

# **NORTHWEST ARCTIC Subsistence Regional Advisory Council**



*Kotzebue Sound in winter.*

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## **Meeting Materials**

March 18, 2011

Kotzebue

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**NORTHWEST ARCTIC SUBSISTENCE REGIONAL ADVISORY COUNCIL**

National Park Service Multipurpose Room

Kotzebue, Alaska

March 18, 2011; 9 a.m.–5 p.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**

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<b>16. Adjourn</b>	

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:** 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 Monday, March 14 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 Monday, March 14.

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 Monday, March 14.

REGION 8-NORTHWEST ARCTIC

<u>SEAT 1</u> 2013 2010	<i>Raymond Stoney</i>	<i>Kiana</i>
<u>SEAT 2</u> 2013 2004	<i>Victor Ray Karmun</i>	<i>Kotzebue</i>
<u>SEAT 3</u> 2013	<i>VACANT</i>	
<u>SEAT 4</u> 2013 2010	<i>Michael Chad Kramer</i>	<i>Kotzebue</i>
<u>SEAT 5</u> 2011 2008	<i>Percy C. Ballot, Sr.</i>	<i>Buckland</i>
<u>SEAT 6</u> 2011 2010	<i>Peter L. Schaeffer</i>	<i>Kotzebue</i>
<u>SEAT 7</u> 2011 2006	<i>Walter G. Sampson</i>	<i>Kotzebue</i>
<u>SEAT 8</u> 2012 1999	<i>Enoch Shiedt, Sr.</i>	<i>Kotzebue</i>
<u>SEAT 9</u> 2012 2006	<i>Austin Swan, Sr.</i>	<i>Kivalina</i>
<u>SEAT 10</u> 2012 2009	<i>Leslie D. Burns</i>	<i>Noatak</i>

**NORTHWEST ARCTIC SUBSISTENCE REGIONAL ADVISORY COUNCIL**  
**NPS Multipurpose Room, Kotzebue, Alaska**  
**October 8, 2010, 9:00 a.m. to 4:00 p.m.**

**MINUTES**

**Members Present:**

Mr. Walter Sampson, Kotzebue, Chair  
Mr. Victor Karmun, Kotzebue, V.Chair  
Mr. Leslie D. Burns, Noatak  
Mr. Pierre Lonewolf, Kotzebue  
Mr. Jon P. Gregg, Kotzebue  
Mr. Enoch Shiedt, Kotzebue  
Mr. Austin Swan, Kivalina  
Mr. Percy Ballot, Sr., Buckland by teleconference

**Federal/Agency Personnel**

**FWS/OSM**

Karen Hyer, Anchorage  
Tom Kron, Anchorage  
Alicia Davis, Anchorage  
Coleen Brown, Anchorage  
Barb Atoruk, Anchorage

**FWS, Selawik Refuge**

LeeAnne Ayres, Kotzebue  
Susan Georgette, Kotzebue  
Brittany Sweeney, Kotzebue  
Brandon Saito, Kotzebue

**BLM**

John Erlich, Sr., Kotzebue  
Shelly Jacobson, Fairbanks by teleconference

**Bering Sea Fisherman's Assoc.**

Joni Sweetman, Anchorage

**OTHER**

Charlie Gregg, NAB, Kotzebue  
Henry Douglas, Shungnak IRA by teleconference

**Court Reporter:** Selena Hile

**ADFG**

Jim Magdanz, Kotzebue  
George Pappas, Anchorage  
Charlotte Westing, Kotzebue

**NPS**

Mary McBurney, Kotzebue  
Ken Adkisson, Nome  
Dave Mills, Anchorage  
Dan Stevenson, Kotzebue  
Michael Holt, Kotzebue  
Brad Shultz, Fairbanks  
Willie Goodwin, Kotzebue  
Marci Johnson, Kotzebue  
Linda Jesse, Kotzebue

### **Call to Order**

Mr. Walter Sampson, Chair, called the meeting to order at 9:10 A.M. in Kotzebue.

### **Roll Call/Confirmation of Quorum**

Mr. Austin Swan, Sr., Secretary, called roll. Quorum was established. Mr. Percy Ballot, Sr., Buckland, attended by teleconference.

### **Welcome and Introductions**

The Chair welcomed everyone to the meeting and asked each to introduce themselves.

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

Mr. Austin Swan **moved** to adopt the agenda as amended. Mr. Pierre Lonewolf **seconded**. The **motion carried** unanimously.

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

Mr. Percy Ballot, Sr. **moved** to approve the minutes of February 19, 2010 as written. Mr. Enoch Shiedt **seconded**. The **motion carried** unanimously.

### **Election of Officers**

Mr. Enoch Shiedt, Sr. **moved** to defer the elections until their winter 2011, when all vacant seats are filled. Mr. Jon Gregg **seconded**. The **motion carried** unanimously.

## **VILLAGE CONCERNS**

**Buckland:** Mr. Ballot reported that there was not much going on there. They have not seen much caribou either but a lot of shallow water.

**Kivalina:** Mr. Swan reported that they have concerns about fish on the Wullik River. The grayling, trout and salmon they caught have sores, puss, and abrasions on them. The meat texture of the trout harvested in the spring for drying is not as firm as it used to be. There were complaints about transporters chasing caribou away from the river, but they do not have definite proof. They are just glad that they have moose to fall back on for meat.

**Kotzebue:** Mr. Shiedt reported that he concurs with Austin's report and that he had testified about the fish health regarding sores. He fears that this could spread. The Dolly Varden on the Aggie River and whitefish in Sisaulik this year did not have firm meat on them. They don't know why either. He received a lot of calls from the surrounding villages that they were not harvesting any caribou. People are worried about setting a time for transporters and outfitters to come in because their presence is affecting their hunting, caribou are not being harvested by the local hunters. The price of fuel is very high.

**Kotzebue:** Mr. Lonewolf reported that he has heard concerns about muskox hunting and outfitters from the local hunters.

**Noatak:** Mr. Burns reported that they have to go further up river to harvest caribou. There is lots of muskox in their area and they would like to start harvesting them for consumption.

Fishing was different this year, salmon spawned early. The river is high when it rains, then very low, you can go up river riding on a Honda through the river. He stated that he takes his time to teach his children and grandchildren when he knows about living off the land to harvest animals, fish, gather greens and berries.

**Kotzebue:** Mr. Gregg reported that he has been told that the population of bears on lower Noatak is high.

**Kotzebue:** Mr. Karmun reported that he was out hunting for two weeks, did not see any caribou or moose, just a lot bears. He has been talking to the transporters/outfitters and they have not seen any animals either. Many boats that went up Noatak or Kobuk Rivers have returned empty.

**Shungnak:** The local hunters say that the wolf and bear population are high. They are also concerned about wanton waste by hunters.

The Chair summarized the Council members reports and stated that some of these concerns need to be addressed by submitting recommendations to propose regulation changes to harvest those resources, if need be.

### **FISHERIES RESOURCE MONITORING PROGRAM**

Ms. Hyer from Office of Subsistence Management presented the invitation for the submission of proposals for fisheries investigation studies to be initiated under the 2012 Fisheries Resource Monitoring Program. Taking in to account funding commitments for ongoing projects, they anticipate approximately \$2.7 million available in 2012 to fund new monitoring and research projects that provide information needed to manage subsistence fisheries for rural Alaskans on Federal public lands. She said that funding can be requested for up to four year duration. The 2012 Request for Proposals are focused on priority information needs. All proposals addressing subsistence fisheries on Federal public lands will be considered.

Mr. Enoch Shiedt **moved** to support the following priority information needs. Mr. Pierre Lonewolf **seconded**. The **motion carried** unanimously.

For the Northern Region, the 2012 Request for Proposals is focused on the following priority information needs:

- Baseline harvest assessment and monitoring of subsistence fisheries in the Northwest Arctic and North Slope regions.
- Historic trends and variability in harvest locations, harvests and uses of non-salmon fish.
- Inupiaq taxonomy of fish species, natural history of fish, land use, place name mapping, species distribution, and methods for and timing of harvests. Species of interest include sheefish, northern pike, or other subsistence non-salmon fish in the Northwest Arctic region.

- Spawning distribution, timing, and stock structure of Selawik River whitefish species.
- Changes in subsistence fishery resources and uses, in the context of climate change where relevant, including but not limited to fishing seasons, species targeted, fishing locations, fish quality, harvest methods and means, and methods of preservation. Management implications are to be included.

#### **WESTERN ARCTIC CARIBOU HERD WORKING GROUP REPRESENTATIVE**

The Council were briefed on WACH Working Group and asked if they would like to have a representative from their membership.

Mr. Pierre Lonewolf **moved** that a council member be sent to represent them at WACH's next meeting in December and provide information to them. Mr. Enoch Shiedt **seconded**. The **motion carried** unanimously.

#### **AGENCY REPORTS**

The Council listened to reports from various Federal and State agencies.

#### **DRAFT 2010 ANNUAL REPORT**

The Council submitted the following concerns for their 2010 Annual Report: [caribou, moose, muskox, bear, wolves, wanton waste, and beaver population explosion which affect the water and fisheries].

#### **ESTABLISHED TIMES AND PLACES OF NEXT MEETINGS**

The winter 2011 meeting will be in Kotzebue on February 18, 2011.

The fall 2011 meeting will be in Anchorage on August 23 and 24, 2011.

After discussion for their fall meeting, the Council agreed to meet with the North Slope and Seward Peninsula Councils as requested by North Slope in Anchorage. Mr. Percy Ballot **moved** to join North Slope and Seward Peninsula councils meeting in Anchorage. Mr. Pierre Lonewolf **seconded**. The **motion carried** unanimously. The three Councils have similar cultural issues; a joint meeting would help them to understand better how the global warming is affecting their lifestyle and their fish and wildlife resources.

#### **ADJOURNMENT**

The meeting ended at 4:00 p.m.

I certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

/S/ Barbara Atoruk

01/04/2011

\_\_\_\_\_  
Barbara M. Atoruk, DFO  
USFWS Office of Subsistence Management

\_\_\_\_\_  
Date

/S/ Walter Sampson

01/04/2011

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Walter Sampson, Chair

Date

Northwest Arctic Subsistence Regional Advisory Council

These minutes will be formally considered by the Northwest Arctic Subsistence 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@fws.gov](mailto:Barbara_Atoruk@fws.gov), 907-786-3885 or toll free at 1-800-478-1456

## 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 SE—Wrangell	Sept. 28	Sept. 29 YKD—TBA	Sept. 30 END OF FY2011	Oct. 1
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 02/25/11*

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>
		<b>SP—Nome</b>				
<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  
NORTHWEST ARCTIC SUBSISTENCE REGIONAL ADVISORY COUNCIL**

**CHARTER**

1. **Official Designation:** Northwest Arctic 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.

2

- (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 three members to each of the Cape Krusenstern National Monument and the Kobuk Valley National Park Subsistence Resource Commissions and 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 \$100,000, 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*

Secretary of the Interior

NOV 20 2009

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.

- 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  
WCR10-27**

**Closure Location:** Unit 23 — Cape Krusenstern National Monument (CAKR)

**Current Federal Regulation:**

*Unit 23 Cape Krusenstern National Monument — 1 bull by Federal registration permit. Cape Krusenstern National Monument is closed to the harvest of muskoxen, except by resident zone community members with permanent residence within the Monument or the immediately adjacent Napaktuktuk Mountain area, south of 67°05'N latitude and west of 162°30'W longitude* Aug. 1 – March 15

*National Park Service (NPS) areas – For subsistence use, national parks and monuments are open only to NPS qualified subsistence users. Subsistence users must be local rural residents of NPS areas.*

**Closure Dates:** Aug. 1– Mar. 15. Unlike the other closures that have been recently reviewed by OSM, which were implemented through criteria in Section 815(3) affecting non-Federally qualified subsistence users, this closure was implemented through the application of criteria in Section 804, which limits participation by Federally qualified subsistence users. Cape Krusenstern National Monument is closed to the harvest of muskoxen, except by resident zone community members with permanent residence within the Monument or the immediately adjacent Napaktuktuk Mountain area.

**Current State Regulations:** State regulations are superseded by Federal Subsistence Board regulations to Cape Krusenstern National Monument. However, the State has the following regulations for lands adjacent to the Monument, which affect the same muskox population.

<b>Species and Bag limits – Muskox</b>	<b>Permit/Ticket Required</b>	<b>Open Season</b>
<i>Unit 23, that portion north and west of the Noatak River:</i>		
<i>Residents ONLY: One bull by permit.....</i>	<i>TX107</i>	<i>Aug. 1–Mar. 15</i>

**Regulatory Year Initiated:** 2005/06

**Proposal Number of initial closure and any subsequent proposals:** Proposal WP05-19 requested the establishment of a season and allocation of muskox within the affected area. The proposal was submitted by the Cape Krusenstern Subsistence Resource Commission and the NPS. The intent of the proposal was to provide opportunity for families with “permanent subsistence camps” within the Cape Krusenstern National Monument (Monument). Only resident zone community members with permanent year-round residence within the Monument or the immediately adjacent Napaktuktuk Mountain area are eligible to harvest muskox within the Monument. The Federal closure made a regulatory distinction under Section 804 of ANILCA between those with permanent residence within the Monument and the Napaktuktuk Mountain Area (south of 67°05'N. Lat. and west of 162 ° 30' W. Long.) and other resident zone community members that would normally be eligible if the affected muskox population was healthy.

**Justification for original closure:** Because of the small-muskox harvest quota, the Board was limited to allocate opportunity according to Section 804 criteria that restricted access for resident zone community members that did not have permanent residence within the Monument or the adjacent Napaktuktuk Mountain area. This criterion narrowed the eligibility for Federal permits to three families and an allocation of two Federal permits.

**Council recommendation for original closure:** WP05-19: Northwest Arctic Regional Council – Support with modification to provide permits only to permanent residents who live year-round in the monument or immediately adjacent to the Napaktuktuk Mountain area.

**State recommendation for original closure:** Support the proposal with the modification.

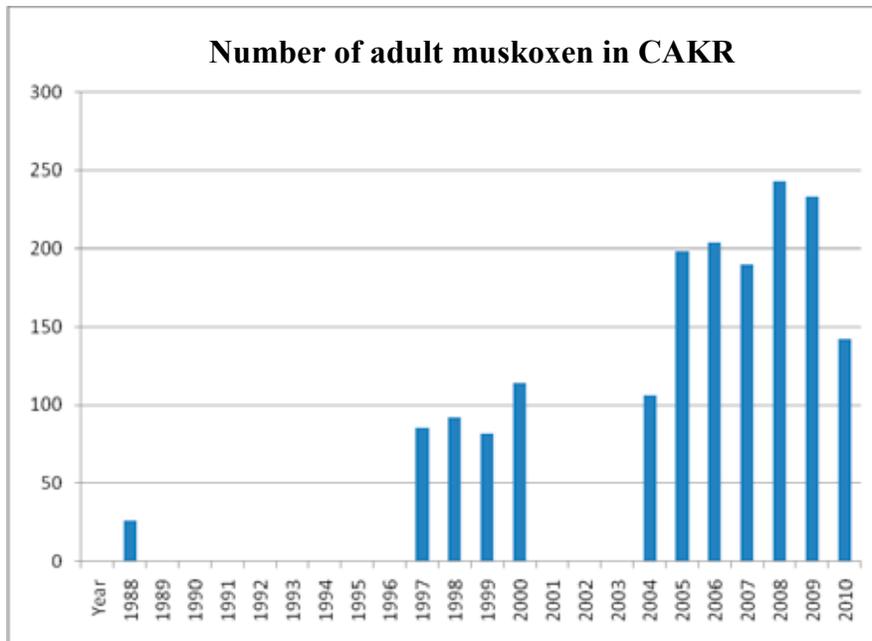
**Other significant comments presented when the Board adopted the original closure:** None

**Current resource abundance related to management objective:** Muskoxen inhabit the northwestern and southwestern portions of Unit 23. For harvest management, the northwestern muskoxen are managed as the “Cape Thompson” population and those in the southwest as part of the “Seward Peninsula” muskoxen population. Population monitoring and harvest management are different for the two populations because of differing abundance and population growth rates. The Cape Thompson muskox population data show a decline in muskoxen throughout the core range which includes CAKR (Lawler 2010, pers. comm.). Management objectives stating specific metrics of population performance are lacking for the Cape Thompson muskoxen population and the CAKR subpopulation. However, the National Park Service is mandated by law and policy to maintain a healthy population of muskoxen and “to protect the viability of subsistence resources” within the monument (NPS Management Policies 2006, ANILCA 1980). ADF&G management objectives for muskoxen within Unit 23 include:

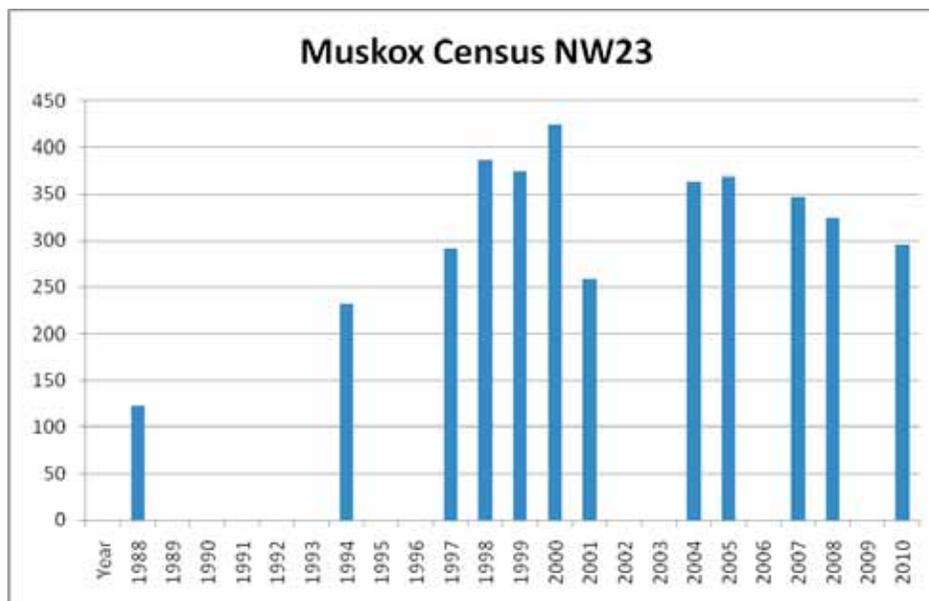
- to allow for growth and expansion of muskox into historic ranges.
- to initially provide for a subsistence hunting and eventually provide for general season hunting of muskox on a sustained yield basis.
- to provide for non-consumptive uses of muskox; i.e., viewing and photography.

**Resource population trend:** Aerial, minimum count abundance surveys within the known range of the Cape Thompson population have been completed opportunistically every 1–3 years by the NPS and/or ADF&G. Minimum count data for the Cape Thompson population are confounded by season, search intensity, and defined search area. For management purposes, the number of muskoxen within the administrative boundary of CAKR has been of interest despite the reality that muskoxen in CAKR are part of a mobile and continuous population of muskoxen resulting from the Cape Thompson reintroductions in 1970 and 1977. The proportion of muskoxen found within CAKR has been documented for each abundance survey as well as specific sex/age composition data obtained from ground observations. Between 2004 and 2010, on average, over half of the estimated total muskoxen of the Cape Thompson population were located within CAKR (**Figure 1**). Since 2005 there has been a decreasing trend in the minimum number of muskoxen counted in the core range, which includes CAKR (**Figure 2**). These data suggest that there is a decline in the overall muskoxen population within the survey area rather than a change in distribution of muskoxen within the survey area. However, muskoxen may be expanding their distribution to areas outside the traditional survey area. Surveys are conducted in 12 geographically defined areas considered core range and some muskoxen may not be counted as they have become more widely dispersed and emigrated into areas outside these defined sample units (Lawler 2010, pers. comm.).

The number of mature bulls (>4 years old) counted within CAKR has fluctuated from year to year, but in general, the trend line is flat (**Figure 3**). There was a marked increase in the mature bull:cow

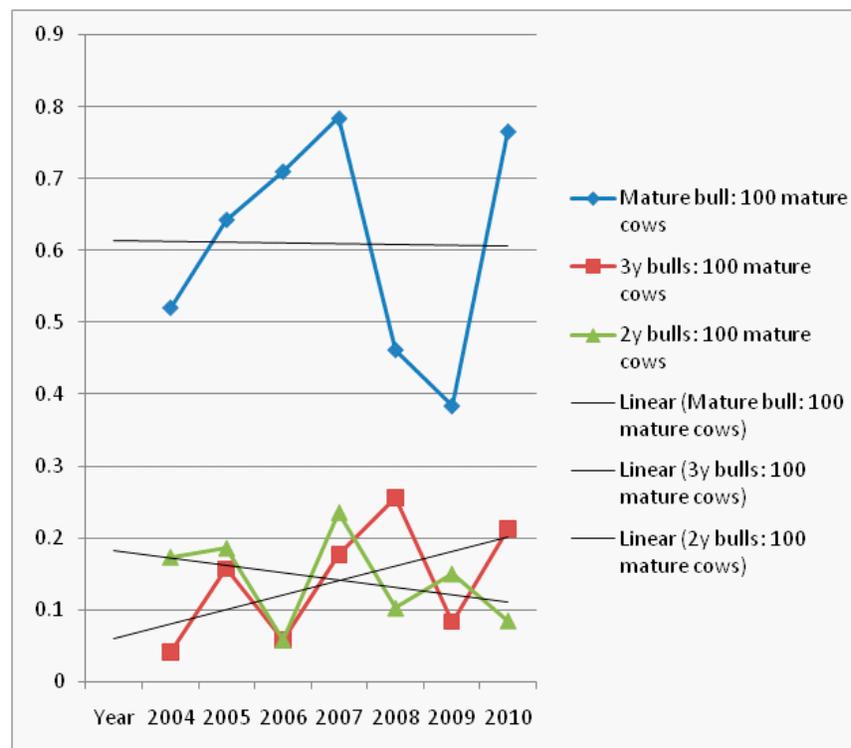


**Figure 1.** Number of muskoxen counted in Cape Krusenstern National Monument. Surveys in 1997 – 2000 were conducted in the summer (June and July) and surveys in 2004 – 2010 were conducted in the winter (January, February and March). Data from summer surveys does not include calves of the year (1-3 months). Data from winter surveys includes all muskoxen observed (Data from ADF&G and NPS).



**Figure 2.** Muskoxen minimum counts, Cape Thompson population in Northwestern Game Management unit 23. These figures include both adults as well as calves of the year (Data from ADF&G and NPS).

ratio in 2010, however, comparisons are difficult since the 2010 composition survey was completed in March rather than in July or August when previous composition surveys were completed. This may indicate that bulls are selecting CAKR during the winter in higher proportion than in the summer, but the higher visibility of animals in March due to snow cover more likely elevates the bull:cow ratio from the data collected in the summer. For 2 and 3 year old bulls, the March 2010 dataset includes “short” classifications into each cohort (i.e. 10 or 11 month old calves were classified as yearlings, etc.). This may explain the increase in 3 year old bulls, but the decreasing trend shown in 2 year old bulls may indicate the lower proportion of animals within that cohort. However, the biological significance of these slight trends is difficult to discern (Lawler 2010, pers. comm.), especially since previous composition data were collected in the summer.



**Figure 3.** Bull: mature cow ratios and trend lines for Cape Krusenstern National Monument, 2004 -2010. Animals  $\geq 4$ -years-old are considered mature. Composition data were gathered in the summer (July and August) with the exception of 2010 when data were collected in March. In the March data set, animals that were 10 or 11 months old were classified as ‘yearling’ and, 22 or 23 month old animals were classified as ‘2-year-old’ (Data from ADF&G and NPS).

### Habitat and Carrying Capacity

Results from a University of Alaska Fairbanks study found that winter ranges used by muskoxen within CAKR may be limiting, and that the Cape Thompson muskoxen population may remain small due to habitat constraints (Ihl 2007). Increasing casual observations of emigrating mixed sex/age groups of muskoxen east and north of the typical, core population range may also be the result of declining habitat

quality. These factors combined with lower minimum counts of muskoxen since 2005 within CAKR and the range of the Cape Thompson population may indicate that the population has reached its carrying capacity.

**Harvest trend and/or hunter effort:** From 2005–2010 the total reported Federal harvest was one muskox per year, except for 2006 which had no muskoxen reported harvested. Only permanent residents of CAKR or the adjacent Napaktuktuk Mountain area are eligible for the Federal hunt. Total allocation for the affected muskox population is 8 permits (6 State Tier II and 2 Federal). Total reported Tier II harvests for the 2006, 2007, 2008 and 2009 regulatory years were 4, 6, 5, and 4 respectively. Continuation of the Federal hunt in the closure area would ensure opportunity for qualified residents to harvest muskoxen on Federal public lands.

## OSM PRELIMINARY CONCLUSION

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

**Justification for the OSM recommendation:** The long-term minimum counts of the Cape Thompson muskoxen, along with the productivity, recruitment and adult survival rate of muskoxen in CAKR (CAKR subpopulation constitutes a substantial portion of the Cape Thompson population) suggests that the entire Cape Thompson population may be declining due to density-dependent population effects (Adams et al., unpublished data). There is an increasing trend for adult muskoxen within the CAKR subpopulation from 2004–2009. This increase was reversed by the decline in the minimum count in 2010. In addition, there has been a decreasing trend in the more inclusive 2010 Cape Thompson population survey. This information suggests a decrease in population rather than a difference in distribution. With these indicators and the recent and poorly understood declines of muskoxen on the north slope of Alaska, the NPS must maintain a conservative and manageable harvest strategy within the monument. ADF&G and NPS plan a spring survey in 2011 for the entire Cape Thompson population which will help elucidate whether the decrease in the CAKR subpopulation is due to a change in distribution or a decline in population (Westing 2011, pers. comm.). The mature bull:cow ratio of the CAKR population has shown a stable trend despite wide fluctuations of bull:cow ratios (2007–2010) with an understanding that the 2010 data is unique from other years due to surveys occurring in March rather than in the summer months. There is no new information that suggests that the Federal quota of two bull muskoxen for the CAKR area will have an adverse impact on the affected population. Only permanent residents of Cape Krusenstern Monument are eligible for the Federal hunt within these Federal lands (CAKR). Total allocation for the affected muskox population, i.e. Unit 23 for the year is 8 permits (6 State Tier II and 2 Federal registration) and a continuation of the Federal hunt is necessary to ensure opportunity for federally qualified residents.

## LITERATURE CITED

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Ihl, C. 2007. Foraging ecology and sociality of muskoxen in northwestern Alaska. University of Alaska Fairbanks, PhD dissertation.

National Park Service, 2010. Bering Land Bridge National Preserve (BELA) 2010 Project Update. Nome, AK.

Lawler, J. 2010. Wildlife Biologist. Personal Communication: email. National Park Service. Fairbanks, Ak.

Westing, C. 2011. Area Biologist. Personal Communication: phone. Alaska Department of Fish and Game, Kotzebue, Ak.

## **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**



OFFICE OF THE SECRETARY  
**U.S. Department  
of the Interior**

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.

*Secretarial Review of the Subsistence Management Program*

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: *7 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*

*[Signature]*  
*/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	Anticipate publication of draft regulation during spring 2011	Will be asked for comment at Winter 2011 meetings
	Draft has been prepared	FSB will make recommendation to Secretaries in May 2011	
		Nominees will not be solicited until regulations finalized, likely in 2011	
<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	Circulate draft for comment - Fall 2011
		Determine appropriate mechanism (policy, rulemaking/advance notice of intent) for formalizing intent on C&T	
<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	Review and discuss MOU at Winter 2011 meetings
		FSB to review comments during summer 2011	Provide comments to FSB by May 1, 2011
		FSB to discuss changes with State	
		Any proposed changes will be brought before the RACs in Fall 2011	
<b>Review C&amp;T determination process</b>			
	Seek input from RACs as to what changes, if any, are needed	Receive RAC input	Broad discussion on C&T process at Winter 2011 meetings
	Explore and develop possible options for changes	Refine options (if any) during Summer 2011	If needed, review and develop options at Fall 2011 meetings
		Options presented to RACs in Fall 2011	

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.

## SOUTHEASTERN ALASKA AND YAKUTAT AREAS

### 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.