



Federal Subsistence Board

1011 East Tudor Road, MS 121
Anchorage, Alaska 99503 - 6199



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

FOREST SERVICE

OSM 20065.KW

AUG 06 2020

Gordon Brower, Chair
North Slope Subsistence
Regional Advisory Council
c/o Office of Subsistence Management
1101 East Tudor Road, MS 121
Anchorage, Alaska 99503-6119

Dear Chairman Brower:

This letter responds to the North Slope Subsistence Regional Advisory Council's (Council) fiscal year 2019 Annual Report. The Secretaries of the Interior and Agriculture have delegated to the Federal Subsistence Board (Board) the responsibility to respond to these reports. The Board appreciates your effort in developing the Annual Report. Annual Reports allow the Board to become aware of the issues outside of the regulatory process that affect subsistence users in your region. We value this opportunity to review the issues concerning your region.

1. Environmental Change Impacts to Healthy Subsistence Resources and Management Strategies to Address Subsistence Food Security

The Council has had extensive discussion about the importance of caribou, sheep, moose, fish, and other subsistence resources for communities across the North Slope and expressed concern about climate change and development impacts on these critical resources. The Council is very concerned about these ongoing and increasing impacts to communities' subsistence resources and subsistence way of life. Many fish and wildlife populations across the North Slope are experiencing a decline or exhibiting signs of stress such as increased incidence of fish mold, seabird die offs, and sick seals. And now in a new extremely concerning change this fall, no bowhead whales were sited off the coast of Utqiagvik and the community was not able to harvest any whales. Whales feed entire communities across the North Slope, are shared and traded widely for other subsistence foods, and are central to the culture and traditions of the Inupiaq people. The Council is very concerned about whether changes in the marine environment or disturbance from industrial activities have caused the bowhead whale to change its migratory path or caused a decline to the population. Whatever the cause, the absence of the usual fall whale harvest has left the community in dire circumstances, missing literally tons of healthy subsistence food for Utqiagvik and other communities across the region. The Council recognizes that marine mammals are outside of the Federal Subsistence Board jurisdiction; however, the Council wants to engage with the Board to work on subsistence

management strategies and avenues to ensure that communities will have enough of other subsistence resources to sustain them in these times. The absence of the whale has created much greater need for other foods such as fish, moose, sheep, and caribou that are managed by the Federal Subsistence Program. Opportunity to increase harvest of these other subsistence resources will be imperative for food security.

Response:

The Board recognizes that when the availability of one subsistence resource is altered due to climate change, pressure on other resources may increase in turn. While the Council is correct that marine mammals are beyond the purview of the Federal Subsistence Management Program, the Board acknowledges the importance of the bowhead whale hunt to rural residents of the North Slope and understands that the absence of whales in the fall of 2019 was an unprecedented set-back to the nutritional and spiritual well-being of communities.

Unpredictable short-falls in resources are likely to continue to occur and will have ripple effects on need for other species. A responsive regulatory process can ensure that people continue to access healthy local and traditional foods during times of unexpected shortage. The Special Action process provides an avenue for responding to these changes, and the Board has been responsive to the need for quick action on out of cycle requests. The Council or an individual may submit either an Emergency Special Action Request (with a duration of 60 days or less) or a Temporary Special Action Request (with a duration of up to one regulatory cycle). In addition, flexibility can be built into the system by delegating authority to local land managers. Delegation of authority enables managers to respond more quickly to unpredictable seasons and will likely need to be used with increasing frequency given that climate change may cause the timing of certain subsistence resources to fluctuate widely from year to year.

Persistent changes to the availability and seasonality of resources can also be accommodated through the regular regulatory process by submitting proposals for a change in season, harvest limits, or methods and means.

North Slope communities are exhibiting resilience and flexibility in the face of conditions that would have been unrecognizable to previous generations, and the Federal Subsistence Management Program can support this adaptation by ensuring that regulations facilitate flexibility, rather than hindering it. In some cases, some species may become more abundant with climate change, or new species may move into the region. In this case, the Federal Subsistence Management Program can assist communities in delineating seasons, harvest limits, and methods and means for these newly available resources.

2. Subsistence Fisheries Research Priorities Critical to North Slope Communities

The Council seeks to work with the Federal Subsistence Management Program's Fisheries Resource Monitoring Program (FRMP) to address critical subsistence fisheries research needs in the North Slope Region. The Council is extremely concerned about environmental change and contaminants impacts to subsistence fisheries across the North Slope Region. In particular the Colville River and

tributaries are essential to the community of Nuiqsut for subsistence harvest of Broad Whitefish, Humpback Whitefish, Arctic Cisco, Burbot, and Grayling. This river has experienced warming waters, industrial contaminants and water pollution for many years. The community is hurting from the negative effects on their fish. People are going hungry and yet are afraid to eat their traditional subsistence fish because of the concerns about contamination. The community has struggled to get research conducted on fish habitat and water quality and contaminants testing of subsistence caught fish. Council members have expressed frustration with the challenge to get these studies funded through the FRMP program. While the Council recognizes that the FRMP will not fund contaminants studies directly; however, in reality contaminants have an impact on access to healthy subsistence foods and causing traditional subsistence fish harvest to change dramatically. The FRMP is supposed to support continuation of subsistence uses but the prevalence of fish mold and contaminants has drastically impacted the community's ability to continue use these important subsistence resources. The Council and the community of Nuiqsut is very interested in engaging directly with the Federal Subsistence Management Program and collaborating researchers through the FRMP process to find an avenue forward to address this issue.

Response:

The Board has chosen to focus the Fisheries Resource Monitoring Program (FRMP) on gathering information to manage and conserve subsistence fishery resources. The FRMP funds are not eligible for certain kinds of projects including: (1) habitat protection, mitigation, restoration, and enhancement; (2) hatchery propagation, restoration, enhancement, and supplementation; and (3) contaminant assessment, evaluation, and monitoring. With limited funding and continued Federal fisheries management issues, the Board chose this approach to ensure that existing responsibilities and effort by government agencies were not duplicated under the FRMP. However, the Board acknowledges that factors affecting the role of subsistence fisheries in food security continue to evolve in the context of development and environmental change. The Board encourages any investigator interested in studying contaminants within the scope of Federal fisheries management to explore multiple funding sources and to build collaborations with researchers in relevant fields, such as toxicology and community and environmental health. Previous research on the food safety of Nuiqsut fisheries exists, but gaps in delivering this information to communities persist. These gaps could be the focus of proposals, which aim to review, synthesize, and share existing information with subsistence users. Funds from additional sources could be combined to implement a holistic fisheries project that satisfied multiple project goals with specific funds supporting the appropriate goals. The FRMP currently supports several projects where the investigators have successfully sought multiple sources of funding to implement a project. These projects tend to be highly competitive because they maximize program efficiency by encouraging cost sharing, partnerships, and collaboration.

Angela Matz with the U. S. Fish and Wildlife Service (USFWS) has worked with several tribes to evaluate contaminants in their subsistence fish, in cooperation with the State of Alaska. The work was funded through a USFWS Tribal Wildlife Grant, with Ms. Matz training and coordinating with tribes who ultimately collected samples. The Council may want to contact Ms. Matz at angela_matz@fws.gov for a presentation to the Council and to explore the opportunity to develop a contaminant monitoring study with her assistance. An additional contact to explore would be the Alaska Department of Environmental Conservation (<https://dec.alaska.gov/>).

3. Council Appointments and Need for Representation from All North Slope Region Communities

In the past few years, the Council has grown increasingly concerned regarding multiple vacant seats on the Council and the lack of appointments to fill these seats. Several long serving Council members have not been re-appointed and new applicants have not been appointed. To exacerbate the situation, some Council members recently passed away or moved out of region and no alternates were appointed to these seats. This has left a real gap on the Council with several vacancies (2015 – 4, 2016 – 3, 2019 – 3, 2020 – 3), and many North Slope Region communities are not currently represented. In particular, it is very important to insure that Anaktuvuk Pass has representation on the Council to address that community's unique subsistence needs and challenges due to their inland mountainous location and reliance on caribou. Indeed, all eight communities across the North Slope region are unique in their subsistence knowledge and way of life and need to be represented for the Council to be fully effective in its duties. The Council wishes to convey to the Board the importance of having representation from each of these communities and requests adequate appointments to achieve balanced membership. The Council also would like to reiterate the importance of holding Council meetings in each of the eight villages in the North Slope Region in order to work with each community and respond to their subsistence issues directly as well as increase engagement to attract new applicants to serve on the Council.

Response:

The 1992 Record of Decision for *Subsistence Management for Federal Public Lands in Alaska* states, “the Regional Advisory Council system required by ANILCA [Alaska National Interest Land Conservation Act] Section 805 was created to provide subsistence users the opportunity to participate effectively in the management and regulation of subsistence resources on Federal public lands.” Further, the Record of Decision mandates “to the extent possible, the size of the Council and distribution of the membership within the region will be designed to ensure the maximum participation in the Federal Program by local subsistence users.”

The Board fully understands the Council's concern regarding vacant seats and currently not having all or most of the North Slope communities represented on the Council. In order to forward a full set of the appointment recommendations to the Secretaries of the Interior and Agriculture for their review and decision, the Board needs to have an ample number of applications and/or nominations from the North Slope Region. The Board encourages the Council to expand its outreach efforts within their communities and throughout the Region to attract a wider pool of applicants, if the Council wishes to see all seats filled and most communities represented. For the years 2015, 2016, 2019, and 2020 the North Slope Region had 5, 6, 5, and 5 applications respectively, which in some years created an insufficient pool of applicants to fill the existent vacant seats (see enclosure).

Although the Board strives to fill all vacant seats with the most qualified applicants, it does not have final decision authority over which recommended applicants are appointed to the Councils. After the Board submits their recommendations to the Secretaries, all recommended applicants undergo a vetting process administered by the Department of the Interior. The Board and OSM are not privy to the vetting information and do not participate in this process. The process is set up this way to make

selection impartial and objective. The Secretaries finalize appointments to the Councils upon completion of vetting and review processes by the Department of Interior.

The Board acknowledges the significance of having an Anaktuvuk Pass representative on the Council and is glad to see that the Secretaries appointed Peter Earl Williams of Anaktuvuk Pass to the Council for the two-year term.

The Board would also like to bring to the Council's attention a new provision on alternate members, approved by the Secretaries of Interior and Agriculture in 2019 and added to all 10 Councils' charters. The newly added language reads:

Alternate members may be appointed to the Council to fill vacancies if they occur out of cycle. An alternate member must be approved and appointed by the Secretary before attending the meeting as a representative. The term for an appointed alternate member will be the same as the term of the member whose vacancy is being filled.

An interim vacated Council seat can occur due to a variety of reasons that include, but are not limited to the following: an appointed applicant declined his/her appointment, moved out of the region, or passed away after the Secretaries already made yearly appointments to the Councils. As a result, the seat remains vacant through an entire year, leaving subsistence regions underrepresented. The Board suggests that whenever possible the Councils' nomination panels identify qualified alternates from the pool of applicants and present the lists to the Board for recommendations for the Secretarial appointments. Identifying and selecting alternate members through the appointment process will provide additional assurance that the vacated seats are filled as soon as possible.

Additionally, during the next biennial charter review in 2021, the Board recommends that the Council submit a request to add geographic membership balance language to the Council's charter. The Board recommended and the Secretaries approved similar requests from two other Councils—the Kodiak/Aleutians and Western Interior—in 2015 and 2019 respectively. The Board will review the Council's request and submit its recommendations to the Secretaries for the final decision.

The Board understands the Council's desire to hold Council meetings in each of the Region's eight villages. The standard procedure is for Councils to usually meet in one of the hub communities approved by the OSM Assistant Regional Director. For the North Slope region, the only approved hub community is Utqiagvik (formerly Barrow). Meetings in non-hub communities are approved by the Assistant Regional Director on a case by case basis after a cost to benefit analysis is completed by a Council Coordinator. If the Council desires to hold a meeting in a non-hub community, please submit your request to OSM and include a justification for seeking to do so, such as to recruit new council members or to hear public testimony on a pressing subsistence-related issue.

4. Subsistence Priority, Continuation of Subsistence Uses, and Community Area of Influence

The Council would like the Board to address issues of rural subsistence priority, meeting subsistence needs, and traditional use areas around communities in the North Slope region.

In deliberation on fish and wildlife management proposals over the past few years, the Council has expressed repeated concerns about management of Federal lands around villages so that subsistence resources are not deflected away from traditional use areas and that the local rural subsistence users have priority to harvest these resources over other uses or users. Industrial development and non-rural resident hunting or guiding activities have the potential to take or deflect subsistence resources that, in effect, prevent subsistence priority and continuation of subsistence uses in traditional use areas.

The Council recommends that any development proposal should consider the work of the North Slope Borough in identifying the “area of influence” around communities in the North Slope Region to help delineate subsistence hunting, fishing, and gathering areas of each community. Even during liberal subsistence management strategies, it is possible to deplete local North Slope resources by deflecting caribou and other subsistence resources through sport or nonlocal Alaska resident use. This can cause hardship and, in some cases, reduce needed food resources for local rural residents and those with a customary and traditional use determination within the village area of influence.

The Council would like the Board to consider the “area of influence” for subsistence communities in making future subsistence management decisions affecting the North Slope Region. Issues of traditional and contemporary use of subsistence resources surrounding the community is such a serious matter that the North Slope Borough has adopted village comprehensive plans into law through local ordinance. Local ordinances provide good guidance to land managers on village subsistence issues. The Council encourages the Board and Federal land managers to meet with the North Slope Borough to learn more about the “community area of influence” concept and develop management strategies to better address continuation of subsistence uses in these areas.

Further, the Council strongly believes that rural subsistence priority on Federal lands should not be reduced by dual State management of subsistence resources. Many Federal lands are open to nonresident or all state residents under State hunting and fishing regulations, including areas with very limited resources and very high local subsistence needs (e.g. Unit 26A moose). The Council requests that comprehensive population estimates of important subsistence food resources be evaluated and the needs of the rural communities be assessed to ensure a subsistence priority is being met before allowing a hunt to be open or remain open to other users. In times of conservation for caribou, moose, and sheep population, or decline of other subsistence resources, and, most importantly, increasing food insecurity, it is paramount that a rural subsistence priority be maintained as provided for under Title VIII of ANILCA.

Response:

The Board welcomes hearing from the Council regarding their efforts to identify “the community area of influence” concept. The Council should work with their Council Coordinator to schedule a presentation to the Board on this initiative during one of the Board’s work sessions. The Board encourages the Council to continue its outreach to Federal, State, and other landowners to help further develop their “area of influence” plans. The Board further encourages the Council to work with multiple agencies, landowners, and partners to identify concerns and develop potential strategies to reduce future impacts to local subsistence users.

Under ANILCA, the Federal Subsistence Management Program has a responsibility to provide rural subsistence priority for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Councils are central to the regulatory process and provide an opportunity for rural Alaskans to have a meaningful role in the management of subsistence resources. The Board must ultimately evaluate all potential subsistence regulations and policies relative to meeting Title VIII of ANILCA by considering available data and information provided by a diversity of entities. As stated in ANILCA Section 815, the Board may not authorize a restriction on the take of fish and wildlife for non-subsistence uses on the public lands (other than national parks and park monuments) unless necessary for the conservation of healthy populations of fish and wildlife (for the reasons set forth in Section 816), to continue subsistence uses of such populations, or pursuant to other applicable law.

When considering the concept of “community area of influence,” it is also important to remember that the Board’s authority applies solely to Federal public lands. Many rural communities are surrounded by State managed lands. Proposals to change fish and wildlife regulations on State managed lands are under the purview of the Alaska Board of Fisheries and the Alaska Board of Game. In response to previous Federal proposals to close Federal public lands to non-Federally qualified users in various regions of the State, some rural communities have expressed concern that these actions would concentrate non-local users on the State managed lands surrounding their communities, further exacerbating user conflicts. Managing for a community area of influence therefore presents challenges given the varying land status in proximity to rural communities. Additionally, restrictions to non-subsistence uses are only authorized by ANILCA in limited circumstances, as described previously.

The Board recognizes the unique challenges associated with management of resources by both State and Federal agencies. Relative to the Federal Subsistence Management Program, State regulations in general govern fish and wildlife management on Federal lands, unless the Board takes action to limit the harvest of fish and wildlife resources to only Federally qualified subsistence users. As identified in Title VIII of ANILCA, the Board may limit harvest of resources to only Federally qualified subsistence users, in order to ensure conservation of healthy fish and wildlife populations and continuation of subsistence uses by Federally qualified users. OSM provides the Board detailed analyses of proposed regulations to help inform Board decisions. OSM analyses incorporate current and historic data from agencies and partners to provide a scientifically based overview of the status of wildlife and fish populations and their use by all user groups. The Board must carefully assess analyses and ensure that decisions do not unnecessarily restrict non-subsistence users. The Council serves a critical role by providing additional data, knowledge, and perspectives to the Board, which helps us make more informed decisions. The Board would like to remind the Council that every year they have an opportunity to develop a Federal regulatory proposal or submit a special action request, if your Council wishes to modify an existing regulation such as longer seasons or closure to non-Federally qualified subsistence users. The Board supports the Council’s efforts to improve subsistence management through increased planning, coordination, and collection of biological and harvest data.

In closing, I want to thank you and your Council for your continued involvement and diligence in matters regarding the Federal Subsistence Management Program. I speak for the entire Board in

expressing our appreciation for your efforts and am confident that the subsistence users of the North Slope Region are well represented through your work.

Sincerely,



Anthony Christianson
Chair

Enclosure

cc: North Slope Subsistence Regional Advisory Council
Federal Subsistence Board
Susan Detwiler, Assistant Regional Director, Office of Subsistence Management
Thomas Doolittle, Deputy Assistant Regional Director, Office of Subsistence Management
Lisa Maas, Acting Subsistence Policy Coordinator, Office of Subsistence Management
Tom Kron, Acting Council Coordination Division Supervisor,
Office of Subsistence Management
Acting Wildlife Division Supervisor, Office of Subsistence Management
Greg Risdahl, Fisheries Division Supervisor, Office of Subsistence Management
Acting Anthropology Division Supervisor, Office of Subsistence Management
George Pappas, State Subsistence Liaison, Office of Subsistence Management
Eva Patton, North Slope Council Coordinator, Office of Subsistence Management
Katerina Wessels, Council Coordinator, Office of Subsistence Management
Interagency Staff Committee
Benjamin Mulligan, Deputy Commissioner, Alaska Department of Fish and Game
Mark Burch, Special Project Coordinator, Alaska Department of Fish and Game
Administrative Record

Number of Regional Advisory Council Applications Received Each Year

	<i>SE</i>	<i>SC</i>	<i>KA</i>	<i>BB</i>	<i>YK</i>	<i>WI</i>	<i>SP</i>	<i>NW</i>	<i>EI</i>	<i>NS</i>	TOTAL
1996	13	18	11	10	19	11	20	11	10	5	128
1997	18	11	11	7	8	7	7	4	11	4	88
1998	13	10	15	8	18	11	9	9	7	8	108
1999	17	15	7	12	16	7	7	5	7	6	99
2000	17	13	13	9	15	9	8	3	20	8	114
2001	20	11	9	5	16	14	3	4	11	5	98
2002	19	16	8	8	13	8	7	5	14	9	107
2003	17	17	4	10	13	9	5	7	7	5	96
2004	14	16	10	7	16	8	7	8	6	8	100
2005	7	7	5	3	7	4	9	5	6	5	58
2006	10	8	1	5	9	3	5	9	7	3	60
2007	17	16	8	9	17	6	5	2	12	3	95
2008	9	8	5	8	12	7	7	4	3	4	67
2009	12	12	4	3	11	5	2	6	7	2	64
2010	15	14	6	7	6	6	2	8	8	3	75
2011	15	9	7	7	12	6	8	4	7	5	81
2012	11	10	7	7	11	5	4	5	4	3	67
2013	13	7	5	5	12	5	6	6	11	4	74
2014	7	7	4	4	12	5	6	3	7	4	59
2015	10	6	6	7	17	11	8	3	3	5	76
2016	8	7	7	7	7	3	5	5	6	6	61
2017	4	9	5	6	7	8	4	11	10	3	68
2018	10	8	3	5	15	3	4	7	9	8	72
2019	6	12	3	5	12	4	3	5	8	5	63