

Southcentral Alaska Subsistence Regional Advisory Council

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In Reply Refer To:
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APRIL 23 2024

Anthony Christianson, Chair
Federal Subsistence Board
1011 E. Tudor Road
Anchorage, Alaska 99503

Dear Chair Christianson and members of the Board,

I write to you on behalf of the Southcentral Alaska Subsistence Regional Advisory Council (Council), to express concerns over the issuance of a Delegation of Authority Letter (DAL) within the region and over DALs in general.

The Council held a public meeting on October 3–4, 2023, in Kenai. Among the items discussed was the Council's ongoing concern over the authority for Unit 6 moose and deer that the Federal Subsistence Board (Board) delegated to the Cordova District Ranger for the U.S. Forest Service. This was not a new subject discussed at that Council meeting; the Council originally expressed concern over this DAL in their FY12 Annual Report, and subsequent conversations on this DAL occurred during the Winter 2011, Winter and Fall 2012, Winter and Fall 2013, Fall 2014, Winter 2015, Fall 2021, and Fall and Winter 2023 meetings. While the Council outlined and began a process for the Council to review all regional DALs at their Winter 2017 meeting, the process was sidelined by other pressing issues and will resume again at the Fall 2024 meeting.

The Council's concerns over this delegated authority resulted in their submittal of a regulatory proposal for the 2022-2024 Wildlife Regulatory Cycle to request this DAL be rescinded. After submission of the regulatory proposal, the Council was told that the removal of a DAL is administrative as opposed to regulatory in nature and the Council's submission was rejected. The Council was informed at their October 2023 meeting that the process to request a DAL be rescinded is to submit this request to the board either in writing or verbally at a Board meeting. Following these instructions, the Council verbally requested to rescind this delegated authority at the April 2024 Board meeting, which was not granted.

The Council would also like to highlight concern over other than the public attending a Board meeting where this topic is discussed, there is no avenue for public involvement in the request to rescind DALs, even though there is a public process when the DALs are put into place. The Council's original attempt to rescind the DAL by submitting a regulatory proposal would have allowed for public involvement. The Council would also like to request the Board to review this process and address this concern over the current process.

DALs contain language such that Federal managers will seek Council recommendations on the proposed temporary special action(s). If the managers do not follow the Council's recommended action, the managers are to merely provide a written explanation as to why the recommendation was not followed. The Council believes that this direction lacks any incentive for the manager to work with the Council to find alternate options to ensure that subsistence needs can be met, if at all possible. Also contained in the DAL is that the land manager, to "the extent practical", will engage in government-to-government consultations with tribes. This language also lacks any consequences if consultation does not happen, or if the consultation is not taken seriously and instead is treated like a box to be checked. The Board did have a discussion about updating DAL letters to include stronger language on Council and Tribal consultations at the April 2024 Board meeting, and the Council wishes to remind the Board of this discussion and request that the Board take further action on this.

The Council also has expressed concern over how the DAL power is assigned to a title, and not a person. Federal employee turnover is something that occurs regularly, and one manager who understands subsistence needs and uses in Alaska can be replaced with someone who does not understand the Alaska National Interest Lands Conservation Act and does not understand the importance of accessing subsistence resources on Federal lands by federally qualified subsistence users in Alaska.

Subsistence Regional Advisory Councils have fought very hard to have input and a say in the Federal process, and this Council does not want to see their authority and advisory role eroded. There is currently no policy in place to review DALs either at the Council or Board level, and the list of these letters continues to grow across the state. There is no clear track outlined in any public facing, easily discernable document, that explains how Councils or the public can review or request to rescind a DAL. To this Council, it appears that it is very easy to issue a permanent DAL, but very difficult to get it rescinded.

Thank you for your consideration of our request to rescind this DAL and comments. Any questions regarding this letter can be addressed directly to me through our Subsistence Council Coordinator Nissa Pilcher at (907) 455-8147 or nissa_pilcher@fws.gov.

Sincerely,



Richard (Greg) Encelewski
Chair

cc: Southcentral Alaska Subsistence Regional Advisory Council
Federal Subsistence Board Members
Interagency Staff Committee
Office of Subsistence Management
Administrative Record