-Delta subsistence regional advisory councils. The Board stated that the purpose of the subcommittee is to define "significant commercial enterprise" for sales of subsistence caught salmon to other rural residents and to others. The intent is to develop language that will be applied to the entire Yukon River drainage. The Board stipulated that the subcommittee will be comprised of three members of each of the three councils, that the subcommittee should consider starting with a household limit of \$750 per year, that the Solicitor's Office and Law Enforcement will assist with the final language, and that the work will be completed as soon as possible.

The Board's intent is to allow time for subcommittee work and subsequent council recommendations as noted in the current recommendations of the Eastern Interior Alaska, Western Interior Alaska, and Seward Peninsula subsistence regional advisory councils.

#### **FP11-09**

**Description:** Proposal FP11-09 requested that the Board limit the customary trade of Chinook salmon in the Yukon River Management Area and require a customary trade recordkeeping form. The proposal also requested that the Board impose a geographic constraint to the customary trade of Chinook salmon caught in the Yukon River Management Area: Such trade, including the delivery of fish to a purchaser, should only occur in the Yukon River Management Area. Submitted by the Yukon-Kuskokwim Delta Subsistence Regional Advisory Council.

**Council Recommendation/Justification:**

**Yukon-Kuskokwim Delta** — Support with modification to delete all proposed language under (iii) and replace with the following: *(iii) Yukon River Fishery Management Area—The total cash value per household of salmon taken within Federal jurisdiction in the Yukon River Fishery Management Area and exchanged in customary trade between rural residents and individuals other than rural residents may not exceed \$750.00 annually. These customary trade sales must be immediately recorded on a customary trade record keeping form. The recording requirement and the responsibility to ensure the household limit is not exceeded rests with the seller.* There is a need for measureable enforcement tools to address commercial advertisements that are escalating under the guise of subsistence customary trade. There should be a dollar limit of \$750.00 annually because there is no limit now.

**Western Interior Alaska** — Oppose. The Council voted to request the Board to establish a subcommittee to further address the customary trade issue. The subcommittee charge would be as noted for FP11-08.

**Seward Peninsula** — Oppose. The Council opposed the proposal, but supports the idea of having representatives from the three affected regional advisory councils get together to resolve these long standing contentious issues.

**Eastern Interior Alaska** — Take No Action. Given the desire of the Council to work with the other affected Councils on a subcommittee related to this proposal, the Council felt that a full examination of the proposal is not warranted at this time. It was noted that there is some merit to the proposal objective, but specifics regarding poundage and record keeping requirement were insufficient. The Council also questioned the commitment of managers to enforce the proposal if adopted.

**Board Action/Justification:** No Action. The Board took no action on FP11-09 due to its action on FP11-08.

## CHIGNIK AREA

### FP11-10

**Description:** Proposal FP11-10 requested that all drainages in the Chignik Area be opened to the harvest of salmon by seine, gillnet, spear, and hook and line that may be attached to a rod or pole, or with gear specified on a subsistence fishing permit, except that hook and line gear may not be used in Chignik River. The proposal also would: 1) restrict power purse seine gear from Mensis Point downstream; 2) permit hand seining only in Chignik River and Chignik Lake; 3) permit gillnets to be used only in Chignik River, Chignik Lake, and in the waters of Clark River and Home Creek, from each of their confluences with Chignik Lake to a point one mile upstream; and 4) restrict a gillnet from being staked or anchored or otherwise fixed in a stream slough, or side channel to where it obstructs more than one-half the width of that stream, slough, or side channel. Submitted by the Chignik Lake Traditional Council.

**Council Recommendation/Justification:** Support with modification as presented in the Office of Subsistence Management conclusion. The Bristol Bay Subsistence Regional Advisory Council supports a long standing subsistence fishery and FP11-10 will provide additional harvest opportunities for rural residents of the Chignik Area. Subsistence users have a long established customary and traditional use of salmon in the Black Lake and the tributaries of Black and Chignik lakes. The proposal will allow access, with some restrictions, to areas in all drainages in the Chignik Area to harvest salmon from January 1 to December 31 and allow additional gear types.

**Board Action/Justification:** Adopted with modification. The modified language is as follows:

*§\_\_ .27(c) Subsistence taking of fish: methods, means, and general restrictions*

*(4) Except as otherwise provided for in this section, you may not obstruct more than one-half the width of any stream with any gear used to take fish for subsistence uses.*

*(10) You may not take fish for subsistence uses within 300 feet of any dam, fish ladder, weir, culvert or other artificial obstruction, unless otherwise indicated.*

***§\_\_ .27(i)(8) Subsistence taking of fish: Chignik Area***

*(i) You may take fish other than salmon, rainbow/steelhead trout, or char at any time, except as may be specified by a subsistence fishing permit. For salmon, Federal subsistence fishing openings, closings and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action. If you take rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes.*

*(ii) You may not take salmon in the Chignik River, from a point 300 feet upstream of the ADF&G weir to Chignik Lake from July 1 through August 31. You may not take salmon **by gillnet** in Black Lake or any tributary to Black or Chignik Lakes, ~~except those~~ **You may take salmon in the waters of Clark River and Home Creek from their confluence with Chignik Lake upstream 1 mile.***

*(A) In the open waters of **Chignik Lake, Chignik River, Clark River and Home Creek** you may take salmon by gillnet under the authority of a **subsistence fishing State** permit.*

*(B) In the open waters of Clark River and Home Creek you may take salmon by snagging (handline or rod and reel), spear, bow and arrow, or capture by hand without a permit. The daily harvest and possession limits using these methods are 5 per day and 5 in possession.*

*(iii) You may take salmon, trout, and char only under the authority of a subsistence fishing permit **unless otherwise indicated in this section or as noted in the permit conditions.***

*(iv) You must keep a record on your permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later ~~than October 31~~ **than the due date listed on the permit.***

*(v) If you hold a commercial fishing license, you may only subsistence fish for salmon as specified on a ~~State~~ subsistence ~~salmon~~ fishing permit.*

*(vi) You may take salmon by seines, gillnets, rod and reel, or with gear specified on a subsistence fishing permit, except that in Chignik Lake, you may not use purse seines. You may also take salmon without a permit by snagging (by handline or rod and reel), using a spear, bow and arrow, or capturing by bare hand.*

*(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.*

*(viii) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit.*

The modification is consistent with the Bristol Bay Subsistence Regional Advisory Council's intent and will increase opportunity, clarify regulations, recognize a subsistence use pattern and make legal a long-standing subsistence practice.

## KODIAK AREA

### FP11-11

**Description:** Proposal FP11-11 requested that the annual harvest limit for king crab in the Kodiak Management Area be changed from six per household to three per household. Submitted by the Kodiak/Aleutians Subsistence Regional Advisory Council.

**Council Recommendation/Justification:** Support. This proposal addresses conservation concerns and would continue to provide fishing opportunity for elderly subsistence users from Kodiak city. Only a few crab are taken out of all of Chiniak Bay and there is no information about how many are taken from Womens Bay in particular; however, observations of local fisheries managers are that the population of crab in Womens Bay has remained stable over the years. Womens Bay is one of few crab fishing places on the island that are road accessible and is the most accessible location where elders from Kodiak city can continue to fish.

**Board Action/Justification:** Adopted. The Board considered that this is necessary for conservation and noted that the current situation in Womens Bay is not a major concern to NOAA (the agency that monitors the Womens Bay population). If information received later indicates a significant concern for juvenile king crab in Womens Bay, the Board can address that situation.

### FP11-12

**Description:** Proposal FP11-12 requested the Federal subsistence harvest of herring for the Kodiak Management Area be limited to 500 pounds per person annually. Submitted by the Kodiak/Aleutians Subsistence Regional Advisory Council.

**Council Recommendation/Justification:** This proposal was withdrawn by the proponent according to Board policy and was not, therefore, addressed by the Board.

### FP11-13

**Description:** Proposal FP11-13 requested that no harvest limit be associated with subsistence permits issued to Federally qualified subsistence users who fish for salmon in Federal public waters of the Kodiak Management Area that cannot be accessed from the Kodiak road system, except the Mainland District. It also requested that recording of harvests on all permits be done prior to leaving the fishing site rather than immediately upon landing fish. Submitted by the Kodiak/Aleutians Subsistence Regional Advisory Council.

**Council Recommendation/Justification:** Support with modification. The Council modified the proposed regulatory language to remove references to herring, which allows §\_\_.27(i)(9)(iv) to revert to existing regulatory language, and to insert the word "Federal" in paragraph (A) as the descriptor for waters. These

modifications will clarify the regulatory language for the benefit of subsistence users. It is understood that the intent of the proposal was to address salmon annual harvest limits and reporting, but not to deal with herring. The modified regulations should read:

*§\_\_ .27(i)(9)(iv) You must have a subsistence fishing permit for taking salmon, trout, and char for subsistence purposes. You must have a subsistence fishing permit for taking herring and bottomfish for subsistence purposes during the State commercial herring sac roe season from April 15 through June 30.*

*(v) ~~With a subsistence salmon fishing permit you may take 25 salmon plus an additional 25 salmon for each member of your household whose names are listed on the permit. You may obtain an additional permit if you can show that more fish are needed.~~ **The annual limit for a subsistence salmon fishing permit holder is as follows:***

*(A) In the Federal waters of Kodiak Island, east of the line from Crag Point south to the westernmost point of Saltery Cove, including the waters of Woody and Long islands, and the salt waters bordering this area within one mile of Kodiak Island, excluding the waters bordering Spruce Island, 25 salmon for the permit holder plus an additional 25 salmon for each member of the same household whose names are listed on the permit: an additional permit may be obtained if it can be shown that more fish are needed;*

*(B) In the remainder of the Kodiak Area not described in (A) of this subsection, there is no annual limit.*

*(vi) ~~You must~~ **Subsistence fishermen shall keep a record on your subsistence permit of the number of subsistence fish taken by that subsistence fisherman each year. The number of subsistence fish taken shall be recorded on the reverse side of the permit.** ~~You~~ **The catch must be complete the recorded prior to leaving the fishing site immediately upon landing subsistence-caught fish, and the permit must be returned to the local representative of the department by February 1 of the year following the year the permit was issued.***

**Board Action/Justification:** Adopted with modification as recommended by the Kodiak/Aleutians Subsistence Regional Advisory Council. This action should help with harvest reporting accuracy and is very similar to action taken by the Alaska Board of Fisheries at its January 2011 meeting. The Board indicated that while some administrative modifications to the wording proposed by the Council might be needed, the intent of the proposal (see Description) would not be changed.

#### **FP11-14**

**Description:** Proposal FP11-14 requested that in the Kodiak Area a Federally qualified user of salmon that is also an owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or sport fishing guide services may not furnish to a client or guest of that enterprise who is not a rural resident of the state, salmon that has been taken under Federal subsistence fishing regulations. Submitted by the Kodiak/Aleutians Subsistence Regional Advisory Council.

**Council Recommendation/Justification:** This proposal was withdrawn by the proponent according to Board policy and was not, therefore, addressed by the Board.

## FP11-15

**Description:** Proposal FP11-15 requests that Federally qualified subsistence users only be allowed to fish for salmon from 6:00 a.m. until 9:00 p.m. from January 1 through December 31 in Federal Public waters accessible from the Kodiak road system. Submitted by the Kodiak/Aleutians Subsistence Regional Advisory Council.

**Council Recommendation/Justification:** This proposal was withdrawn by the proponent according to Board policy and was not, therefore, addressed by the Board.

## FP11-16/17

**Description:** Proposal FP11-16, submitted by Michael Douville, requested that the season closing date for the Federal subsistence sockeye salmon fishery in the Klawock River be extended from July 31 to August 15 and that the Monday through Friday fishing schedule be removed. Proposal FP11-17, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requested that the season closing date for the Federal subsistence sockeye salmon fishery in the Klawock River be extended from July 31 to August 7 but retains the Monday through Friday fishing schedule.

### **Council Recommendation/Justification:**

Proposal FP11-16 Support with modification to remove the defined season and fish schedule for subsistence sockeye salmon fishing in the Klawock River drainage from regulation. The modified regulation should read:

*~~§ .27(i)(13)(xiv) From July 7 through July 31, you may take sockeye salmon in the waters of the Klawock River and Klawock Lake only from 8:00 a.m. Monday until 5:00 p.m. Friday.~~*

The Council determined that this proposal, as modified, would provide additional fishing opportunity for subsistence users and simplify subsistence harvest regulations. The original regulation establishing the season and weekly fishing schedule was developed during a period of time when there was considerable non-local weekend travel to the island. The regulation was developed by the State and incorporated into the Federal program when the Federal government assumed authority for subsistence management of fish. The intent of the regulation was to give local residents an advantage over non-locals. There is not the need to restrict non-local participation in Federal subsistence fisheries. There is not a conservation concern in the Klawock River that requires retaining the current regulation. The Klawock River is the only Federal subsistence sockeye salmon fishery with a defined fishing season and weekly fishing schedule in Southeast Alaska. Deleting the sockeye salmon season and weekly fishing schedule would align the Klawock fishing regulations with other Federal sockeye salmon management systems in the Region. The current rules are largely ineffective in restricting sockeye salmon harvest as current regulations for the Southeast Alaska Area allow for sockeye salmon to be retained outside the designated season and weekly fishing period as incidental harvest while fishing for other species.

Proposal FP11-17. Took no action due to previous action on FP11-16. The Council determined that previous action on FP11-16 provided a superior solution to the issue.

**Board Action/Justification:** Adopted FP11-16 with modification and took no action on FP11-17 due to action taken on FP11-16 as recommended by the Southcentral Alaska Subsistence Regional Advisory Council. There are no conservation concerns so the current regulation is no longer needed. The in-season manager is authorized to take action if needed.

## FP11-18

**Description:** Proposal FP11-18 requested all waters draining into Sections 1C and 1D be closed to the harvest of eulachon. Submitted by the Southeast Alaska Subsistence Regional Advisory Council.

**Council Recommendation/Justification:** Support with modification to clarify the applicable area, and to make explicit that the closure applies to all users. The modified regulation should read:

*§ \_\_.27(i)(13)(ii) You must possess a subsistence fishing permit to take salmon, trout, grayling, or char. You must possess a subsistence fishing permit to take eulachon from any freshwater stream flowing into fishing Sections 1C or 1D.*

*§ \_\_.27(i)(13)(xxii) All freshwater streams flowing into Sections 1C and 1D are closed to the harvest of eulachon by all users.*

The Council determined there were no other management actions appropriate for this area after the collapse of the stock. There will likely be no harvestable surplus in the foreseeable future for any user. The Council considered it very unfortunate this action was necessary and felt this was an example where the need for conservation was not recognized early enough for alternative solutions to be implemented.

**Board Action/Justification:** Deferred Action. The Board deferred action until the next fisheries regulatory cycle. While conservation of this stock is a serious issue (there is a severe decline of eulachon and no harvestable surplus), a permanent closure would be detrimental to subsistence users and a deferral is not a threat to the resource. Therefore, time can be taken to confer with the local residents who are most affected.

Management of this fishery can continue by special action during this time. This deferral should allow further study and monitoring of the resource. During this time managers will confer with local residents who are the most affected users.

## FP11-19

**Description:** Proposal FP11-19 requested that the Federal Subsistence Board recognize the customary and traditional uses of all marine species of fish and shellfish within the Federal public waters of District 13 for the residents of the City and Borough of Sitka. Submitted by the Sitka Tribe of Alaska.

This proposal was withdrawn by the proponent according to Board policy and was not, therefore, considered by the Southeast Alaska Subsistence Regional Advisory Council or the Board.

## FP09-05 Deferred

**Description:** Proposal FP09-05 seeks to close the Federal public waters in the Makhnati Island area near Sitka to the harvest of herring and herring spawn except for subsistence harvests by Federally qualified subsistence users. This proposal was deferred by the Federal Subsistence Board in January 2009 for a period not to exceed two years. Submitted by the Sitka Tribe of Alaska.

**Council Recommendation/Justification:** Defer to a time determined by the Board. The Sitka Tribe of Alaska (STA), the original proponent, submitted a letter to the Council requesting that the proposal be deferred once again. This postponement would allow more time for peer review of a STA authored research paper on herring management and population assessment of Sitka Sound herring.

Additionally, STA has started a Herring Research Priority Planning Group which may provide additional recommendations regarding the proposal. The Council also wanted to provide the new Board chair additional time to become engaged in this issue. The Council determined that action on this proposal may be premature at this time because implementation of recommendations contained within the secretarial review may provide different or additional rules or policies appropriate to evaluate the proposal.

**Board Action/Justification:** Deferred Action as recommended by the Southeast Alaska Subsistence Regional Advisory Council. The Board will take up the proposal at or before the next fisheries regulatory meeting in January 2013.

### **FP09-15 Deferred**

**Description:** Proposal FP09-15 requested that a “no Federal subsistence priority” customary and traditional use determination be made for all fish in the Juneau road system area (all waters crossed by or adjacent to roads connected to the City and Borough of the Juneau road system). In January 2009, the Federal Subsistence Board deferred Proposal FP09-15 to allow time to develop an analysis of the customary and traditional uses of fish in Districts 11 and 15. Submitted by the Alaska Department of Fish and Game.

**Council Recommendation/Justification:** Oppose. The Southeast Alaska Subsistence Regional Advisory Council determined that the staff analysis was incomplete and the proposal was unnecessary and detrimental to the continuation of subsistence uses. There is a high degree of certainty that additional information exists regarding the use of this area by residents of various rural communities. The transcripts of the previous meeting contained evidence of subsistence use that was not recognized in the current analysis. The difficulty in documenting historical use is likely due to interruption of traditional activities due to recent regulations. Sport fishing is a subsistence harvest method and the amount of that use should be better described. The Council does not know the outcome of relevant jurisdictional issues currently under consideration by the court in *Katie John II*. In addition, it is likely there will be new and currently unknown rules regarding the evaluation of customary use, as a result of the Secretarial review of the subsistence program. The intent of ANILCA does not require the Council to determine non-subsistence use areas or make a negative customary use determination. The Council agrees that there are management challenges in this area but there are management tools available to Federal managers to provide for conservation and sustainability of these stocks. The Council heard public testimony citing economic factors that bring rural residents to Juneau as transient workers. There should be an opportunity for subsistence harvest of fish for rural residents that are forced by necessity to spend time in Juneau. This proposal is detrimental to the satisfaction of subsistence needs and would be precedent setting. The Council has already rejected two similar proposals in previous years and there should be deference shown to the Council on this issue. There is no evidence to indicate that subsistence fishing in streams on the Juneau road system is inappropriate and no evidence that Federal subsistence fishing regulations are not conservative and sustainable.

**Board Action/Justification:** Rejected. The Office of Subsistence Management opposed this proposal when it was first presented in 2009 and there is insufficient information to support the proposal now. The entire Juneau area is a traditional use area. The ADF&G harvest survey was limited. There should not be any Federal lands where an entire group of animals, such as fish, is closed to subsistence use. This Board action is consistent with the Southeast Alaska Subsistence Regional Advisory Council recommendation.